CHAPTER cxl.

An Act to authorise the construction of Tramways from Bray to Enniskerry, in the county of Wicklow; and for other purposes. [16th July 1874.]

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WHEREAS the laying down of tramways in certain streets and roads in the counties of Wicklow and Dublin, to be worked by animal, steam, or caloric or other power, and constructed so as not to impede or injure the ordinary traffic of the roads, would be of local and public advantage:

And whereas it is expedient that the persons herein-after named, with others, should be incorporated into a company, and should be empowered to lay down and maintain the several tramways in this Act particularly described:

And whereas plans and sections, showing the lines and levels of the tramways and works authorised by this Act and the lands to be taken for the purposes thereof, and also books of reference to those plans, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, were duly deposited with the respective clerks of the peace for the county of Wicklow and for the county of Dublin, and are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas the purposes 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, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Bray and Enniskerry Street Tramways Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Companies Clauses Consolidation Act, 1845," Part I. (relating to cancellation and surrender of shares), the 17th section

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of "The Railways Clauses Consolidation Act, 1845," "The Railways Clauses Act, 1863," Part I. (relating to construction of a railway), "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Act, 1845," except the provisions thereof with respect to the entry upon, purchase, and taking of lands otherwise than by agreement, "The Lands Clauses Consolidation Acts Amendment Act, 1860," and Parts II. and III. of "The Tramways Act, 1870," are incorporated with and form part of this Act, save where the same are expressly varied or excepted by this Act.

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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated by this Act; the expressions "the tramways" and the "undertaking" mean respectively the tramways and the undertaking by this Act authorised, or any part thereof. In the incorporated Acts, the words "work" and "railway" shall for the purposes of this Act mean the works by this Act authorised; the word "contingencies" in the "Companies Clauses Consolidation Act, 1845," section one hundred and twenty-two, 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 forty-three, at a sum less than the aggregate amount of the capital and debts of the Company; the expressions "street" and "road" mean respectively any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same; and the expression "road authority" shall mean the commissioners, grand jury, or other body having the control of the roads or streets referred to; the expression "district," in relation to a road authority, shall mean the area within the jurisdiction of such road authority; the expression "local authority" shall mean the commissioners, grand jury, or other persons intrusted with powers of improving, cleansing, or paving the district; the expression "district," in relation to a local authority, shall mean the area within the jurisdiction of such local authority.

Company incorporated.

4. The Right Honourable Viscount Powerscourt, William Leadbeater Barrington, Frederick Barrington, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and are hereby united into a Company for the purpose of making and maintaining the tramways, and for other the purposes of this Act,

and for those purposes shall be and are hereby incorporated by the name of The Bray and Enniskerry Street Tramways Company, and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act. A.D. 1874.

Power to make tramways.

5. 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, 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 are all single lines, and are—

Tramway No. 5, five chains and two yards in length, situate wholly in the townland of Bray, parish of Bray, township of Bray, in the county of Wicklow, commencing at a point in the centre of Quinsborough Road distant about twenty-one yards from the north-east corner of the International Hotel, measured in a north-easterly direction, passing thence along Quinsborough Road, and terminating thereon at a point opposite Prince of Wales Terrace distant four chains twelve yards or thereabouts, measured in a westerly direction, from the north-west corner of the International Hotel.

Tramway No. 5A, three chains in length, being a passing-place, situate wholly in the townland of Bray, parish of Bray, township of Bray, and county of Wicklow, commencing and terminating by junctions with tramway No. 5, at points distant from the commencement of tramway No. 5 one chain eleven yards and four chains eleven yards respectively.

Tramway No. 7, two chains and eighteen yards in length, situate wholly in the township of Bray, commencing in the townland of Bray, parish of Bray, and county of Wicklow, at a point in the roadway of Bray Bridge immediately over the face of the southern abutment and distant four feet six inches from and on the west side of the imaginary centre line of same, passing thence along the roadway of Bray Bridge, and terminating in the townland of Little Bray, parish of Old Connaught, and county of Dublin, at a point in the new road leading to Bray Commons distant twenty-one yards or thereabouts from the

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north-western abutment of Bray Bridge, measured in a north-westerly direction.

Tramway No. 8, two furlongs five chains and eleven yards in length, situate wholly in the townland of Bray, parish of Bray, township of Bray, and county of Wicklow, commencing on Quinsborough Road, at a point herein-before described as the termination of tramway No. 5, passing thence through Quinsborough Road and through the main street, and terminating at a point on the roadway of Bray Bridge four feet six inches to the west side of the imaginary centre line, and immediately over the south abutment of same.

Tramway No. 8A, three chains in length, being a passing-place, situate wholly in the townland of Bray, parish of Bray, township of Bray, and county of Wicklow, commencing and terminating by junctions with tramway No. 8, at points distant from the commencement of tramway No. 8 two chains and five chains respectively.

Tramway No. 8B, three chains in length, being a passing-place, situate wholly in the townland of Bray, parish of Bray, township of Bray, and county of Wicklow, commencing and terminating by junctions with tramway No. 8, at points distant from the commencement of tramway No. 8 seventeen chains and twenty chains respectively.

Tramway No. 9, three miles one furlong seven chains in length, situate partly in the townlands of Little Bray and Bray Commons, parish of Old Connaught, township of Bray, and county of Dublin, partly in the townland of Old Connaught, parish of Old Connaught, and county of Dublin, partly in the townlands of Bray Commons, Killarney, and Kilbride, in the parish of Bray, and county of Wicklow, partly in the townlands of Fassaroe and Kilcroney, in the parish of Kilmacanoge, and county of Wicklow, and partly in the townlands of Cookstown, Monastery, and Enniskerry, in the parish of Powerscourt, and county of Wicklow.

Tramway No. 9 will commence at a point in the new road leading to Bray Commons, distant twenty-one yards or thereabouts from the north-western abutment of Bray Bridge, measured in a north-westerly direction, passing thence along the new road leading to Bray Commons, Bray Commons Road, the old mail coach road, and the public road from Bray to Enniskerry, and terminating at Enniskerry, at a point one chain eleven yards from the centre of the arch of the bridge over Cookstown River, measured in a southerly direction, and from the eastern face of same.

Tramway No. 9A, three chains in length, being a passing-place, situate wholly in the townland of Bray Commons, parish of Old Connaught, township of Bray, and county of Dublin, commencing and terminating by junctions with tramway No. 9, at points distant from the commencement of tramway No. 9 eleven chains and fourteen chains respectively.

Tramway No. 9B, three chains in length, being a passing-place, situate wholly in the townland of Old Connaught, parish of Old Connaught, and county of Dublin, commencing and terminating by junctions with tramway No. 9, at points distant from the commencement of tramway No. 9 fifty-four chains and fifty-seven chains respectively.

Tramway No. 9C, three chains in length, being a passing-place, situate wholly in the townland of Fassaroe, parish of Kilmacanoge, and county of Wicklow, commencing and terminating by junctions with tramway No. 9, at points distant from the commencement of tramway No. 9 one hundred and four chains and one hundred and seven chains respectively.

Tramway No. 9D, three chains in length, being a passing-place, situate wholly in the townland of Cookstown, parish of Powerscourt, and county of Wicklow, commencing and terminating by junctions with tramway No. 9, at points distant from the commencement of tramway No. 9 one hundred and fifty-two chains and one hundred and fifty-five chains respectively.

Tramway No. 9E, three chains in length, being a passing-place, situate wholly in the townland of Cookstown, parish of Powerscourt, and county of Wicklow, commencing and terminating by junctions with tramway No. 9, at points distant from the commencing of tramway No. 9 one hundred and ninety-three chains and one hundred and ninety-six chains respectively.

Tramway No. 9F, three chains in length, being a passing-place, situate wholly in the townland of Cookstown, parish of Powerscourt, and county of Wicklow, commencing and terminating by junctions with tramway No. 9, at points distant from commencement of tramway No. 9 two hundred and twenty-two chains and two hundred and twenty-five chains respectively.

Tramway No. 9G, three chains in length, being a passing-place, situate wholly in the townland of Enniskerry, parish of Powerscourt, and county of Wicklow, commencing and terminating by junctions with tramway No. 9, at a point distant respectively from the termination of tramway No. 9 five chains and two chains respectively.

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Capital.

6. The capital of the Company shall be twenty-one thousand pounds, in two thousand one hundred shares of ten pounds each.

Shares not to issue until one fifth paid up.

7. The Company shall not issue any share created under the authority of this Act, nor shall any such 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 is paid in respect thereof.

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt clause in case of persons not sui juris.

9. 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 on mortgage.

10. The Company may from time to time borrow on mortgage any sum not exceeding in the whole five thousand pounds; but no part thereof shall be borrowed until the whole capital of twenty-one thousand pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify, under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital has been issued and accepted, and that one half thereof 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 capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, 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 shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

11. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages 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 the application for a receiver is made shall not be less than two thousand pounds in the whole.

Company not to create debenture stock.

12. The Company shall not create or issue debenture stock.

Mortgage to comprise purchase money paid on compulsory sale.

13. 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.

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

Period for completion of works.

15. The tramway 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.

Tolls for passengers.

16. The Company may demand and take for every passenger travelling upon the tramways, or any part or parts thereof, including tolls for the use of the tramways, and of carriages and for motive power, and every other expense incidental to such conveyance, any tolls or charges not exceeding twopence 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.

Passengers luggage.

17. 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.

Tolls for goods, &c.

18. The Company may demand and take tolls and rates of charge for goods, articles, and things conveyed on the tramway not exceeding the tolls and rates of charges specified in Schedule B. to "The Tramways (Ireland) Act, 1860."

Cheap fares for labouring classes.

19. The Company, at all times after the opening of the tramways for public traffic, shall and they are hereby required to run at least one carriage 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 artizans, mechanics, and daily labourers, at fares not exceeding one halfpenny per mile (the Company, nevertheless, not being required to take any fare less than twopence):

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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.

Application of moneys.

20. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

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

Number of directors.

22. The number of directors shall be three.

Qualification of directors.

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

Quorum.

24. The quorum of a meeting of directors shall be two.

Election of directors.

25. The Right Honourable Viscount Powerscourt, William Leadbeater Barrington, and Frederick Barrington 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 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 elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of "The Companies Clauses Consolidation Act, 1845;" and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Purchase of land by agreement.

26. The Company may from time to time purchase and acquire (by agreement) such land as they may require for their undertaking, not exceeding in the whole five acres.

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

27. 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 five hundred pounds, being five per cent. upon the amount of the estimate in respect of the tramways, has been deposited with the Court of Chancery in Ireland in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum of five hundred pounds so deposited as aforesaid

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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 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 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.

28. The said sum of money deposited as aforesaid shall be applicable, and after due notice in the Dublin 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, 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 tramways 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 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 Ireland 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

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Exchequer in such manner as the Court of Chancery in Ireland 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.

Mode of formation of tramway.

29. Every tramway to be made, formed, or laid down under this Act shall be constructed with two rails, to be laid at a distance (reckoning from the inside of the groove of each rail) of three feet six inches from each other, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road.

Inspection by Board of Trade.

30. The tramway shall not be opened for public traffic until it has been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways to be kept on level of surface of road.

31. 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 the tramway 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.

32. 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 tramway 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.

33. 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. A.D. 1874.

Company may be required to use improved form of rail.

34. The Board of Trade may from time to time, upon the application of the local authority or road authority, require the Company to adopt and apply such improvements in the tramways, 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 any such improvements.

Power to make additional crossings, &c.

35. 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 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.

36. 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 re-instating 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 28 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

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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.

Saving rights of the Crown.

37. Nothing contained in this Act shall authorise the said Company to take, use, or in any manner interfere with any lands or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the consent in writing of the Board of Trade on behalf of Her Majesty first had and obtained for that purpose (which consent the Board of Trade are hereby authorised to give), neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Interest not to be paid on calls paid up.

38. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him; but nothing in this Act shall 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.

39. 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 tramways or to execute any other work or undertaking.

Tramways not exempt from prosions of present and future general Acts.

40. Nothing in this Act contained shall exempt the Company or the tramways 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. A.D. 1874.

Expenses of Act.

41. 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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