CHAPTER ccxix.

An Act to authorise the London Street Tramways Company to construct additional tramways for connecting their tramway in Pentonville Road with the North Metropolitan Tramway in Holloway Road ; and for other purposes. A.D. 1877.

[10th August 1877.]

WHEREAS by "The London Street Tramways Act, 1870," (in this Act called "the Act of 1870,") the London Street Tramways Company (in this Act called "the Company") were incorporated, with a share capital of one hundred thousand pounds, and power to borrow on mortgage twenty-five thousand pounds, and were authorised to construct various street tramways, and those tramways have been constructed and opened for traffic accordingly:

And whereas it is expedient that the Company be authorised to construct the additional tramways in this Act described for connecting their tramway in Pentonville Road with the tramways of the North Metropolitan Tramways Company (in this Act called "the North Metropolitan Company") in Holloway Road, and to raise further money for that purpose:

And whereas plans and sections showing the situation, lines, and levels of the tramways authorised by this Act, with a book of reference to the plans, have been duly deposited with the clerk of the peace for the county of Middlesex, and are herein-after referred to as the deposited plans, sections, and book of reference:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The London Street Tramways (Caledonian Road Extension) Act, 1877." Short title.

A.D. 1877.

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 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 the shares into stock;

With respect to the making of dividends;

With respect to the giving of notices;

And with respect to the provision to be made for affording access to the special Act by all parties interested;

and Part I. (relating to the cancellation and surrender of shares) and Part II. (relating to additional capital) of "The Companies Clauses Act, 1863," as amended by "The Companies Clauses Act, 1869," and "The Lands Clauses Consolidation Acts, 1845," (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking,) "1860, and 1869," and Part II. (construction of tramways) and Part III. (general provisions) of "The Tramways Act, 1870," are (except where expressly varied by this Act) incorporated with and form part of 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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the word "contingencies" in "The Companies Clauses Consolidation Act, 1845," section 122, 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 43, at a sum less than the aggregate amount of the capital and debts of the Company.

Power to make tramways.

4. 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. The tramways herein-before referred to and authorised by this Act are—

(1.) A tramway (No. 1) (single line), one mile six furlongs seven chains and eleven yards in length, commencing in the parish of St. Pancras in the county of Middlesex, in the Pentonville Road, by a junction with the existing tramway of the Company at a point about 56 feet south-west from the south-east corner of the house joining the south-west corner of Caledonian Road, passing thence into and along the Caledonian Road and Camden Road and into Holloway Road, and terminating in the last-mentioned road, in the parish of St. Mary, Islington, in the county of Middlesex, by a junction with the western-most pair of rails of the tramway of the North Metropolitan Company at a point about 80 feet north-west from the centre of the north end of Camden Road:

(2.) A tramway (No. 2) (single line), one mile six furlongs five chains and ten yards in length, commencing in the parish of St. Mary, Islington, aforesaid, in the Caledonian Road, by a junction with tramway (No. 1) at a point about 70 feet north-eastward from the south-west corner aforementioned of Caledonian Road, and passing thence northward along the Caledonian Road and Camden Road and into Holloway Road, and terminating in the said parish of St. Mary, Islington, by a junction with the easternmost pair of rails of the tramway of the North Metropolitan Company, opposite the termination as above described of tramway (No. 1).

Provided that no portion of the said tramways Nos. 1 and 2 shall be laid down or constructed in or upon the said Holloway Road without the consent of the North Metropolitan Tramways Company, and that in the event of the consent of the North Metropolitan Tramways Company being given to the construction of the said portions of tramway, the same and the junctions with the tramways of the North Metropolitan Tramways Company shall be respectively laid down and constructed under the superintendence and to the satisfaction of the engineer for the time being of the North Metropolitan Tramways Company.

A.D. 1877.

Power to apply existing funds.

5. The Company may from time to time apply towards any of the purposes of this Act any moneys which they have raised or may hereafter raise under any other Act or Acts, and which may not be required for the purposes to which by the respective Act such moneys are made applicable.

Power to raise additional capital.

6. The Company may from time to time raise by the creation and issue of new ordinary shares or new ordinary stock, or (at the option of the Company) by either of those modes, any further capital not exceeding in the whole thirty-five thousand pounds.

Sections 49 to 59 of Act of 1870 applied to new share capital.

7. The provisions of the sections of the Act of 1870 numbered from 49 to 59 (both numbers inclusive) shall apply to the shares in the additional capital by this Act authorised to be raised.

Power to borrow.

8. In addition to any sum which by any other Act or Acts they are authorised to borrow, the Company may from time to time borrow on mortgage any further sum or sums not exceeding in the whole eight thousand seven hundred and fifty pounds, but no part of that sum shall be borrowed until the whole additional capital by this Act authorised 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 additional 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 or the whole of the stock in such additional capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such additional 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, or 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.

Company not to create debenture stock.

9. The Company shall not create debenture stock under this Act.

Mortgage to comprise purchase money paid on compulsory sale.

10. 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 local authority.

11. 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 tramway in the event of its being purchased by the local authority under the forty-third section of "The Tramways Act, 1870."

Existing mortgages to have priority.

12. All mortgages granted by the Company before the passing of this Act in pursuance of the powers of any Act or Acts, and which shall be subsisting at the time of the passing of this Act, shall, during the continuance of such mortgages, have priority over any mortgages to be granted by virtue of this Act.

Repealing provisions of previous Acts for appointment of a receiver.

13. The provisions of all previous Acts relating to the Company for the appointment of a receiver are hereby repealed, but without prejudice to any appointment heretofore made or proceedings pending.

For appointment of a receiver.

14. 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 three thousand pounds in the whole.

Money borrowed on mortgage to have priority.

15. All moneys borrowed or to be borrowed on mortgage under this Act or any other Act empowering the Company to borrow money on mortgage, from the time when the same shall be advanced, and the interest for the time being due thereon, shall 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 tramways or by the exercise of any of the powers conferred upon the Company.

Application of moneys.

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

Time for completion of tramways.

17. If the tramways authorised by this Act be not completed within two years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the tramways, or otherwise in relation

A.D. 1877.

thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Penalty imposed unless the tramways opened within the time limited.

18. If the Company fail within the period limited by this Act to complete the tramways authorised to be made by this Act, 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 said tramways are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost 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 the 3rd section of the Act 17 and 18 Vict. c. 31., known as 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 the said 3rd section of the Act 17 and 18 Vict. c. 31., to an account opened or to be opened in the name and with the privity of Her Majesty's Paymaster General, on behalf of the Chancery Division of the High Court of Justice, in the bank named in such order, and shall not be paid thereout except as herein-after provided, but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company were prevented from completing or opening such line 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 penalties.

19. Every sum of money so recovered by way of penalty as aforesaid shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said 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 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 tramways, 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 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 Chancery Division of the High Court of Justice 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.

Applying provisions of Act of 1870 as to tolls, &c.

20. The tramways by this Act authorised shall, for the purposes of tolls and charges, and for all other purposes, be deemed to be part of the tramways authorised by the Act of 1870, and the several provisions of that Act, except so far as they may be inconsistent with any of the provisions of this Act, or any Act or part of an Act incorporated herewith, are incorporated with and form part of this Act.

Company not to carry animals and goods on tramways hereby authorised.

21. The Company shall not carry on the tramways by this Act authorised any goods, animals, or other things, other than passengers luggage, not exceeding the weight in that behalf mentioned in the Act of 1870, and small parcels.

Inspection by Board of Trade.

22. The tramways shall not be opened for public traffic until they have 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.

23. 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 tramways 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.

A.D. 1877.

Penalty for not maintaining rails and roads.

24. 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 tramways 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.

25. 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.

Company may be required to use improved form of rail.

26. 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.

Passing-places to be constructed where less than a certain width left between footway and tramway.

27. Where in any road in which a double line of tramway is laid there shall be less width between the outside of the footpath on either side of the road and the nearest rail of the tramway than nine feet six inches, the Company shall and they are hereby required to construct a passing place or places connecting the one tramway with the other, and by the means of such passing place or places the traffic shall, when necessary, be diverted from one tramway to the other.

Power to make additional crossings, &c.

28. 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.

29. 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 reinstating 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 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.

30. With respect to the Post Office telegraph system the following provisions shall take effect:

Restriction on works affecting Post Office telegraph system.

(A.) The Company shall not by any work or thing interfere with any telegraph post, wire, tube, apparatus, or work of Her Majesty's Postmaster General, or execute or do any work or thing causing or likely to cause any interruption of or impediment to postal telegraphic communication, unless and until the Company have given to the Postmaster General one calendar month's previous notice in writing of their intention to execute or do the proposed work or thing, specifying all necessary and proper particulars relating thereto, and unless and until the Postmaster General has approved of the proposed work or thing by writing delivered to the Company, or has failed to approve or to disapprove

A.D. 1877.

of the same for one calendar month after service of such notice and particulars on him: Provided always, that this section shall not be deemed to prevent the Company executing any repairs or other works or things which shall be necessary to prevent accidents, and in any such case the Company shall forthwith give notice to the Postmaster General of any such interference, and the reason for the same:

Power for Postmaster General to annex conditions.

(B.) Her Majesty's Postmaster General may annex to his approval under this Act of any work or thing such reasonable terms and conditions as to the time and mode of execution of any such work or thing as he thinks fit, and the Company shall observe and perform the same:

Power of entry for Postmaster General.

(C.) The engineer and other officers and servants and workmen of Her Majesty's Postmaster General may at and for all reasonable times enter on and into and remain on any of the tramways, lands, and works of the Company for the purpose of examining, repairing, altering, or removing any telegraph post, wire, tube, apparatus, or work the property of the Postmaster General being thereon:

Compensation by Company to Postmaster General, and penalty.

(D.) The Company shall from time to time make full compensation to Her Majesty's Postmaster General for any expense, loss, or damage which he is put to or sustains by reason of the Company, by any work or thing executed or done by them, interfering with any telegraph post, wire, tube, apparatus, or work of the Postmaster General; and if at any time any such work or thing causes an interruption of or impediment to postal telegraphic communication, the Company shall, in addition to making compensation as aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four hours during which that interruption or impediment continues; and the amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly, with costs, or the same may be recovered with costs on behalf of the Postmaster General as a penalty is recoverable from the Company:

Provisions to remain in force for one year and to the end of the then next session of Parliament.

(E.) Inasmuch as it is contemplated to introduce a general measure for the better protection of the national telegraphs, and to enlarge the powers of the Postmaster General in relation thereto, this section shall only remain in force for one year from the date of the passing of this Act, and to the end of the then next session of Parliament.

For protection of Metropolitan Board of Works.

31. Nothing in this Act contained shall extend or be construed to extend to alter, abridge, or take away any of the rights, powers, and privileges conferred upon the Metropolitan Board of Works by "The Metropolis Management Act, 1855," or any other Act relating to that Board, as to stopping for public traffic any road or street, or any of the rights, powers, and privileges conferred upon them by "The Tramways Act, 1870."

For protection of Great Northern Railway Company.

32. In executing the works necessary for the construction and maintenance of the tramways on and along the bridge whereby the Caledonian Road is carried over the railway of the Great Northern Railway Company (in this section called the railway company), the following provisions shall have effect; that is to say,

(1.) The Company shall give fourteen days notice in writing to the railway company of the intention to commence such works, and shall at the same time send to the railway company sufficient plans, sections, and particulars to show the nature of the proposed interference with the said bridge:

(2.) If the engineer of the railway company be of opinion that the proposed works will injure the said bridge, or render it insecure, and no method be agreed on of executing such works to the satisfaction of such engineer, the matter shall be referred to and determined by an engineer to be agreed on between the parties, or (if they cannot agree) to be appointed, on the application of either of them, by the Board of Trade; and the award of such engineer shall be final and binding on both parties, and the costs of the arbitration shall be in the discretion of the arbitrator:

(3.) The said works shall be executed under the superintendence and to the reasonable satisfaction of the engineer of the railway company:

(4.) Any additional expense in the maintenance of the said bridge occasioned by the construction, use, or maintenance of the tramway shall be borne by the Company:

(5.) Nothing in this Act shall lessen or interfere with the rights or powers of the railway company to maintain, alter, repair, or renew the said bridge, and the provisions of section 32 of the Tramways Act, 1870, shall extend and apply, mutatis mutandis, to such maintenance, alteration, repair, and renewal:

A.D. 1877.

(6.) If any works by this section required to be done by the Company for the protection of the railway company be not commenced within two days after notice thereof from the railway company, and duly carried on to completion, the railway company may execute the same, and recover the cost thereof, with full costs of suit, from the Company:

(7.) If any difference arise between the Company and the railway company as to anything to be done or not to be done, or any moneys to be paid or not to be paid, under the provisions of this section, such difference shall be determined by arbitration according to the provisions contained in sub-section (2) of this section.

Saving rights and protecting works of the Regent's Canal Company.

33. Nothing in this Act or in the Acts wholly or partially incorporated with this Act contained shall take away, diminish, or affect any of the rights, privileges, or powers vested in the Company of Proprietors of the Regent's Canal (herein-after called the canal company), and the Company shall not, without the consent in writing of the canal company under their common seal first had and obtained, take, use, or in any manner interfere with any part of the Regent's Canal, or of the towing-paths, locks, lay-byes, wharves, bridges, or works connected with the canal, or any land belonging to the canal company or in which the canal company is interested, save that the Company may nevertheless lay their tramways over any bridge by which any public road is carried over the canal, and the works necessary for the same shall be executed according to plans and specifications to be submitted to and previously approved by the engineer for the time being of the canal company, or (in the event of his not approving the same for one calendar month after the plans and specifications have been delivered to him) according to plans and specifications to be approved by an engineer to be appointed by the Board of Trade on the application of either party, and the same works shall be commenced, carried on, and completed under the superintendence and to the reasonable satisfaction of the engineer for the time being of the canal company, and at the expense of the Company, and the Company shall from time to time pay to the canal company, within fourteen days after demand, all costs and expenses which may be incurred by them in and about such superintendence.

Interest not to be paid on calls paid up.

34. 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.

35. 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.

Provisions as to general Tramway Acts.

36. Nothing in this Act contained shall 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 tolls or charges authorised by this Act.

Expenses of Act.

37. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act shall be paid by the Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1877.