CHAPTER ccxxxii.

An Act to empower the Dublin Southern District Tramways Company to double certain of their existing Tramways; and for other purposes. [25th August 1883.]

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WHEREAS by the Dublin Southern District Tramways Act 1878 (hereinafter called "the Act of 1878") the Dublin Southern District Tramways Company (hereinafter called "the Company") were incorporated and empowered to lay down in and near the city of Dublin the Tramways in that Act mentioned:

And whereas it is expedient that the Company should be empowered to double the line of the Tramways Nos. 1 1A and 2 authorized by the said Act and for that purpose to lay down and maintain the Tramway in this Act described:

And whereas Plans and Sections showing the lines and levels and describing the position in the streets along which they are to be laid down of the Tramways and works by this Act authorized and Books of Reference to those Plans have been deposited with the respective clerks of the peace for the county of Dublin and for the county of the city of Dublin and those Plans Sections and Books of Reference are in this Act referred to as the deposited Plans Sections and Books of Reference respectively:

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:—

1. This Act may be cited for all purposes as the Dublin Southern District Tramways Act 1883. Short Title.

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Incorporation of General Acts.

2. The provisions of the Companies Clauses Consolidation Act 1845:—

With respect to the distribution of the capital of the Company into shares:

With respect to the transfer or transmission of shares:

With respect to the payment of subscriptions, and the means of enforcing the payment of calls:

With respect to the forfeiture of shares for non-payment of calls:

With respect to the remedies of creditors of the Company against the shareholders:

With respect to the borrowing of money by the Company on mortgage or bond:

With respect to the conversion of borrowed money into capital:

With respect to the consolidation of shares into stock: and

With respect to the provision to be made for affording access to the special Act:

Part I. (relating to Cancellation and Surrender of Shares) and Part II. (relating to Additional Capital) of the Companies Clauses Act 1863 and 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) and the Lands Clauses Consolidation Acts Amendment Act 1860 and section 3 (Interpretation Clause) section 19 (Local Authority may lease or take Tolls) and Parts II. and III. of the Tramways Act 1870 (except so much of section 44 as empowers the undertakers to sell their undertaking to any person persons corporation or company other than the local authority) are notwithstanding anything contained in section 2 of the last-mentioned Act incorporated with and form part of this Act save where the same are expressly varied or excepted by this Act.

Interpretation.

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 expressions "the Tramways" or "the undertaking" shall mean the Tramways and works and undertaking of the Company as authorized by the Act of 1878 and this Act or any part thereof:

The expressions "street" and "road" mean respectively any carriage-way being a public highway and the carriage-way of any bridge forming part of or leading to the same:

The expression "road authority" shall mean the corporation 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.

Power to make Tramway.

4. Subject to the provisions of this Act the Company may make form lay down and maintain 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 the Tramway hereinafter described with all proper rails plates tubes works and conveniences connected therewith The Tramway hereinbefore referred to and authorized by this Act is—

A Tramway three miles five furlongs one chain and twenty-five links in length being a double line commencing by a junction with the existing Tramways of the Dublin United Tramways Company at or near the junction of Northumberland Road and Haddington Road passing thence in a southerly direction along Northumberland Road across Balls Bridge along Merrion Road Booterstown Road Williamstown Road Rock Hill and Main Street Blackrock and terminating in the last-named street on the north-western side of the Stone Cross at the eastern end thereof.

Tramway to be part of Undertaking of Company.

5. The Tramway and works by this Act authorized to be constructed shall subject to the provisions of this Act be deemed for all purposes part of the undertaking of the Company.

Power to appropriate existing Tramways for purposes of New Tramway.

6. The Company may for the purposes of and in connection with the laying of the Tramway by this Act authorized take up remove and appropriate and use so much of the existing Tramways in the said roads or streets as now consist of a single line only and may for the like purposes use if applicable so much of the existing Tramways as may now consist of a double line Provided always that the Company shall not substitute a double line for a single line of Tramway under this Act in any part of a street where the width of the roadway between the footpaths is less than twenty-seven feet.

For Protection of Road Authorities.

7. The Company shall at their own expense pave and keep paved with such materials and in such manner as the road authority shall approve and to their satisfaction so much of the road whereon any Tramway of the Company is laid as lies between the rails of the Tramway and (where two Tramways of the Company are laid in any road at a distance of not more than four feet from each other) the portion of the road between the Tramways and in every

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case so much of the road as extends eighteen inches beyond the rails of and on each side of every Tramway of the Company And shall also at the like expense in constructing the Tramway by this Act authorized lay such nine-inch pipes under the roads whereon such Tramways are authorized to be constructed for the purposes of gullies or sewer connections and with such fall as may be required by the road authorities.

Mode of formation of Tramway.

8. The Tramway by this Act authorized shall be constructed on a gauge of five feet three inches and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on the level with the surface of the road.

Tolls.

9. The Company may demand and take in respect of the Tramway by this Act authorized the tolls rates and charges which they are by the Act of 1878 authorized to demand and take with respect to the Tramways by that Act authorized as if the Tramway by this Act authorized had formed part of the Tramways by that Act authorized.

Extending certain sections of Act of 1878 to this Act.

10. The sections of the Act of 1878 of which the numbers and marginal notes are set forth in the Schedule to this Act annexed and the Schedule to the Act of 1878 shall extend to and form part of this Act and shall apply to the Tramway by this Act authorized as fully and effectually as if those sections and that Schedule had been expressly re-enacted and repeated in this Act.

Period for Completion of Works.

11. The Tramway by this Act authorized 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.

Temporary Tramways may be made when necessary.

12. Where by reason of the execution of any work affecting the surface or soil of any road along which any Tramway authorized by this Act is laid it shall in the opinion of the road authority be necessary or expedient temporarily to remove or discontinue the use of such Tramway or any part thereof the Company may subject to such conditions and in accordance in all respects with such regulations as the road authority may from time to time make construct in the same or any adjacent road and with the like consent subject to the like conditions and in accordance with the like regulations maintain so long as occasion may require a temporary Tramway or temporary Tramways in lieu of the Tramway or part of a Tramway so removed or discontinued.

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Deposit Money not to be repaid until Tramway opened or half the Capital paid up and expended.

13. 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 one thousand two hundred and thirty-seven pounds twelve shillings and six pence consolidated three pounds per centum annuities being equal to five per centum upon the amount of the estimate in respect of the Tramway by this Act authorized has been deposited with the Chancery Division of the High Court of Justice in Ireland in respect of the application to Parliament for this Act (which sum is referred to in this Act as "the deposit fund") Be it enacted that notwithstanding anything contained in the said Act the said deposit fund 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 (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the said Tramway open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the said Tramway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of Tramway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of Tramway so opened bears to the entire length of the Tramway by this Act authorized the Chancery Division shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein 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.

14. If the Company do not previously to the expiration of the period limited for the completion of the Tramway by this Act authorized complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the Dublin Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the Tramway or any portion thereof and for which injury or loss no

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compensation or inadequate compensation has 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 in Ireland may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund 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 Chancery Division 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 deposit fund has been repaid to the depositors or has become otherwise applicable as hereinbefore 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 depositors.

Power to raise new Capital.

15. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise by the creation and issue of new shares any additional capital not exceeding in the whole twenty-eight thousand pounds and such new shares may be wholly or partially ordinary shares or wholly or partially preference shares as the Company think fit but the Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any share vest in the person 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.

16. 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 calls in any year upon any share. A.D. 1883.

17. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares. Dividends on New Shares.

18. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned. Restriction as to Votes in respect of Preferential Shares.

19. If any money be payable to any shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate as the case may be shall be a sufficient discharge to the Company for the same. Receipts on behalf of Incapacitated Persons.

20. The Company may in respect of the additional capital of twenty-eight thousand pounds by this Act authorized to be raised by shares from time to time borrow on mortgage in addition to the sums which they are already authorized to borrow any sum or sums not exceeding in the whole seven thousand pounds and of that sum they may borrow from time to time not exceeding one thousand pounds in respect of every four thousand pounds of the said additional capital but no part of any such sum of one thousand pounds shall be borrowed until shares for the whole of the respective portion of capital in respect of which it is to be borrowed are 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 the respective portion of 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 portion of 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 certificate shall be sufficient evidence thereof. Power to borrow.

21. Section 20 of the Act of 1878 relating to the appointment of a receiver is hereby repealed but without prejudice to any For Appointment of a Receiver.

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appointment which has been made or to the continuance of any proceedings which have been commenced prior to the passing of this Act under that section 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 and in order to authorize the appointment of a receiver in respect of principal or principal and interest the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than two thousand pounds in the whole.

Moneys borrowed on Mortgage to have Priority.

22. All moneys to be borrowed on mortgage under the Act of 1878 or under this Act from the time when the same shall be advanced and the interest for the time being due thereon shall (except as otherwise provided by the next following section of this Act) have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into or to be entered into by them but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act or injuriously affected by the construction of the Tramway or by the exercise of any of the powers conferred upon the Company.

Existing Mortgages to have Priority.

23. All mortgages granted by the Company under the authority of the Act of 1878 which shall be subsisting at the passing of this Act shall during the continuance thereof have priority over all mortgages granted under the authority of this Act.

Company not to create and issue Debenture Stock.

24. The Company shall not create and issue debenture stock.

Mortgages to comprise Purchase-money paid on Compulsory Sale.

25. 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 the provisions of the Act of 1878 or this Act and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Mortgages to be endorsed with Notice as to purchase by Local Authority.

26. 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 Tramways or the undertaking in the event of their being purchased by the local authority under the forty-third section of the Tramways Act 1870.

Application of Moneys.

27. All moneys raised under this Act whether by shares or borrowing shall be applied for the purposes of this Act and to the general purposes of the Company being in every case purposes to which capital is properly applicable and not otherwise and the

Company may apply to the purposes of this Act any moneys authorized to be raised by them by and not required for the purposes of the Act of 1878.

Interest not to be paid on Calls paid up.

28. The Company shall not out of any money by this Act authorized 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.

29. The Company shall not out of any money by this Act authorized 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 authorizing the Company to construct any other tramway or to execute any other work or undertaking.

Provision as to General Railway Acts.

30. Nothing herein contained shall be deemed or construed to exempt 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 fares and charges authorized to be taken by the Company.

Costs of Act.

31. All the 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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SCHEDULE.

Sections of the Act of 1878 incorporated with this Act.

6. Rock Road to be made up before Tramway laid.
7. Through cross drains to be made on the Rock Road.
8. Company not to lay materials on footways.
9. Passing places to be constructed where less than a certain width left between footway and Tramway.
10. Form and delivery of Notices.
11. Power for Company to use Tramways with flange-wheeled carriages &c.
12. Authorizing agreements for use of Tramways.
13. Local Authority may use Tramways for certain purposes.
14. Company to make sidings if required by Local Authority.
25. Passengers' luggage.
26. Tolls for passengers goods &c.
27. Cheap fares for labouring classes.
28. Company not bound to carry goods.
29. List of tolls to be exhibited in carriages.
30. Tolls to be paid as directed by the Company.
31. Notice of bye-laws to be given.
32. Proof of bye-laws.
43. Inspection by Board of Trade.
44. Tramways to be kept on level of surface of road.
45. Penalty for not maintaining rails and roads.
46. Sewer Authority to have access to sewer.
47. Company may be required to use improved form of rail.
48. Power to make additional crossings &c.
49. Application of road materials excavated in construction of works

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