CHAPTER clxxxix.

An Act to authorise the London Street Tramways Company to construct additional Tramways, to raise further Money; and for other purposes. [24th July 1879.]

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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") was 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: 33 & 34 Vict. c. clxxi.

And whereas the following Acts and provisional orders (confirmed by Parliament) have subsequently passed and been made in relation to the Company; that is to say,

The London Street Tramways (Further Powers) Act, 1873, vesting in the Company certain tramways authorised by the North Metropolitan Tramways Act, 1870, and authorising the Company to raise further moneys by shares and by borrowing; 36 & 37 Vict. c. ccxxi. 33 & 34 Vict. c. clxxii.

The London Street Tramways (St. Pancras Lines) Order, 1873; 36 & 37 Vict. c. ccxv.

The London Street Tramways (Junction Road Extensions) Order, 1874; and 37 & 38 Vict. c. clxxxiii.

The London Street Tramways (Caledonian Road Extension) Act, 1877, authorising the Company to construct additional tramways, and to raise further moneys by ordinary shares or stock or by borrowing: 40 & 41 Vict. c. ccxix.

And whereas it is expedient that the Company be authorised to construct the additional tramways in this Act described, 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

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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:

Short title.

1. This Act may be cited as the London Street Tramways (Extension) Act, 1879.

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 land;

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 section 3 (interpretation of terms), section 19 (local authority may lease or take tolls), 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.

26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
33 & 34 Vict. c. 78.

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Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction. The word "contingencies" in the Companies Clauses Consolidation Act, 1845, section one hundred and twenty-two, shall, with reference to the Company, be construed to include the contingency of the undertaking being sold to the local authority under the Tramways Act, 1870, section forty-three, at a sum less than the aggregate amount of the capital and debts of the Company.

Power to make tramways.

4. Subject to the provisions of this Act, 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,—

A tramway (No. 1) and a tramway (No. 1A), seven furlongs two chains and nineteen yards in length respectively, and forming together a double line, wholly situate in the parish of St. Pancras, in the county of Middlesex, commencing respectively in the Kentish Town Road, Tramway No. 1 there forming a junction with the westernmost and Tramway No. 1A a junction with the easternmost of the existing tramways of the Company in that road at points respectively one and a half chains or thereabouts southward from the junction of Prince of Wales Road with Kentish Town Road, thence passing in a northerly direction along the Kentish Town Road into and along the Prince of Wales Road, Malden Road, and Southampton Road, and terminating respectively in the last-mentioned road at the junction therewith of Circus Road.

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 Acts 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 new preference shares or new preference stock, or (at the option of the Company) by any or either of those modes, any further capital not exceeding in the whole twenty-four thousand pounds.

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As 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 on mortgage.

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 six thousand pounds, but no part of that sum shall be borrowed until the whole additional capital of twenty-four thousand pounds 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 43 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 on deed as to future purchase of tramway 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 43rd section of the Tramways Act, 1870.

Existing mortgages to have priority.

12. All mortgages granted by the Company before the passing of this Act, 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, &c.

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.

As to appointment of 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 ten 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 money.

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

Period for completion of works.

17. 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.

Penalty unless line opened within 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 centum 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

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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 third 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 that section, 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 tramways, or any portion thereof, 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 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 in England may seem fit, and if no such compensation shall be payable, or if a portion of the sum or sums of money 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 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 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.

Applying provisions of 33 & 34 Vict. c. 78. 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.

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

Periodical revision of tolls.

22. If at any time after three years from the opening for public traffic of the tramways or any portion of the tramways, or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion of the tramways, it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate, or by twenty inhabitant ratepayers of any such district, or by the Company, that under the circumstances then existing all or any of the tolls and charges demanded and taken in respect of the traffic on the tramways or on such portion of the tramways should be revised, the Board of Trade may (if they think fit) direct an inquiry by a referee, to be appointed by the said Board in accordance with the provisions of the Tramways Act, 1870; and if such referee report that it has been proved to his satisfaction that all or any such tolls and charges should be revised, the said Board may make an order in writing altering, modifying, reducing, or increasing all or any of the tolls and charges to be demanded and taken in respect of the traffic on the tramways or on such portion of the tramways, in such manner as they think fit, and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section: Provided always, that the tolls and charges prescribed by any such order shall not exceed in amount the tolls and charges by this Act authorised.

Inspection by Board of Trade.

23. 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.

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Further provisions as to construction of tramways.

24. In addition to the requirements of section twenty-six of the Tramways Act, 1870, the Company shall, at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing, laying down, maintaining, or renewing any of the tramways, lay before the Board of Trade a plan showing the proposed mode of constructing, laying down, maintaining, or renewing such tramways, and a statement of the materials intended to be used therein; and the Company shall not commence the construction, laying down, maintenance, or renewal of any of the tramways or part of any of the tramways respectively, until such plan and statement have been approved by the Board of Trade, and after such approval the works shall be executed in accordance in all respects with such plan and statement, and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority as provided by section twenty-six of the said Act: Provided always, that the word "materials" in this enactment does not include materials used for paving any part of any street under the provisions of the Tramways Act, 1870, or this Act.

Tramways to be kept level with surface of road.

25. 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.

Penalty for not maintaining rails and roads.

26. 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 which any of the tramways for the time being consist and the sub-structure upon which the same rest; and if the Company at any time make default in complying with this provision, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, they shall for every such offence be subject, on information laid or complaint made, to a penalty not exceeding five pounds, and in case of a continuing offence to a further penalty not exceeding five pounds for every day after the first on which such default continues, and such penalty may be recovered as by section fifty-six of the said Act is provided.

Power to Board of Trade to inquire as to maintenance of rails and roads.

27. In any case in which it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate, or by twenty inhabitant ratepayers of such district, that the Company have made default in complying with the provisions in the preceding section contained, or with any of the requirements of section twenty-eight

of the Tramways Act, 1870, the Board of Trade may, if they think fit, direct an inquiry by an officer to be appointed by the said Board, such inquiry to be conducted in the manner provided by section sixty-three of the Tramways Act, 1870, and if the Board of Trade shall certify, under the hand of a secretary or assistant secretary of the Board, that the default mentioned in such representation has been proved to the satisfaction of the Board, the Company shall make good such default in the manner and within the time specified in such certificate, and if they fail to do so shall be subject to such penalty or penalties in respect of such failure as is or are by the preceding section imposed.

Sewer authority to have access to sewers.

28. 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.

As to rails of tramways.

29. The rails of the tramways shall be such as the Board of Trade may approve.

Company may be required to use improved form of rail.

30. 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.

As to construction of passing places.

31. 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 and 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.

32. 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

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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 and 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.

33. 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 twenty-eight 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.

Protecting Metropolitan Board of Works. 18 & 19 Vict. c. 120.

34. 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.

Interest not to be paid on calls paid up.

35. 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.

36. 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.

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

37. Nothing in this Act contained shall exempt the Company or the tramways from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of tolls or charges authorised by this Act.

Expenses of Act.

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

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