CHAPTER clxv.

An Act to transfer the undertakings of the Dublin United Tramways Company and the Dublin Southern District Tramways Company to the Dublin United Tramways Company (1896) Limited and to amend the Acts relating to those companies and for other purposes. A.D. 1905.

[4th August 1905.]

WHEREAS under and in pursuance of various Acts of Parliament and Orders made under the Tramways (Ireland) Acts the Dublin United Tramways Company (hereinafter called "the Dublin United Company") and the Dublin Southern District Tramways Company (hereinafter called "the Dublin Southern Company") are respectively the owners of tramways in the city and in the county of Dublin:

And whereas the Dublin United Tramways Company (1896) Limited (hereinafter called "the Company") are the owners of the whole of the share capital of the Dublin Southern Company and of all the share capital of the Dublin United Company except three shares of ten pounds each and the tramways of the two last-named companies are now worked by electricity from one generating station and as one undertaking and it is expedient that the said tramways should be transferred to and vested in the Company:

And whereas the Dublin United Company have issued mortgage bonds amounting to one hundred and fifty thousand pounds and the Dublin Southern Company have issued mortgage bonds amounting to sixty-two thousand pounds and it is expedient that the same should remain charged upon the undertaking so transferred:

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And whereas the shares of the Dublin United Company with the exception of such three shares were acquired by the Company in consideration of the issue to the holders of shares of preference shares in the Company but no persons could be found who claimed to be entitled to deal with the said three shares and it is expedient that provision be made in relation thereto:

And whereas it is expedient that the powers vested in the local or road authorities of the several districts in which the tramways now owned by the Dublin United Company and the Dublin Southern Company are situate with respect to the purchase of the portions of the tramways within their respective districts should be defined or modified as provided by this Act:

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 King'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 and citation

1.—(1) This Act may be cited for all purposes as the Dublin United Tramways Act 1905.

(2) The following Acts and Orders may together be cited for all purposes as the Dublin United Tramways Acts and Orders 1871 to 1903 (that is to say):—

The Dublin Tramways Act 1871;

The Dublin Tramways Act 1873;

The North Dublin Street Tramways Act 1875;

The North Dublin Street Tramways Act 1876;

The Dublin Southern District Tramways Act 1878;

The Dublin Central Tramways Act 1878;

The Dublin Tramways Act 1878;

The North Dublin Street Tramways Act 1880;

The Dublin United Tramways Act 1881;

The Dublin Southern District Tramways Act 1883;

The Blackrock and Kingstown Tramways Act 1883;

The Dublin Southern District Tramways Act 1887;

The Dublin Southern District Tramways Act 1893;

The Dublin United Tramways Act 1896 ;

The Dublin United Tramways (Electrical Power) Act 1897 ;

The Dublin United Tramways (New Lines) Act 1897 ;

The Dublin Southern District Tramways Act 1898 ;

The City of Dublin Tramways Order 1867 ;

The Dublin Tramways Order 1877 ;

The Dublin United Tramways Extension Order 1885 ;

The Dublin United Tramways (Junctions and Extensions) Order 1892 ;

The Dublin United Tramways (Alteration and Deviation) Order 1892 ;

The Dublin Southern District Order 1893 ;

The Dublin United Tramways (Construction and Diversions) Order 1895 ;

The Dublin Southern District Tramways Order 1897 ;

The Dublin United Tramways Company (Extensions and Alterations) Order 1899 ;

The Dublin United Tramways Company (Extension of Time) Order 1903.

(3) This Act and the Dublin United Tramways Acts and Orders 1871 to 1903 may together be cited as the Dublin United Tramways Acts and Orders 1871 to 1905.

Interpretation.

2. In this Act unless there be something in the subject or context repugnant to such construction—

The expression "the Company" means the Dublin United Tramways Company (1896) Limited ;

The expression "the Dublin United Company" means the Dublin United Tramways Company ;

The expression "the Dublin Southern Company" means the Dublin Southern District Tramways Company ;

The expression "the undertaking" in relation to the Dublin United Company and the Dublin Southern Company respectively includes the whole undertaking of that company and all that company's property and assets real and personal of every description and all that company's powers rights and privileges as the same respectively shall stand at the date of transfer ;

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The expressions "road authority" and "local authority" mean in the city of Dublin the corporation in an urban district the urban district council and elsewhere the county council;

The expression "the corporation" means the right honourable the lord mayor aldermen and burgesses of Dublin;

The expression "district" in relation to a road authority or local authority means the area within the jurisdiction of such authority.

Transfer and vesting of undertakings of Dublin United Company and Dublin Southern Company to and in Company.

3. On the passing of this Act the several undertakings of the Dublin United Company and the Dublin Southern Company under the Dublin United Tramways Acts and Orders 1871 to 1903 shall be by virtue of this Act and subject to the provisions hereof transferred to and vested in the Company and the Company shall maintain and carry on the undertakings and except as hereinafter expressly provided exercise and perform and be charged with all the rights powers authorities duties obligations and liabilities of the Dublin United Company and the Dublin Southern Company granted authorised and imposed on those companies or either of them by the Dublin United Tramways Acts and Orders 1871 to 1903 and by the Rathmines and Rathgar Township Tramways and Improvement Act 1897 as if the Company had been named in such Acts and Orders instead of the Dublin United Company and the Dublin Southern Company respectively and such transfer and vesting is hereinafter called "the transfer" and shall take effect on the date of the passing of this Act which date is hereinafter called "the date of transfer."

Dissolution of Dublin United Company and payment or satisfaction to holders of shares therein not owned by Company.

4.—(1) Upon the date of transfer the capital of the Dublin United Company shall be cancelled save and except the three shares which are not owned by the Company and the Dublin United Company shall only continue to exist so far as is necessary for the purposes of this section.

(2) The Company shall issue and pay to the holders of each of the said three shares one ten pound preference share of the Company fully paid up together with the unpaid dividends thereon at the rate of six pounds per centum per annum from the thirtieth day of June one thousand eight hundred and ninety-six (being the day on which such shares were created by the Company) to the date of transfer and a sum equal to any further sum standing at the date of transfer in the books of the Dublin United Company to the credit of the holder of such shares by way of

unclaimed dividends prior to the said thirtieth day of June one thousand eight hundred and ninety-six. A.D. 1905.

(3) Such preference shares and sums of money shall be accepted and when issued or paid shall be held by such holders upon the same trusts and subject to the same powers provisions declarations agreements charges and incumbrances as at the date of transfer affect the shares in respect of which the same are respectively issued or paid and so as to give effect to and not to revoke any deed or other instrument or other testamentary disposition affecting the same.

(4) If the Company are for six months after the date of transfer unable after reasonable inquiry to ascertain the person to whom any shares ought to be issued or sums paid as aforesaid or cannot obtain a sufficient discharge for the same the Company may issue or transfer or pay the same to the accountant general for and on behalf of the Supreme Court of Judicature in Ireland and every such issue or transfer of payment shall conclusively discharge the Company from all further liability with regard to any shares so issued or transferred or sums paid and for the purpose of this Act such shares shall be deemed to be issued or sums paid to the person absolutely entitled thereto and any person afterwards showing to the satisfaction of the Chancery Division of the High Court of Justice in Ireland that he is entitled to such shares or to the payment of such sums may obtain a transfer of such shares or a payment of such sums accordingly.

(5) So soon as such preference shares have been issued or transferred in accordance with the foregoing provisions of this section the directors of the Company shall grant a certificate to that effect under the common seal of the Company and shall publish such certificate in the Dublin Gazette whereupon the Dublin United Company shall be dissolved and all the capital therein cancelled and the provisions of the Dublin United Tramways Acts and Orders 1871 to 1903 shall be repealed so far as they relate to the existence or constitution of or to the issue of capital by the Dublin United Company.

5. Upon the date of transfer the Dublin Southern Company shall be dissolved and the capital issued therein cancelled and the provisions of the Dublin United Tramways Acts and Orders 1871 to 1903 shall be repealed so far as they relate to the existence or constitution of or to the issue of capital by the Dublin Southern Company. Dissolution of Dublin Southern Company.

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As to mortgage debts of companies.

6.—(1) The mortgage bonds heretofore issued by the Dublin United Company amounting to one hundred and fifty thousand pounds and the interest thereon shall after the transfer continue to be a charge upon the undertaking of that company as transferred by this Act to the same extent and with the same incidents as if this Act had not been passed and as if the Company were substituted for the Dublin United Company in respect of such mortgage bonds and interest and the Company shall pay the interest and repay the principal in accordance with the provisions of such bonds.

(2) The mortgage bonds heretofore issued by the Dublin Southern Company amounting to sixty-two thousand pounds and the interest thereon shall after the transfer continue to be a charge upon the undertaking of that company as transferred by this Act to the same extent and with the same incidents as if this Act had not been passed and as if the Company were substituted for the Dublin Southern Company in respect of such mortgage bonds and interest and the Company shall pay the interest and repay the principal in accordance with the provisions of such bonds.

(3) The Company may for the purpose of paying off any of the said mortgage bonds borrow the amount required to pay off the same and may charge the moneys borrowed upon the like security as the moneys paid off were charged on or upon such other security as under the memorandum and articles of association of the Company they are entitled to charge the same.

(4) The provisions of sections 41 to 55 of the Companies Clauses Consolidation Act 1845 shall continue to apply to such mortgage bonds.

Pending actions against Dublin United Company or Dublin Southern Company.

7. If at the date of the transfer any action or proceeding or any cause of action or proceeding is pending or existing by or against the Dublin United Company or the Dublin Southern Company the same shall not abate or be discontinued or in any wise be prejudicially affected by reason of the transfer or of anything in this Act but the same shall be continued prosecuted and enforced by or against or in favour of the Company as and when it might have been continued prosecuted and enforced by or against or in favour of the Dublin United Company or the Dublin Southern Company as the case may be if this Act had not been passed and the transfer had not been made.

Contracts &c. of Dublin United Com-

8. Except as by this Act otherwise provided all conveyances leases deeds contracts agreements and other instruments

affecting the Dublin United Company and the Dublin Southern Company or either of them and in force at the date of the transfer shall be as binding and of as full force and effect in every respect against or in favour of the Company and may be enforced as fully and effectually as if instead of the Dublin United Company or the Dublin Southern Company the Company had been a party thereto and all such conveyances leases deeds contracts agreements and other instruments shall henceforth be read and construed as if the Company were named therein instead of the Dublin United Company or the Dublin Southern Company.

pany and Dublin Southern Company to be binding on Company.

9. All the byelaws rules and regulations of the Dublin United Company and the Dublin Southern Company relating to the management use or control of their respective undertakings shall notwithstanding the transfer continue to be in force and applicable to and in respect of the undertakings and shall and may be enforced by and available to the Company in their own name as well for the recovery of penalties as for all other purposes as if the same respectively had been originally made by the Company until other byelaws rules and regulations are duly made by the Company in their stead.

Byelaws to remain in force.

10. All books and documents which if the transfer had not been made would have been evidence in respect of any matter for or against the Dublin United Company or the Dublin Southern Company shall after any transfer under this Act be admitted in evidence in respect of the same and the like matter for or against the Company.

Books &c. to remain evidence.

11.—(1) The power of purchase which by section 51 of the Dublin United Tramways (Electrical Power) Act 1897 is conferred upon every road authority in respect of the tramways in that section mentioned within the district of that authority shall apply to all tramways which may under the operation of this Act become vested in the Company and to all tramways which the Company may be authorised by any subsequent Act of Parliament or Order in Council to construct and the provisions of that section shall apply to those tramways and to all lands works materials and plant used by the Company for the purposes of their undertaking within such district as if they had been part of "the tramways" as in that section defined.

Power of purchase by road authorities.

(2) The power of purchase which by section 6 of the Rathmines and Rathgar Township Tramways and Improvement Act 1897 was conferred upon the Rathmines and Rathgar

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Township Commissioners shall continue to apply to the Rathmines Tramways as in that section defined but with the substitution of the Company for the Dublin United Company.

(3) Save in accordance with those sections no local or road authority shall have any power to purchase compulsorily any portion of the undertakings authorised by the Dublin United Tramways Acts and Orders 1871 to 1903.

For protection of Postmaster-General.

12.—(A) Notwithstanding anything in this Act contained if any of the works authorised to be executed by this Act involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration.

(B) In the event of any tramways of the Company being worked by electricity the following provisions shall have effect :—

(1) The Company shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Company as to compliance with this subsection shall be determined by arbitration:

(2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Company of their electric lines and works or by the working of the undertaking of the Company the Company shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection :

(3) Before any electric line is laid down or any act or work for working the tramways by electricity is done within ten yards of any part of a telegraphic line of

the Postmaster-General (other than repairs) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work Any difference which arises between the Postmaster-General and the Company as to any requirement so made shall be determined by arbitration:

(4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the works of the Company is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of the Company's works or to the working of their undertaking the engineer-in-chief of the Post Office or any person appointed in writing by him may at all times when electrical energy is being generated by the Company enter any of the Company's works for the purpose of inspecting the Company's plant and the working of the same and the Company shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Company pursuant to the Board of Trade regulations:

(5) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues:

(6) Provided that nothing in this section shall subject the Company or their agents to a fine under this section

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if they satisfy the court having cognizance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice:

(7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work:

(8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Act:

(9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882:

(10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Company or their agents were a company within the meaning of that Act:

(11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Company by indictment action or otherwise in relation to any of the matters aforesaid:

(12) In this section the expression "the Company" includes their lessees and any person owning working or running carriages on any of the tramways of the Company:

(13) Section 20 of the Dublin Southern District Tramways Act 1893 section 15 of the Dublin United Tramways

Act 1896 section 44 of the Dublin United Tramways (Electrical Power) Act 1897 and section 54 of the Dublin United Tramways Company (Extensions and Alterations) Order 1899 are hereby repealed and the provisions of this section shall have effect in lieu of the provisions of those sections.

Restriction upon Company's powers.

13. Notwithstanding anything contained in the memorandum and articles of association of the Company the Company shall not without the authority of an Act of Parliament—

(1) Erect any new station for generating electricity Provided that nothing in this Act or in the Dublin United Tramways Acts and Orders 1871 to 1903 shall prevent the Company from continuing enlarging altering or extending any existing generating station;

(2) Use or supply electrical power or energy or permit their machinery poles wires cables apparatus and appliances to be used for any purpose whatever other than lighting and moving the cars and lighting the premises of the Company and operating machinery therein and for lighting their standards or posts for their own use Provided always that nothing in this subsection contained shall affect or interfere with the existing rights of the local authorities or of the Clontarf and Hill of Howth Tramroad Company; or

(3) Carry on or take any financial interest in any undertaking other than their existing generating station and the undertakings by this Act transferred to and vested in the Company and such extensions of or additions to those undertakings as the Company may by Order in Council be authorised to construct or acquire.

For protection of Clontarf and Hill of Howth Tramroad Company.

14. On the passing of this Act the powers conferred on the Dublin United Company by section 67 of the Clontarf and Hill of Howth Tramroad Act 1898 shall by virtue of this Act be transferred to and vested in the Company and the said section shall remain in full force and effect and shall thenceforth be read and construed as if the Company were named therein instead of the Dublin United Company.

Agreements as to purchase of tramways by road authorities.

15. The road authority of any district in which the tramways transferred to or vested in the Company or any part thereof are or is situate or any of them may enter into and carry into effect agreements for or with respect to the postponement of the

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date at which the right of such road authority to purchase such tramway or tramways or portion of tramway or tramways shall be exercised for such periods not exceeding a period of forty-two years from the date of the agreement and on such terms and conditions as may be agreed by such road authority and when any such agreement as aforesaid is entered into by any such road authority the powers of purchase of any tramways comprised in any such agreement shall be exercised only in accordance with the provisions thereof.

Copy of Act to be registered.

16. The Company shall deliver to the Registrar of Joint Stock Companies a printed copy of this Act and he shall retain and register the same and if such copy is not so delivered within three months from the passing of this Act the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues and any director or manager of the Company who knowingly and wilfully authorises such default shall incur the like penalty Every penalty under this section shall be recoverable summarily.

Provision as to general Tramways Acts.

17. Nothing in this Act contained shall exempt the Company from the provisions of any general Act relating to tramways in Ireland 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 or charges authorised by this Act.

Costs of Act.

18. All costs charges and expenses of and preliminary 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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