CHAPTER clxxxvii.

A.D. 1877.

An Act for dissolving and re-incorporating the Birkenhead Street Railway Company, Limited, and for empowering them to lay down further Tramways; and for other purposes.

[2d August 1877.]

WHEREAS the Birkenhead Street Railway Company, Limited, (herein-after referred to as "the Limited Company,") have constructed and are now working certain tramways at Birkenhead in the county of Chester:

And whereas the present share capital of the Limited Company consists of twenty-eight thousand five hundred pounds, divided into one thousand preference shares of ten pounds each, all fully paid up, and one thousand eight hundred and fifty ordinary shares of ten pounds each, of which one thousand seven hundred and sixty-five have been issued and are fully paid up, and the Limited Company have borrowed on mortgage nine thousand one hundred pounds:

And whereas the laying down of further tramways in connexion with the existing tramways of the Limited Company would be of public and local advantage, and it is expedient that the Limited Company should be empowered to lay down the same, and to raise additional capital for the purpose:

And whereas it is expedient that the Limited Company should be dissolved and re-incorporated with further powers:

And whereas plans and sections showing the lines and levels of the tramways by this Act authorised, and books of reference to such plans, have been deposited with the clerk of the peace for the county of Chester, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

A.D. 1877.

and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Short title.

1. This Act may be cited for all purposes as "The Birkenhead Tramways Act, 1877."

Certain provisions of general Acts hereinnamed incorporated.

2. The Companies Clauses Consolidation Act, 1845; Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act, 1863; the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, except the provisions thereof with respect to the purchase of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking; and Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act, 1870, are, except where expressly varied by this Act, incorporated with and form part of this Act; and the incorporated provisions of the Tramways Act, 1870, shall, so far as applicable, extend and apply to the existing tramways and works of the Limited Company as well as to the tramways and works by this Act authorised.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction:

The expression "the Company" shall mean "The Birkenhead Tramways Company" incorporated by this Act;

The expression "the Limited Company" shall mean "The Birkenhead Street Railway Company, Limited," as constituted prior to the passing of this Act;

The expressions "the tramways" and "the undertaking" shall mean the tramways and works and the undertaking respectively by this Act authorised;

The word "contingencies" in the Companies Clauses Consolidation Act, 1845 (section 122), shall with reference to the Company be construed to include the contingency of the undertaking being sold to the local authority under the Tramways Act, 1870 (section 43), at a sum less than the aggregate amount of the capital and debts of the Company;

And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Incorporation of Company.

4. From and after the passing of this Act the Limited Company shall be dissolved, and the several persons and corporations who immediately before the passing of this Act were members of that

Company, and all other persons and corporations who have subscribed to or who shall hereafter become proprietors in the undertaking of the Company, and their executors, administrators, successors, and assigns respectively, shall be and they are hereby united into a Company for the purposes of this Act, and shall be incorporated by the name of the Birkenhead Tramways Company, and by that name shall be a body corporate, with perpetual succession and a common seal, with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act. A.D. 1877

Present property of LimitedCompany vested in Company incorporated by this Act.

5. Subject to the provisions of this Act, all the lands, tramways, works, erections, buildings, rights, and easements which immediately before the passing of this Act were vested in the Limited Company or any person in trust for them, or to which the Limited Company were in anywise entitled, and all timbers, rails, carriages, horses, stock, effects, matters, and things which have been by them purchased, provided, laid down, erected, or placed, or which immediately before the passing of this Act were the property of the Limited Company, and all moneys, securities, credits, effects, and other property whatsoever which immediately before the passing of this Act belonged to the Limited Company or to any trustee on their behalf, and the benefit of all contracts and engagements entered into by or on behalf of the Limited Company and immediately before the passing of this Act in force, shall be and the same are hereby vested in the Company to the same extent and for the same estate and interest as the same were previously to the passing of this Act vested in the Limited Company or any trustee on their behalf, and may according to the provisions of this Act be held and enjoyed, sued for and recovered, maintained, altered, discontinued, removed, dealt with, and disposed of by the Company as they think fit.

Memorandum of association of the LimitedCompany to be void as to prospective operation.

6. Subject to the provisions of this Act, the memorandum of association of the Limited Company (which expression in this Act includes the regulations which under the provisions of section 9 of the Joint Stock Companies Act, 1856, are the regulations of the Limited Company) shall as to any prospective operation thereof be wholly void, and the Company and the shareholders shall be exempted from all the provisions, restrictions, and requirements of any Act which applied to the Limited Company and the members thereof as such, but nothing in this Act contained shall release or discharge any person from any liability or obligation in respect of any breach of the provisions of the said memorandum of association or of any such Act incurred before the passing of this Act, but such liability or obligation in respect of any such breach shall continue, and, save as in this Act otherwise provided, may be enforced by or

.D. 1877.

on behalf of the Company as nearly as may be in like manner as the same might have been enforced by or on behalf of the Limited Company if this Act had not been passed.

lothing to ffect pre- ious rights nd liabili- ies.

7. Except as is by this Act otherwise expressly provided, everything before the passing of this Act done or suffered by or with reference to the Limited Company, or the members thereof as such, shall be as valid as if the Company had not been incorporated and the said memorandum of association had not been avoided by this Act, and such incorporation and avoidance and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered, and to all rights, liabilities, claims, and demands, both present and future, which if the Company were not incorporated and the said memorandum of association were not avoided by this Act, and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered, and with respect to all such rights, liabilities, claims, and demands the Company and its shareholders and property shall to all intents and purposes represent the Limited Company and the members thereof as such, and the property of the Limited Company, as the case may be, and the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Contracts prior to Act to be binding.

8. Except as is by this Act otherwise specially provided, all purchases, sales, conveyances, grants, assurances, deeds, contracts, bonds, and agreements entered into or made before the passing of this Act by, to, or with the Limited Company, or any trustees or persons acting on behalf of the Limited Company, or by, to, or with any other person to whose rights and liabilities they have succeeded, and now in force, shall be as binding and of as full force and effect in every respect against or in favour of the Company, and may be enforced as fully and effectually, as if instead of the Limited Company, or the trustees or persons acting on behalf of the Limited Company, the Company had been a party thereto.

Actions, &c. not to abate.

9. Nothing in this Act contained shall release, discharge, or suspend any action, suit, or other proceeding at law or in equity which was pending by or against the Limited Company or any member thereof in relation to the affairs of the Limited Company, or to which the Limited Company or any member thereof in relation to such affairs were parties immediately before the passing of this Act, but such action, suit, or other proceeding may be maintained, prosecuted, or continued by or in favour of or against the Company (as the case may be) in the same manner and as effectually and advantageously as the same might have been maintained, prosecuted, or continued by or in favour of or against the Limited Company or

any member thereof if this Act had not been passed, the Company and the shareholders therein being in reference to the matters aforesaid in all respects substituted for the Limited Company and its members respectively.

Trustees of Limited Company to be indemnified.

10. Every trustee or other person in whom or in whose name any lands, works, buildings, easements, rights, property, or effects belonging to the Limited Company were vested immediately before the passing of this Act, and who (being authorised so to do) entered into any bond, covenant, contract, or engagement in respect of the same or otherwise on behalf of the Limited Company, shall be indemnified out of the funds and property of the Company against all liability (including costs, charges, and expenses) which he may sustain or incur or be put unto by reason of his having entered into such bond, covenant, contract, or engagement.

Company to satisfy liabilities of Limited Company.

11. From and after the passing of this Act, and except as is by this Act otherwise expressly provided, the Company shall in all respects be subject to and shall discharge all obligations and liabilities to which the Limited Company immediately before the passing of this Act were subject, and shall indemnify the members, directors, officers, and servants of the Limited Company, and their respective representatives, from all such obligations and liabilities, and from all expenses and costs in that behalf.

As to payment of debts owing before passing of Act.

12. All persons who immediately before the passing of this Act owed any money to the Limited Company, or to any person on their behalf, shall pay the same, with all interest (if any) due or accruing upon the same, to the Company, and all debts and moneys which immediately before the passing of this Act were due or recoverable from the Limited Company, or for the payment of which the Limited Company were or but for this Act would be liable, shall be paid, with all interest (if any) due or accruing upon the same, by or be recoverable from the Company.

Certificates, &c. to remain in force.

13. Notwithstanding the avoidance of the said memorandum of association, all certificates (until cancelled under the powers of this Act), sales, transfers, and dispositions heretofore made or executed under them for and with respect to any shares in the Limited Company shall remain in full force and continue and be available in all respects as if they had not been avoided.

Books, &c. continued evidence.

14. All documents, books, and writings which if the said dissolution and avoidance had not taken place would have been receivable in evidence, shall be admitted as evidence in all courts of law and equity and elsewhere, notwithstanding such dissolution and avoidance.

A.D. 1877.

Officers to continue until removed.

15. All officers and servants of the Limited Company who were in office immediately before the passing of this Act shall hold and enjoy their respective offices and employments, together with the salaries and emoluments thereunto annexed, until they shall resign the same or be removed therefrom by the Company, and shall be subject and liable to the like conditions, obligations, pains, and penalties, and to the like powers of removal, and to the like rules, restrictions, and regulations in all respects whatsoever as if they had been appointed under this Act.

Present register of members to be continued.

16. The books kept by the Limited Company for entering the names and designations of the members thereof, with the numbers of their shares and the proper distinguishing number of such shares, shall and may continue to be kept for the same purpose by the Company, and shall, until some other register of shareholders shall be provided by the Company, be taken and considered as the register of shareholders required to be kept by the Companies Clauses Consolidation Act, 1845.

Capital.

17. The capital of the Company shall be sixty thousand five hundred pounds, being the aggregate of the following sums; that is to say,

(A.) The sum of twenty-eight thousand five hundred pounds of original capital, divided into one thousand eight hundred and fifty ordinary shares of ten pounds each, and one thousand preference shares of ten pounds each, which shares are in this Act called "the old shares;" and

(B.) The sum of thirty-two thousand pounds of additional capital by this Act authorised to be raised in manner herein-after mentioned; and the Company may issue any shares in the original capital which have not been issued prior to the passing of this Act, and may convert into stock the whole or any part of their original or additional capital when fully paid up.

Vesting of old shares in present shareholders.

18. The old shares issued prior to the passing of this Act shall be vested in the several persons who immediately before the passing of this Act were the registered members of the Limited Company, share for share, in substitution for the existing shares of the Limited Company held by them, and every share so vested shall be subject to the same liability for calls, and subject and liable to the same trusts, powers, provisions, declarations, agreements, charges, liens, and incumbrances, as immediately before the passing of this Act affected the share for which the same is substituted, and so as to give effect to and not revoke any testamentary disposition of or affecting the same.

Company shall call in and cancel existing share certificates, and issue new certificates in lieu thereof.

19. The Company shall call in and cancel the existing certificates of shares in the Limited Company, and issue in lieu thereof certificates in the form and under the conditions prescribed by the Companies Clauses Consolidation Act, 1845, but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act, or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Power to raise additionalcapital.

20. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole thirty-two thousand pounds, by the issue at their option of new ordinary shares or new preference shares, or partially by one of those modes and partially by the other, so that they do not issue new preference shares to a greater amount than twenty thousand pounds, and the Company may attach to such new preference shares such rate of dividend as they think fit, not exceeding seven pounds per centum per annum; provided that the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

21. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls.

Receipt clause in case of persons not sui juris.

22. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow in respect of additional capital.

23. In addition to the sum of nine thousand one hundred pounds which the Company have already borrowed in respect of the original capital, they may from time to time borrow on mortgage, in respect of the additional capital of thirty-two thousand pounds by this Act authorised to be raised by shares, any sums not exceeding in the whole six thousand pounds, and the Company may, as each sum of four thousand pounds of such additional capital has been issued and accepted, and one half of the amount of each such sum has been paid up, borrow on mortgage in respect thereof any sum or sums not exceeding in the whole seven hundred and fifty pounds, but in no case shall any part of the said respective sums be borrowed until the Company have proved to the justice who is to certify under the fortieth section of the Companies

A.D. 1877.

Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of the capital in respect of which such borrowing powers are sought to be exercised have been issued and accepted, and that one half of such capital has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such shares were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

24. The mortgagees for the time being of the Company may from time to time enforce the payment of arrears of interest or principal, or principal and interest, due to any such mortgagees by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom application for the appointment of such receiver shall be made shall not be less than one thousand pounds in the whole.

Debenture stock.

25. The Company shall not create debenture stock.

Mortgage to comprise purchase money paid on compulsory sale.

26. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under section forty-three of the Tramways Act, 1870, and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Indorsement of notice of power of future purchase by the local authority.

27. Every mortgage deed granted by the Company under this Act shall be indorsed with a notice that such mortgage will not be a charge upon the tramway in the event of its being purchased by a local authority under the forty-third section of the Tramways Act, 1870.

Existing mortgages to have priority.

28. All mortgages granted by the Company before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, have priority over any mortgages granted by virtue of this Act.

Priority of mortgages over other debts.

29. All moneys raised on mortgage by the Company under this Act, and the interest due thereon, shall have priority against the

Company, and the property from time to time of the Company, over all other claims on account of debts incurred or engagements entered into by the Company after the passing of this Act, but this priority shall not affect any claim against the Company in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860.

Application of money.

30. Subject to the provisions herein contained, all money to be raised under the provisions of this Act, whether by means of shares or borrowing, shall be applied to the purposes of the undertaking by this Act authorised, and to no other purpose.

Time of first meeting.

31. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Quorum of general meeting.

32. The quorum of every general meeting (whether ordinary or extraordinary) shall be ten shareholders present personally or by proxy, holding in the aggregate not less than two thousand pounds in the capital of the Company.

Number of directors.

33. Save as herein otherwise provided, the number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than four.

Qualification of directors.

34. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum.

35. The quorum of a meeting of directors shall be three.

First directors.

36. The persons who immediately before the passing of this Act were the directors of the Limited Company shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election, and shall, unless a new body of directors be elected (subject to the power herein-before contained for reducing the number of directors), elect directors to complete the full number of directors; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in the Companies Clauses Consolidation Act, 1845, contained, and the several persons

Election of directors.

A.D. 1877.

elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Power to make tramways.

37. Subject to the provisions of this Act and of Parts II. and III. of the Tramways Act, 1870, the Company may make, form, lay down, work, use, and maintain the tramways herein-after described, in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with those plans and sections, with all proper rails, plates, works, and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act are—

The tramways distinguished on the deposited plans as Tramway No. 2 and Tramway No. 2A, being a double line one mile and two chains in length, commencing in the township of Tranmere, in the parish of Bebington, in Happy Valley Road, fifty yards or thereabouts southward of the Tranmere Waterworks, abutting on that road, and passing thence in a northerly direction along Happy Valley Road and Borough Road, and terminating in the said extra-parochial township or chapelry of Birkenhead, in Borough Road aforesaid, fifty yards or thereabouts westwards from its junction with Wilbraham Street:

The tramway distinguished on the deposited plans as Tramway No. 3, being a single line one furlong and five chains in length, wholly situate in the said extra-parochial township or chapelry of Birkenhead, commencing in Borough Road by a junction with Tramways Nos. 2 and 2A, at their termination as herein-before described, and passing thence in an easternly direction along Borough Road into and along the streets on the south and east sides of the Haymarket, and terminating by a junction with the existing tramway at or near the north-east corner of the said Haymarket:

The tramway distinguished on the deposited plans as Tramway No. 4, being a single line two furlongs and eight chains in length, wholly situate in the said extra-parochial township or chapelry of Birkenhead, commencing in Borough Road by a junction with Tramways Nos. 2 and 2A, at their termination as herein-before described, and passing thence in an easternly direction along Borough Road into and along Wilbraham Street and Argyle Street, and terminating in Argyle Street by a junction with the existing tramway at or near the western corner of Hamilton Square.

Mode of formation of tramways.

38. Every tramway of the Company shall be formed with iron rails, laid and maintained in such manner as to be on a level with

the surface of the street, and shall be constructed on the gauge of four feet eight and a half inches, and the rails shall be of such form and be laid in such manner as shall be satisfactory to the surveyor of the several local and road authorities, and in case of difference or dispute in relation thereto, the matter in dispute shall be referred to and determined by Edward Mills, surveyor, of Birkenhead, or, failing him, shall be settled in the manner provided by section 33 of the Tramways Act, 1870.

Traffic in roads not to be impeded.

39. During the construction of any works by this Act authorised in any road in any district the Company shall make such arrangements in relation to the execution of such works as may in the opinion of the road authority of such district be proper for preventing the traffic along such road from being unnecessarily impeded.

Provision as to paving roads.

40. So much of the road whereon the tramways are laid as lies between the rails, and as extends eighteen inches beyond the rails of and on each side of the tramway, shall be paved by the Company, at their own expense, with granite cubes or sets upon a foundation or substructure of concrete to the satisfaction of the road authority, or with such other paving as the road authority may approve.

Company to adopt improvements if required by the Board of Trade.

41. The Board of Trade may from time to time, upon the application of the road authority of any district, require the Company to adopt and apply such improvements in the tramway within such district, including the rails thereof, as experience may from time to time suggest, having regard to the greater security of the public and advantage to the ordinary traffic, and the Company shall with all reasonable despatch comply with any order made by the Board of Trade for the purpose of carrying out such improvements.

Deposit money not to be repaid until tramways opened or half the capital paid up and expended.

42. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of eight hundred pounds, being five per centum upon the amount of the estimate in respect of the tramways, has been deposited with the Chancery Division of the High Court of Justice in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways, either open the tramways for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Company have paid up one half the amount

A.D. 1877.

of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital, and if the said period shall expire before the Company shall either have opened the tramways for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

43. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the London Gazette shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the tramway or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof; provided that until the

said sum of money has been repaid to the depositor, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

44. The tramways shall be completed within two years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Inspection by Board of Trade.

45. The tramways shall not be opened for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways to be kept on level with surface of road.

46. If and whenever after the passing of this Act any road authority shall alter the level of any road along or across which any part of any tramway of the Company is laid, the Company may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Penalty for not maintaining rails and roads.

47. The Company shall at all times maintain and keep in good condition and repair, and so as not to be a danger or annoyance to the ordinary traffic, the rails of the tramways of the Company and the substructure upon which the same rest; and if the Company at any time fail to comply with this provision or with the provisions of section twenty-eight of the Tramways Act, 1870, they shall be subject to a penalty not exceeding five pounds for every day on which such non-compliance continues, and such penalty shall be a penalty within the meaning of section fifty-six of the said Act.

Sewer authority to have access to sewers.

48. Every sewer authority shall at all times have free access to and communication with all their sewers and drains, and power to lay lateral and private drains to communicate therewith, without the consent or concurrence of the Company; and the provisions contained in the thirty-second and thirty-third sections of the Tramways Act, 1870, shall be applicable in the case of any sewer or private drain of or under the control of the sewer authority as if the same were a pipe for the supply of gas or water.

Power to make additional crossings, &c.

49. The Company may, subject to the provisions of this Act, with the consent of the local authority and road authority, from time to time make, maintain, alter, and remove such crossings, passing-places, sidings, junctions, and other works, in addition to

A.D. 1877.

those particularly specified in and authorised by this Act, as they find necessary or convenient for the efficient working of the tramways, or for providing access to any warehouses, stables, or carriage-houses, or works of the Company; provided that in the construction of any such works no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the footpath on either side of the road, if the owner or owners or occupier or occupiers of the premises abutting on the place where such rail is proposed to be laid shall, by writing under their hand addressed to the Company, express their objection thereto.

Application of road materials excavated in construction of works.

50. Any paving, metalling, or material excavated by the Company in the construction of the undertaking from any road under the jurisdiction or control of any road authority may be applied by the Company, so far as may be necessary, in or towards the reinstating of the road and the maintenance for six months after completion of any of the tramways within the district of such road authority of so much of the roadway on either side of such tramways as the Company are by section twenty-eight of the Tramways Act, 1870, required to maintain, and the Company shall, if so required, deliver the surplus paving, metalling, or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority, or to such person or persons as he may appoint to receive the same; provided that if within seven days after the setting aside of the surplus arising from the excavation of any such paving, metalling, or material, and notice duly given, such surplus is not removed by such surveyor, or by some other person or persons named by him for that purpose, such surplus paving, metalling, or material shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act, 1870, with respect to differences between the promoters and any road authority.

For protection of Birkenhead Improvement Commissioners.

51. For the protection of the Birkenhead Improvement Commissioners (herein-after called the commissioners) the following provisions shall have effect; that is to say,

1. Section 30 of the Tramways Act, 1870, shall apply to the commissioners with reference to the gas and water mains and pipes belonging to them in like manner as the same applies to a company or persons being the owners of gas or water mains or pipes, and as if the words "the commissioners" had been inserted in that section:

2. The Company shall on demand reimburse and repay to the commissioners all costs, charges, and expenses of and incidental to the removal and relaying, alteration and repair, or renewal of any gas or water mains or pipes, services, valves, or hydrants which in the opinion of the commissioners should be removed, relaid, altered, repaired, or renewed in consequence of the laying down of the tramway, or any part thereof, in their district:

3. The Company shall on demand repay to the commissioners all charges and expenses incurred by them for the supervision and inspection of any work done by the Company in connexion with the tramway or in consequence of the tramway being laid in Birkenhead, and the commissioners are hereby authorised to order such supervision and inspection of the works as they may deem proper:

4. The Company shall at their own expense, upon the request of the surveyor for the time being of the commissioners, remove or divert the rails or tramway from the whole or any part or parts of the street in Birkenhead for permitting the constructing of or repairs to sewers, or for any other purpose of the commissioners for public convenience; and if the Company shall omit to remove or divert the tramway, or any part thereof, within such time as the surveyor of the commissioners shall require, and in case such rails or tramway shall be removed or diverted by the commissioners, who are hereby authorised to remove or divert them, the Company shall and will repay and reimburse the commissioners all costs, charges, and expenses that may be incurred by the commissioners in or about such removal or diversion: Provided always, that in every case in which it shall become necessary to remove and divert any such rails or tramway, the rails may be temporarily laid while such repairs are being made on some other part or parts of the street, if practicable without impeding the traffic of such street:

5. Whenever any tramway or passing-place is constructed or required to be constructed over any man-hole or entrance into a sewer of the commissioners, or so close to any such man-hole or entrance as to make the use thereof dangerous or inconvenient in the opinion of the commissioners, the Company shall, if required by the commissioners, construct another man-hole or side entrance in lieu thereof in such a position and according to such plans as shall be approved of by the commissioners.

A.D. 1877.

For protection of Tranmere Local Board.

52. For the protection of the local board for the district of Tranmere (herein-after called the local board), the Company shall, in the construction of Tramways No. 2 and No. 2A, observe and be bound by the following provisions; (that is to say,)

1. They shall lay down, make, and maintain a single line of tramway only in or along the Happy Valley Road, from Whetstone Lane to North Road, in the township of Tranmere, and that portion of tramway shall be so laid as that the centre line thereof shall be in the centre of the street or road, measuring from the kerbstones on either side, unless the local board shall at a meeting specially convened determine that it shall be laid on any other part of such road, with such passing-places and in such positions as shall be approved of by the local board in writing and under their seal:

2. The Company shall on demand repay to the local board all charges and expenses incurred by them for the supervision and inspection of any work done by the Company in connexion with the tramways, or in consequence of the tramways being laid in the township of Tranmere, and the local board may order such supervision and inspection of the work as they may deem proper:

3. Section 30 of the Tramways Act, 1870, shall apply to the local board with reference to the water mains and pipes belonging to them in like manner as the same applies to a company or person being the owners of water mains or pipes:

4. The Company shall on demand reimburse and repay to the local board all costs, charges, and expenses of and incident to the removal and relaying, alteration, repair, or renewal of any water mains or pipes, services, valves, or hydrants which in the opinion of the local board should be removed, relaid, altered, or repaired in consequence of the laying down of the tramways, or any part thereof:

5. Whenever the tramway or any passing-place or siding is required to be constructed over any man-hole or entrance connected with a sewer of the local board, or so close to any such man-hole or entrance as to make the use thereof dangerous or inconvenient in the opinion of the local board, the Company shall, if required by the local board, construct man-holes or side entrances in lieu thereof in such a position and according to such plan or plans as the local board shall approve of before the tramway is laid over or close to such

man-holes as aforesaid, or the local board may elect to do the work themselves, and in case of such election the Company shall repay the local board all costs, charges, and expenses incurred by them in connexion with such work:

6. During the construction of any works under the authority of the last preceding sub-section within the district of the local board, the Company shall so arrange and carry on the work that a clear space of not less than eight feet from each kerb on each side of the street shall be left free and without any obstruction whatever during the whole progress of the works:

7. The Company shall at their own expense, upon the request of the surveyor for the time being of the local board, remove or divert the tramways from the whole or any part or parts of the street for permitting repairs to sewers, or for any other purpose of the local board or of public convenience; and if the Company shall omit to remove or divert the tramways, or any part thereof, within such time as the surveyor of the local board shall require, and in case such tramway or the rails thereof shall be removed or diverted by the local board (who are hereby authorised to remove or divert the same), the Company shall repay and reimburse the local board all costs, charges, and expenses that may be incurred by the local board in or about such removal or diversion: Provided always, that in every case in which it shall become necessary to remove and divert any such rails or tramway, the rails may be temporarily laid while such repairs are being made on some other part or parts of the street, if practicable:

8. The Company shall save, defend, keep harmless, and indemnify the local board and their estate and effects of, from, and against all actions, suits, indictments, or other proceedings, damages, costs, expenses, claims, and demands whatsoever for or by reason or on account of the tramways, or any part thereof, being laid down, constructed, or maintained in the district of the local board:

9. The space between the rails of the tramways, and for a distance of eighteen inches on the outside of each of the outer rails, shall be paved in such manner and with such materials as the local board shall determine and signify in writing under their seal:

10. Nothing herein-before contained shall be considered or taken as preventing the local board and the Company, by mutual consent, from altering or modifying any of the matters

A.D. 1877.

herein-before contained, so far as such alteration may be in accordance with the provisions of the foregoing sub-sections, such alteration or modification to be sanctioned by a resolution of a meeting of the local board specially summoned for the purpose of considering such alteration or modification.

For protection of London and North-western and Great Western Railway Companies.

53. In constructing and maintaining the Tramways No. 3 and No. 4 respectively over the Birkenhead Railway of the London and North-western and Great Western Railway Companies (in this section referred to as the two companies), the Company shall not in any way alter or interfere with the bridges which carry Grange Lane and Argyle Street respectively over the said railway, and shall so construct and maintain those tramways in the road on and over those bridges and the approaches thereto respectively as not to injuriously affect the stability of those bridges and approaches. In the event of any injury being occasioned to such bridges and approaches, or any of them, or any part or parts thereof, by the construction of the said tramways on or over the same, or in effecting the maintenance, repairs, or renewals thereof, the two companies may restore such bridges and approaches, or the part or parts thereof which may be injured, to as good a state and condition as they respectively were in before such injury was occasioned, at the expense of the Company, and the Company shall recoup to and indemnify the two companies against all sums, costs, and expenses which they may pay or be put to in maintaining and repairing so much of the road over the said bridges and approaches respectively as the Company are liable to maintain and repair under the 28th section of the Tramways Act, 1870, and the two companies may recover from the Company all such sums, costs, and expenses, together with full costs and charges, in any court of competent jurisdiction.

54. With respect to the Post Office telegraph system the following provisions shall take effect:

Restriction on works affecting Post Office telegraph system.

(A.) The Company shall not by any work or thing interfere with any telegraph post, wire, tube, apparatus, or work of Her Majesty's Postmaster General, or execute or do any work or thing causing or likely to cause any interruption of or impediment to postal telegraphic communication, unless and until the Company have given to the Postmaster General one calendar month's previous notice in writing of their intention to execute or do the proposed work or thing, specifying all necessary and proper particulars relating thereto, and unless and until the Postmaster General has approved of the proposed work or thing by writing delivered to the Company, or has failed to approve or to disapprove of

the same for one calendar month after service of such notice and particulars on him: Provided always, that this section shall not be deemed to prevent the Company executing any repairs or other works or things which shall be necessary to prevent accidents, and in any such case the Company shall forthwith give notice to the Postmaster General of any such interference and the reason for the same:

Power for Postmaster General to annex conditions.

(B.) Her Majesty's Postmaster General may annex to his approval under this Act of any work or thing such reasonable terms and conditions as to the time and mode of execution of any such work or thing as he thinks fit, and the Company shall observe and perform the same:

Power of entry for Postmaster General.

(C.) The engineer and other officers and servants and workmen of Her Majesty's Postmaster General may at and for all reasonable times enter on and into and remain on any of the lands and works of the Company for the purpose of examining, repairing, altering, or removing any telegraph post, wire, tube, apparatus, or work the property of the Postmaster General being thereon:

Compensation by Company to Postmaster General, and penalty.

(D.) The Company shall from time to time make full compensation to Her Majesty's Postmaster General for any expense, loss, or damage which he is put to or sustains by reason of the Company, by any work or thing executed or done by them, interfering with any telegraph post, wire, tube, apparatus, or work of the Postmaster General; and if at any time any such work or thing causes an interruption of or impediment to postal telegraphic communication, the Company shall, in addition to making compensation as aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four hours during which that interruption or impediment continues; and the amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs on behalf of the Postmaster General as a penalty is recoverable from the Company:

Limiting period during which this section shall remain in force.

(E.) Inasmuch as it is contemplated to introduce a general measure for the better protection of the national telegraphs, and to enlarge the powers of the Postmaster General in relation thereto, this section shall only remain in force for one year from the date of the passing of this Act, and to the end of the then next session of Parliament.

Power to purchase, &c.

55. The Company may from time to time purchase or take on lease, or otherwise acquire, but only by agreement, any additional

A.D. 1877.

lands, not exceeding in the whole three acres, which they may require for any of the purposes of their undertaking.

lands by agreement.

Tolls for passengers.

56. The Company may demand and take for every passenger travelling upon their existing tramways, or the tramways by this Act authorised, or any part or parts of those tramways respectively, including tolls for the use of the tramway and of carriages, and for motive power, and every other expense incidental to such conveyance, any tolls or charges not exceeding one penny per mile, and in computing the said tolls and charges the fraction of a mile shall be deemed a mile, but in no case shall the Company be bound to charge a less sum than threepence: Provided always, that if at any time after three years from the opening for public traffic of the tramways by this Act authorised it shall be represented in writing to the Board of Trade by any road authority or by twenty inhabitant ratepayers of any parish or extra-parochial place in which any of the tramways are laid that the Company are charging a greater sum than twopence for distances not exceeding two miles, and that under the circumstances then existing such charge is unreasonable, the Board of Trade may (if they think fit) direct an inquiry by a referee into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction the Board may make an order in writing limiting the amount of the rates and fares to be thenceforth charged by the Company for the conveyance of passengers for distances not exceeding two miles to twopence, and the Company shall thenceforth conform to and abide by such order: Provided always, that the Board of Trade may from time to time after making any such order revoke or modify the same for good cause shown to them.

Passengers luggage.

57. Every passenger travelling upon the tramways may take with him his personal luggage, not exceeding twenty-eight pounds in weight, without any charge being made for the carriage thereof.

Company not to carry animals and goods.

58. The Company shall not carry on the tramways any goods, animals, or other things, other than passengers and passengers luggage, not exceeding the weight in this Act in that behalf mentioned, and small parcels.

Cheap fares for labouring classes.

59. The Company at all times after the opening of the tramways for public traffic shall and they are hereby required to run at least two carriages each way every morning in the week and every evening in the week (Sundays, Christmas Day, and Good Friday always excepted), at such hours, not being later than seven in the morning or earlier than six in the evening respectively, as the Company think most convenient, for artisans, mechanics, and daily labourers, at fares not exceeding one halfpenny per mile (the

Company nevertheless not being required to take any fare less than one penny); provided that in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages, the said Board shall have power to fix and regulate the same from time to time.

Saving rights of the Birkenhead Improvement Commissioners.

60. Nothing herein contained shall in any manner prejudice, vary, alter, diminish, or take away any of the powers, rights, claims, privileges, or advantages of the Birkenhead Improvement Commissioners with reference to or in respect of the existing tramways and works of the Limited Company.

Interest not to be paid on calls paid up.

61. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

Deposits for future Bills not to be paid out of capital.

62. The Company shall not, out of any money by this Act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other tramway or to execute any other work or undertaking.

Company not exempt from provisions of present and future general Acts.

63. Nothing in this Act contained shall exempt the Company or the tramway from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of tolls or charges authorised by this Act.

Expenses of Act.

64. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1877.