CHAPTER cxlix.

An Act to empower the Dublin Tramways Company to construct further new Tramways; and for other purposes. A.D. 1878.

[4th July 1878.]

WHEREAS by the Dublin Tramways Act, 1871, (herein-after called "the Act of 1871,") the Dublin Tramways Company (herein-after called "the Company") were incorporated, and empowered to lay down, in and near the city of Dublin, the tramways in that Act mentioned: 34 & 35 Vict. c. lxxxviii.

And whereas by the Dublin Tramways Act, 1873, (herein-after called "the Act of 1873,") the Company were empowered to lay down and maintain the several additional tramways in that Act mentioned: 36 & 37 Vict. c. xci.

And whereas it is expedient that the Company should be empowered to lay down and maintain the further additional tramways in this Act described:

And whereas it is expedient that the Company should be empowered to abandon the construction of certain of the tramways authorised by the Act of 1873:

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 authorised, 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:

A.D. 1878.

Short title.

1. This Act may be cited for all purposes as the Dublin Tramways Act, 1878.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

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 nonpayment 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 the 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, and the Lands Clauses Consolidation Acts Amendment Act, 1860, are incorporated with and form part of this Act, save where the same are expressly varied or excepted by this Act, and except as to the following provisions of the Lands Clauses Consolidation Act, 1845; namely,

26 & 27 Vict. c. 118.

8 & 9 Vict. c. 18.

23 & 24 Vict. c. 106.

8 & 9 Vict. c. 18.

(1.) With respect to the purchase and taking of lands otherwise than by agreement;

(2.) With respect to the entry upon lands by the promoters of the undertaking.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part 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 authorised by the Act of 1871, the Act of 1873, and this Act, or any part thereof; 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 "the Corporation" shall mean the Lord Mayor, aldermen, and burgesses of the city of Dublin; and the expression "road authority" shall mean the corporation, com-

missioners, 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.

Abandonment of certain tramways authorised by Act of 1873.

4. The Company shall abandon the construction of Tramways Numbers 4, 4a, 4b, 4c, 4d, 5, 5a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 8, and 8a, authorised by the Act of 1873.

Power to make tramways according to deposited plans.

5. 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 the deposited plans and sections, the street tramways herein-after described, with all proper rails, plates, works, and conveniences connected therewith. The tramways hereinbefore referred to, and authorised by this Act, are,—

Tramways Numbers 3 and 3A, two furlongs one and a half chains and two furlongs two and a half chains in length respectively, being a double line of tramways, situate wholly in the parish of Saint Peter, and county of the city of Dublin, commencing by junctions with the existing tramways of the Company in Harcourt Street, at or near the west end of Hatch Street, passing thence in an easterly direction into and along Hatch Street, and thence in a northerly direction into and along Earlsfort Terrace, and terminating by junctions with the existing tramways of the Company at their termination in Earlsfort Terrace.

Certain sections of Act of 1871 extended to this Act.

6. The sections of the Act of 1871 set forth and specified in the schedule annexed to the Act of 1873, and the sections of the Act of 1873 set forth and specified in the schedule to this Act annexed, shall extend to and form part of this Act, and shall apply to the tramways authorised by this Act, as fully and effectually as if those sections had been expressly repeated and re-enacted in this Act.

Power to raise new capital.

7. The Company may from time to time raise, by the creation and issue of new shares of not less than ten pounds each, such sums of money as they shall think necessary, not exceeding in the whole eight thousand pounds, in addition to the moneys which they are already authorised to raise by shares.

Shares not to issue until one-fifth part paid up.

8. The Company shall not issue any share created under the authority of this Act, 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.

A.D. 1878.

Calls.

9. 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.

Power to divide shares.

10. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share:" Provided always, that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up; and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares.

11. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following; (that is to say,) first, in payment of dividends, after such rate, not exceeding six per centum per annum, as shall be determined once for all at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder (if any) in payment of dividend on the deferred half share; and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividends on preferred shares to be paid out of profits of year only.

12. Each preferred half share shall be entitled, out of the profits of each year, to the dividend which may have been attached to it by the Company as aforesaid, in priority to the deferred half share bearing the same number; but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

13. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half

shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it be shown to their satisfaction that the certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificates.

14. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated in the certificate of each such half share.

Forfeiture of preferred shares. 8 & 9 Vict. c. 16.

15. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the forfeiture of shares for nonpayment of calls shall apply to all preferred half shares to be created under the authority of this Act, and every such preferred half share shall for that purpose be considered a whole share distinct from the corresponding deferred half share: Provided always, that until any forfeited preferred half share shall be sold by the directors of the Company, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Preferred shares not to be cancelled or surrendered.

16. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares to be half shares in capital.

17. The several half shares under this Act shall be half shares in the capital of the Company; and every two half shares, whether preferred or deferred, or one of each, held by the same person shall confer such right of voting at meetings of the Company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Receipts in case of persons not sui juris.

18. 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.

Power to borrow on mortgage.

19. The Company may from time to time borrow on mortgage, in addition to the sums which they are already authorised to borrow, any sum or sums not exceeding in the whole two thousand pounds, in respect of the capital of eight thousand pounds by this Act authorised to be raised by shares, but no part of any such sum of two thousand pounds shall be borrowed until the whole capital

A.D. 1878.

of eight 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 certificate shall be sufficient evidence thereof.

8 & 9 Vict. c. 16.

As to appointment of a receiver.

20. 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 authorise the appointment of a receiver in respect of principal, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less than five hundred pounds in the whole.

Moneys borrowed on mortgage to have priority.

21. All moneys to be borrowed on mortgage under any former Act relating to the Company, 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.

22. All mortgages granted by the Company under the authority of the Act of 1871 or the Act of 1873, which shall be subsisting at the passing of this Act, shall, during the continuance thereof, and subject to the provisions of the Acts under which the same were respectively granted, have priority over all mortgages granted under the authority of this Act.

Application of moneys.

23. All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act and of works authorised to be executed by an Order in Council of the Lord Lieutenant of Ireland, bearing date the thirteenth day of August one thousand eight hundred and seventy-seven.

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 1871, the Act of 1873, or this Act, 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 Corporation.

26. Every mortgage deed granted by the Company under this Act shall be indorsed with notice that such mortgage will not be a charge upon the tramways in the event of their being purchased by the local authority under the provisions of the Act of 1871, the Act of 1873, or this Act.

Period for completion of works.

27. 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.

Company liable to penalty if tramways not completed within time limited.

28. If the Company fail within the period limited by this Act to complete the tramways, the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the tramways are completed and opened for public traffic, or until the sum received in respect of such penalty amounts to five per cent. on the estimated costs of the works; and the said penalty may be applied for by any road authority, landowner, or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor of Her Majesty's Treasury, and in the same manner as the penalty provided in section three of the Railway and Canal Traffic Act, 1854; and every sum of money recovered by way of such penalty as aforesaid shall be paid, under the warrant or order of such court or judge as is specified in that section, to an account opened or to be opened in the name and with the privity of the Accountant General of the Chancery Division of the High Court of Justice in Ireland, in the bank specified in such warrant or order, and shall not be paid thereout except as herein-after provided; but no penalty shall accrue in respect of any time

17 & 18 Vict. c. 31.

A.D. 1878.

during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening such tramway by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

29. Every sum of money so recovered by way of penalty 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 portions thereof, 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 abandomnent of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the said Chancery Division may seem fit; and if no such compensation shall be payable, or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum or sums of money recovered by way of penalty, 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 said 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 said 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.

Tolls.

30. The Company may demand and take in respect of the tramways the tolls and charges which they are by the Act of 1871 and the Act of 1873 authorised to demand and take with respect to the tramways by those Acts authorised, as if the tramways had formed part of the tramways by those Acts authorised.

Interest not to be paid on calls paid up.

31. 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.

8 & 9 Vict. c. 16.

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

32. 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.

Tramways not exempt from provisions of any present or future general Tramway Acts.

33. 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 authorised to be taken by the Company.

Expenses of Act.

34. 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.

A.D. 1878.

SCHEDULE referred to in the foregoing Act.

SECTIONS OF ACT OF 1873 INCORPORATED WITH THIS ACT.

Number of Section.	Matter to which Clause refers.
5	Tramways not to be opened until inspected and certified by Board of Trade.
6	Penalty for not maintaining rails and roads.
7	Authorising agreements for the use of the tramways.
35	Recovery of tolls, penalties, &c.

LONDON : Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1878.