CHAPTER xcviii.

An Act for granting further powers to the Birmingham and Staffordshire Tramways Company. [7th July 1873.] A.D. 1873.

WHEREAS by "The Birmingham and Staffordshire Tramways Act, 1870," (in this Act referred to as the Act of 1870,) the Birmingham and Staffordshire Tramways Company (herein-after referred to as the Company) were incorporated and authorised to lay down and maintain certain tramways in the county of Stafford, and the Company have constructed and opened for public traffic a great portion of those tramways: 33 & 34 Vict. c. clxviii.

And whereas it is expedient that the time for the construction of certain of the tramways be extended:

And whereas it is expedient that the Company be authorised to lay down and maintain the additional tramways herein-after mentioned:

And whereas it is expedient that further powers be granted to the Company with reference to their existing undertaking:

And whereas plans and sections showing the lines and levels of the tramways by this Act authorised to be made, and the lands to be taken for the purposes thereof, and books of reference to those plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the clerk of the peace for the county of Worcester, and those plans, sections, and books of reference are in this Act respectively referred to as the deposited plans, sections, and books of reference:

And whereas the objects of this Act cannot be attained 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, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Short title.

1. This Act may be cited as "The Birmingham and Staffordshire Tramways Act, 1873."

This Act and recited Act to be construed as one.

2. The provisions of the Act of 1870, so far as the same are unrepealed, and save so far as they are varied by or are inconsistent with the provisions of this Act, shall, so far as the same are applicable, be incorporated with this Act, and this Act and the Act of 1870 shall, subject as aforesaid, be read and construed together as one Act.

Power to make tramways according to deposited plans.

3. Subject to the provisions of this Act and of the Act of 1870, the Company may make, form, lay down, maintain, and work in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with the deposited plans and sections, the tramways herein-after described, with all proper rails, plates, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The tramways herein-before referred to and authorised by this Act will be single lines, with the exception of Tramways Nos. 3. and 3a., which will be double, and are the following:

Tramways Nos. 3. and 3A.—To be situate in the parish of Northfield, in the county of Worcester, in the Bristol Road, each to be two hundred and ninety-five yards in length, and to commence at the boundary of the borough of Birmingham, where such boundary crosses the Bristol Road, proceeding along the said Bristol Road in the direction of Bromsgrove, and terminating opposite to the Malt Shovel Inn:

Tramway No. 3B.—A tramway thirty yards long in the said Bristol Road, to be wholly situate in the said parish of Northfield, to commence by a junction with the proposed Tramway No. 3. at a point about two hundred and sixty-six yards from the borough boundary, and to terminate at the entrance to the stables of the Malt Shovel Inn:

Tramway No. 3c.—A tramway about thirty yards long in the said Bristol Road, to be wholly situate in the said parish of Northfield, to commence by a junction with the proposed Tramway No. 3. at a point about thirty-three yards from the borough boundary, and to terminate at the premises of the Malt Shovel Inn, at a point about forty yards from the said borough boundary.

Period for completion of works.

4. The tramways by this Act authorised to be constructed 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. A.D. 1873.

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

5. 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 seventy-five pounds, being five per centum upon the amount of the estimate in respect of the tramways by this Act authorised, has been paid to the account of Her Majesty's Paymaster General on behalf of the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the sum of seventy-five pounds so paid 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 those tramways, either open those 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 of the amount 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 those 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 paid 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.

6. The said sum of money paid 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 tramways, or any portion thereof, and also in compensating all street authorities for the expense incurred by them in taking up any tramway authorised by this Act, or materials connected therewith, placed by the Company in or on any street vested in or

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maintainable by such street authorities respectively, and in making good all damage caused to such streets by the construction or abandonment of such tramways, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Court of Chancery in England 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 Court of Chancery in England 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 depositors, 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.

Tramways, &c. authorised by this Act to be part of undertaking of Company.

7. The tramways and works by this Act authorised to be constructed shall, subject to the provisions of this Act, be deemed for all purposes part of the undertaking of the Company.

Extending time for completion of Tramways No. 5. and No. 6. authorised by recited Act.

8. The time limited by the Act of 1870 (section sixty-three) for the completion of the Tramways No. 5. and No. 6. by that Act authorised is hereby extended until the first day of August one thousand eight hundred and seventy-four; and section sixty-three, with respect to those tramways, shall be read and construed as if the extended period had been with respect to those tramways originally named in that section: Provided, that if those tramways be not completed within the period limited by this Act, then on the expiration of that period the powers by the Act of 1870 and this Act granted to the Company for the making and completing those tramways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof respectively as shall then be completed.

Additional crossing-places, sidings, &c.

9. The Company may, subject to the provisions of this Act and the Act of 1870, and with the consent in writing of the street authority, from time to time make, maintain, alter, and remove such crossings, passing-places, sidings, junctions, and other works, in addition to those particularly specified in and authorised by this Act and the Act of 1870, as they may find convenient for the efficient working of the tramways by this Act and the Act of 1870 respectively authorised, or for providing access to any warehouses, stables, carriage-houses, buildings, sheds, yards, or works connected with their undertaking: Provided, that in the construction of any such works no rail shall be so laid that a space less than nine feet six inches shall intervene between the said rail and the outside of the footpath on either side of the street if the owner or owners or occupier or occupiers of the premises abutting on the place where the rail is proposed to be laid shall, by writing under their hand addressed to the Company, express their objection thereto.

Company may apply existing funds to purposes of this Act.

10. The Company may apply to the purposes of this Act any moneys authorised to be raised by them by and not required for the purposes of the recited Act.

Rights of Birmingham Canal Company to open roads.

11. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in the Company of Proprietors of the Birmingham Canal Navigations (herein-after called the Canal Company) for the purpose of constructing, raising, lowering, repairing, altering, rebuilding, or removing any bridge or any approach thereto or otherwise, but in the exercise of such power the Canal Company shall be subject to the following restrictions; (that is to say,)

1. They shall cause as little detriment or inconvenience to the Company as circumstances admit:
2. Before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work:
3. They shall not be liable to pay to the Company any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:

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4. Whenever for the purpose of enabling them to execute such work the Canal Company shall so require, the Company shall either stop the traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided, that such work shall always be completed by the Canal Company, as the case may be, with all reasonable expedition:

5. The Canal Company shall not execute such work, so far as it immediately affects the tramway, except under the superintendence of the Company, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the Company: Provided, that any additional expense imposed upon the Canal Company by reason of the existence of the tramway in any road or place where any such bridge shall have been made before the construction of such tramway shall be borne by the Company.

Difference between the Company and the Birmingham Canal Company.

12. If any difference arises between the Company on the one hand and the Canal Company on the other hand with respect to any interference or control exercised or claimed to be exercised by them, or on their behalf, or by the Company, by virtue of this Act, in relation to any tramway or work, or in relation to any work or proceeding of the Canal Company, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the Company, or on the question whether any work is such as ought reasonably to satisfy the Canal Company, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs.

For protection of works of the Birmingham and Staffordshire Gaslight Company.

13. If the Company desire under the authority of this Act to do any act which shall or may render necessary the removal or displacement of any of the mains or pipes, valves, syphons, plugs or apparatus, or other works belonging to or controlled by the Birmingham and Staffordshire Gaslight Company, the Company shall give to that company fourteen days notice of such desire, and

the Birmingham and Staffordshire Gaslight Company shall forthwith (without prejudice nevertheless to the protection afforded them by sub-section two of section thirty of "The Tramways Act, 1870,") make such removal or displacement as may be necessary, and do all works incident thereto, and all expenses to be thereby incurred shall be defrayed by the Company.

Exercise of powers of Birmingham and Staffordshire Gaslight Company of laying down, &c. mains or pipes not to be interfered with.

14. Nothing contained in this Act shall interfere with the exercise by the Birmingham and Staffordshire Gaslight Company of the powers and privileges conferred upon them by any Acts or Act of Parliament of laying down and maintaining, and, as occasion may require, repairing or altering any mains or pipes in and under any of the roads or thoroughfares upon which any tramways may be laid under the authority of this Act, and the provisions of sub-section four of section thirty-two of "The Tramways Act, 1870," in favour of the local authority, or the road authority, shall be extended to and include the Birmingham and Staffordshire Gaslight Company.

Expenses of Act.

15. 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.

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