CHAPTER xcv.

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An Act to authorise the Middlesbrough and Stockton Tramways Company, Limited, to construct additional Tramways in the Borough of Middlesbrough, in the North Riding of the County of York; to extend the time for constructing and completing their authorised Works; and for other purposes. [29th June 1875.]

WHEREAS by "The Middlesbrough and Stockton Tramways Order, 1873," (in this Act called "the Order of 1873,") which was confirmed by "The Tramways Orders Confirmation Act, 1873," the Middlesbrough and Stockton Tramways Company, Limited, (in this Act called "the Promoters,") were authorised to construct and maintain and to work and use a certain street tramway: 36 & 37 Vict. c. cxcvii.

And whereas the construction of the additional tramways by this Act authorised would be of public and local advantage, and it is expedient that the Promoters be authorised to construct the same:

And whereas by the seventh section of the Order of 1873 it was enacted that the prescribed time within which so much of the tramway by that Order authorised as is within the borough of Middlesbrough should be completed and opened for public traffic should be one year from the passing of the Act confirming that Order, and the remainder of the tramway should be completed and opened for public traffic within two years from the passing of that Act:

And whereas the Act confirming that Order obtained the royal assent on the 28th day of July 1873:

And whereas by reason of the construction by the Corporation of Middlesbrough of a main sewer along the line of route of their authorised tramway, and of the subsidence of the roadway arising from those works, the Promoters have been unable to complete so much of the said tramway as lies within the said borough, but a portion of the same is now completed and open for traffic:

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And whereas the Promoters have not constructed the portion of their authorised tramway which lies without the said borough:

And whereas it is expedient that the periods respectively prescribed by the Order of 1873 for completing and opening for traffic the several parts of the authorised tramway should be extended, and that such of the powers of the Promoters in relation thereto as have ceased or expired should be revived and continued or extended:

And whereas it is expedient that the Corporation of Middlesbrough should be empowered to purchase so much of the additional tramways by this Act authorised as lies within the said borough, and that the terms of purchase of part of the authorised tramway by the said Corporation contained in the Order of 1873 and the Schedule B. thereto should be extended to such portions of the tramways by this Act authorised as lie within the said borough:

And whereas plans and sections showing the lines and levels of the tramways and works by this Act authorised, and describing the position of the streets along which they are to be laid, and books of reference to those plans, have been deposited with the clerk of the peace for the north riding of the county of York, 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 some of 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 Middlesbrough and Stockton Tramways Act, 1875."

Provisions of certain general Acts incorporated.

2. Part II. (Construction of Tramways) and Part III. (General Provisions) of "The Tramways Act, 1870," and "The Lands Clauses Consolidation Act, 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," are (except where expressly varied by this Act) incorporated with and form part of this Act.

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

expression "the Promoters" means the Middlesbrough and Stockton Tramways Company, Limited; the expression "the tramway" means the tramways by this Act authorised; and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Power to make tramways.

4. Subject to the provisions of this Act, and of Parts II. and III. of "The Tramways Act, 1870," the Promoters 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), consisting of a single line (except at the places herein-after mentioned, where the same may consist of a double line), 1 mile 1 furlong and 2·16 chains or thereabouts in length, commencing in Albert Road, in the borough of Middlesbrough, in the north riding of the county of York, by a junction with the existing tramway of the Company at a point 20 feet or thereabouts north of the junction of Albert Road aforesaid with Corporation Road, and proceeding thence in a southerly direction along Albert Road, thence turning into and along Grange Road and proceeding in a westerly direction along the same road, thence turning into and along Linthorpe Road and proceeding in a southerly direction along and terminating in the same road at a point opposite or nearly opposite the junction thereof with Benson Street, in the township of Linthorpe, and in the parish of Middlesbrough, or the parish of Acklam or West Acklam, or one of them, in the north riding of the county of York:

The following are the places above referred to at which the said tramway (No. 1) may consist of a double line; namely,

a. In Albert Road, Middlesbrough, on the west side, between a point in the south side of Corporation Road and a point $2\frac{1}{2}$ chains southward thereof:

b. In Linthorpe Road, Middlesbrough, on the west side, between a point 1 chain southward from the north end of Southfield Terrace and a point $2\frac{1}{2}$ chains southward of that point:

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c. In Linthorpe Road, Middlesbrough, on the east side, between a point opposite the south side of the entrance to the Albert Park and a point 2½ chains southward thereof:

d. In Linthorpe Road, in the township of Linthorpe, and in the parish of Middlesbrough, or in the parish of Acklam or West Acklam, or one of them, on the east side, between a point opposite the north-east corner of Benson Street and a point 2½ chains northward thereof:

A tramway (No. 2), consisting of a single line (except at the places herein-after mentioned, where the same may consist of a double line), 3 furlongs and 1·50 chains or thereabouts in length, situate wholly in the borough of Middlesbrough, in the north riding of the county of York, commencing in Albert Road by a junction with and at the point of commencement or termination of the existing tramway of the Company, and proceeding thence in a northerly direction into and along Exchange Place, under Albert Bridge, into and along Queen Square, thence bending into Cleveland Street and Durham Street, and proceeding along the same in a north-easterly direction, across Commercial Street, into and along and terminating in Ferry Road at the junction thereof with Vulcan Street:

The following are the places herein-before referred to at which the said tramway (No. 2) may consist of a double line; namely,

e. In Queen Square, on the west side, between a point 2 chains northward of the north side of Albert Bridge and a point 2½ chains northward of that point:

f. In Ferry Road, on the east side, between the point of termination of tramway (No. 2) and a point 2½ chains southward thereof:

A tramway (No. 3), consisting of a single line (except at the places herein-after mentioned, where the same may consist of a double line), 4 furlongs and 8·40 chains or thereabouts in length, commencing in Exchange Place, in the borough of Middlesbrough, in the north riding of the county of York, by a junction with and at a point 280 feet or thereabouts north of the commencement of tramway (No. 2) by this Act authorised, and proceeding thence in a south-easterly direction along the roadway of Exchange Place into and along Zetland Road, thence into and along Marton Road, thence into and along the Ormesby Road, and terminating in that road at a point opposite to Atlas Street, such point

of termination being situate in the township and parish of Middlesbrough, in the north riding of the county of York:

The following are the places above referred to at which the said tramway (No. 3) may consist of a double line; namely,

g. In Marton Road, Middlesbrough, on the north-eastern side, between a point opposite the south-east corner of Zetland Place and a point $2\frac{1}{2}$ chains south-east thereof:

h. In Marton Road, Middlesbrough, on the south-western side, between a point opposite the south-east end of the Borough Hotel and a point $2\frac{1}{2}$ chains south-east thereof.

Deposit money not to be repaid until line opened or a sum equal to half the estimate expended.

5. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of six hundred and sixty-five pounds, being five per cent. upon the amount of the estimate in respect of the tramways, has been deposited with the Court of Chancery in England in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said Act, the said sum of six hundred and sixty-five pounds so deposited as aforesaid in respect of the application for this Act shall not be paid or transferred to or on the application of the Promoters, person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, unless the Promoters shall, previously to the expiration of the period limited by this Act for completion of the tramways, either open the tramways for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the Promoters have expended for the purposes of this Act a sum equal in amount to one half of the said estimate; and if the said period shall expire before the Promoters shall either have opened the tramways for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified, and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

6. The said sum of money deposited 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

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valuable by the commencement, construction, or abandonment of the 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 Promoters by this Act, 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 tramways or materials connected therewith placed by the Promoters 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 Court of Chancery in England may seem fit; and if no such compensation shall be payable, or if a portion of the said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, 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 Court of Chancery in England 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 Promoters are insolvent and have 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 Promoters, or be otherwise applied as part of the assets of the Promoters for the benefit of their creditors; provided that, until the said sum of money has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the Promoters, or person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Description of rail.

7. Every tramway authorised by this Act shall be constructed with two grooved rails.

Inspection by Board of Trade.

8. The tramways shall not be open 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.

9. 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 any of the tramways is laid, the Promoters 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.

10. The Promoters 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 Promoters at any time fail to comply with this provision, or with the provisions of section 28 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 56 of the said Act.

Sewer authority to have access to sewers.

11. 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 Promoters, and the provisions contained in the 32nd and 33rd 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.

Power to make additional crossings, &c.

12. The Promoters 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 Promoters; provided that in the construction of any such works no rail shall be so laid that a less space than 9 feet 6 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 Promoters, express their objection thereto.

Temporary tramways may be made where necessary.

13. Where by reason of the execution of any work affecting the surface or soil of any road along which any of the tramways by this Act authorised are laid it shall, in the opinion of the road authority, be necessary or expedient temporarily to remove or discontinue the use of such tramways or any part thereof, the Promoters may, with the consent of the road authority, subject to such conditions, and in accordance in all respects with such regulations as the road

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authority may from time to time make, construct in the same or any adjacent road, and with the like consent, subject to the like conditions, and in accordance with the like regulations, maintain, so long as occasion may require, a temporary tramway or temporary tramways in lieu of the tramways or part of the tramways so removed or discontinued. If any difference arises between the Promoters and any road authority with respect to the reasonableness of any regulations, or with respect to the mode of constructing any temporary tramway or tramways under the authority of this section, the same shall be settled in the manner specified in section 33 of "The Tramways Act, 1870," for the settlement of the differences in the said section mentioned.

Application of road materials excavated in construction of works.

14. Any paving, metalling, or material excavated by the Promoters in the construction of their works from any road under the jurisdiction or control of any road authority may be applied by the Promoters, 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 Promoters are by section 28 of "The Tramways Act, 1870," required to maintain; and the Promoters 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 Promoters, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Promoters 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.

Period for completion of works.

15. The tramways by this Act authorised 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 Promoters for constructing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

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Tolls.

16. The Promoters may from time to time demand and take in respect of the tramways authorised by this Act tolls and charges not exceeding those which they are authorised to take, and for the time being may lawfully take, in respect of the tramway authorised by the Order of 1873; and the provisions of the sections of the said Order numbered 17, 18, 19, and 20, and Schedule A. of the said Order with respect to tolls and charges, passengers luggage, and cheap fares for labouring classes, shall apply to the tramways authorised by this Act, and the tolls or charges to be taken in respect thereof, in like manner in every respect as if the said tramways were the tramway in the said sections mentioned.

Traffic upon tramways.

17. The tramways by this Act authorised shall be used for the purpose of carrying passengers and parcels only.

Agreements between Promoters and road authorities, &c.

18. The Promoters, and the town council of Middlesbrough, acting as the urban sanitary authority for the borough of Middlesbrough, and any local board, district board, trustees, or other bodies corporate, or persons respectively having the duty of directing the repairs or the control or management of any streets, roads, and places along which any tramway of the Promoters by this Act authorised is laid, may from time to time enter into and carry into effect contracts or agreements with respect to the laying down, maintaining, renewing, removing, and repairing of the tramways by this Act authorised, and the rails, plates, sleepers, and works connected therewith, and for facilitating the passage of carriages and traffic over or along the same by means of animal power.

Purchase by Corporation of Middlesbrough.

19. Section 22 of the Order of 1873, and the terms of purchase by the Corporation of Middlesbrough contained in Schedule B. to that Order, shall extend and apply to so much of the tramways and works by this Act authorised as lies within the borough of Middlesbrough in all respects as if the expressions "the undertaking" and "the tramway" used in such section and schedule meant respectively the undertaking and the tramways by this Act authorised: Provided that nothing in this Act contained shall authorise the Corporation of Middlesbrough, if they purchase any part of the tramways by this Act authorised, to place or run carriages upon such part, and to demand and take tolls and charges in respect of the use of such carriages.

Extension of time for commencement and for completion of parts of authorised tramway.

20. The time prescribed by the Order of 1873 within which so much of the tramway by that Order authorised as lies within the borough of Middlesbrough was to be completed and opened for public traffic is hereby extended for the period of two years from the expiration of the period prescribed by that Order, and the time

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within which the remainder of that tramway is to be completed and opened for public traffic is hereby extended for the period of two years from the expiration of the period prescribed by that Order, and the provisions of the Order of 1873 and the Acts incorporated therewith shall respectively be read and construed as if such extended periods respectively had been originally named in that Order in the place of the periods therein respectively prescribed for the completion and opening for traffic of the several portions of such tramway; and after the expiration of such extended periods respectively the powers conferred upon the Promoters in relation to such tramway or portions thereof shall cease to be exercised, except as to so much thereof as shall then be completed; and the Promoters may commence the works for the tramway by that Order authorised without the said borough at any period after the passing of this Act.

Provision as to arbitration.

21. Where, under the provisions of this Act and of "The Tramways Act, 1870," incorporated herewith, any matter in difference is referred to the arbitration of any person nominated by the Board of Trade, the provisions of "The Common Law Procedure Act, 1854," shall apply to every such arbitration, and the decision of the arbitrator shall be final and conclusive and binding on all parties.

Tramways not exempt from general Tramway Acts.

22. 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.

23. 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 Promoters.

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