CHAPTER clxviii.

An Act to authorise the construction of Street Tramways in the district of Newcastle-upon-Tyne; and for other purposes. [6th August 1872.]

A.D. 1872.

WHEREAS the laying down, with the consent of the Scotswood Bridge Company, upon roads belonging to or owned by that company, (herein-after called the Scotswood Company,) of a tramway to be worked by animal power only, and constructed so as not to impede or injure the ordinary traffic of the roads, would be of great local and public advantage:

And whereas it is expedient that the persons herein-after named, with others, should be incorporated into a Company, and should be empowered to lay down and maintain the said tramway:

And whereas plans and sections showing the lines and levels of the tramway and works by this Act authorised, and the lands to be taken for the purposes thereof, and books of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the respective clerks of the peace for the counties of Northumberland and Durham, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books 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 for all purposes as "The Newcastle-upon-Tyne District Tramways Act, 1872." Short title.

A.D. 1872.

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," Part I. (relating to cancellation and surrender of shares) of "The Companies Clauses Act, 1863," and "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," are incorporated with and form part of this Act, save where the same are expressly varied or excepted by this Act, and except as to the following provisions; (namely,)

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

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

(3.) With respect to small portions of intersected lands.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the tramway" or "the undertaking" shall mean the tramway and works and undertaking by this Act authorised, or any part thereof; and in this Act and in any Act wholly or in part incorporated herewith the term "two justices" shall, in addition to its ordinary signification, mean one stipendiary or police magistrate acting in any police court for the district; the expression "superior courts" or "court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and the word "contingencies" in the "Companies Clauses Act, 1845," (section 122,) as incorporated with this Act, shall include the contingency of the undertaking being sold to the local authority at a sum less than the aggregate amount of the capital and debts of the Company.

Company incorporated.

4. William Morris, James Montgomery Walker, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a Company for the purpose of making and maintaining the tramways and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Newcastle-upon-Tyne District Tramways Company," and by that name shall be a body corporate with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make tram-

5. Subject to the provisions of this Act, and of Parts II. and III. of "The Tramways Act, 1870," and the Acts and parts of Acts incor-

porated herewith, the Company may make, form, lay down, and maintain in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with those plans and sections, the tramway herein-after described, with all proper rails, plates, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands and road delineated on the said plans and described in the deposited books of reference to those plans respectively as may be required for that purpose: Provided always, that the Company shall not make, form, or lay down such tramway, or enter upon, take, or use any of such lands, without the previous consent in writing under their common seal of the Scotswood Company. The tramway herein-before referred to and authorised by this Act is,—

way according to deposited plans.

A Tramway No. 1, (2 miles, 1 furlong, 7·36 chains in length,) wholly in the Scotswood Road, commencing in the parish of Winlaton in the county of Durham, 56 yards or thereabouts, measured in an easterly direction, from the centre of the rails of the North-eastern Railway (Redheugh Branch), where those rails cross the said road on the level, and passing thence in an easterly direction along the said road (including the carriage roadway of the Scotswood Suspension Bridge over the River Tyne), and terminating in the parish of Saint John in the county of Northumberland, 28 yards or thereabouts, measured in an easterly direction, from the Elswick turnpike gate, being the easternmost toll-gate on the said road.

Provided further, that nothing in this Act contained, and none of the powers by this Act conferred upon the Company, as to the laying down, construction, and maintenance of any tramway or tramways upon or along Scotswood Bridge, or the approaches to such bridge, shall be deemed to confer upon the Company any property in, but merely, subject to the provisions of this Act, the right to use and occupy, the said bridge and approaches, and the right so conferred upon the Company shall not entitle them to any compensation in the event of the said bridge being removed by the Tyne Improvement Commissioners.

Mode of formation of tramway.

6. The tramway to be made, formed, or laid down under this Act shall be constructed with two rails, to be laid at a distance (reckoning from the inside edge of each rail) of four feet eight inches and half an inch from each other, and be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic in the manner prescribed by the Board of Trade by any rules for the time being in force made by them in that behalf.

A.D. 1872.

Tramway to be kept on level with surface of roads.

7. If the road authority shall hereafter alter the level of the road along which the tramway is laid or authorised to be 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.

Application of road materials excavated in construction of Company's works.

8. Any paving, metalling, or material excavated by the Company in the construction of their works from the road 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 the tramway of so much of the roadway on either side of the tramway 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 given to that effect, such surplus thereof as aforesaid is not removed by the said 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 the road authority or their surveyor, or other person appointed as aforesaid, 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.

Penalty for not maintaining rails and roads.

9. 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 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, but shall be recoverable only by the local authority so long as such authority has no pecuniary or other beneficial interest in the tramway.

Form and delivery of notices.

10. With respect to notices, and to the delivery thereof by or to the Company, the following provision shall have effect; (namely,)

(1.) Every notice shall be in writing or print, or partly in writing and partly in print, and if given by the local authority or the road authority may be signed by their clerk or secretary:

(2.) Any notice to be delivered by or to the Company to or by the local authority or the road authority, or other body, or any company, may be delivered by being left at the principal office of that authority, body, or company, or of the Company, as the case may be, or by being sent by post in a registered letter addressed to their respective clerk or secretary at their principal office, and every such letter shall be deemed to be received by the authority, body, or company, or by the Company, as the case may be, on the day on which the same ought to be delivered at their principal office in the ordinary course of post.

Authorising agreements for use of tramway.

11. The Company on the one hand, and any other company or any corporation or person on the other hand, from time to time may enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other company or by such corporation or person of the tramway or any part or parts thereof, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such user, and all incidental matters: Provided always, that no such contract, agreement, or arrangement shall have any effect unless and until the same shall have been approved by the Board of Trade.

Capital.

12. The capital of the Company shall be thirty thousand pounds, in three thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

13. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

14. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of calls in any year upon any share.

Power to divide shares.

15. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share:" Provided always, that the Company shall not divide any

A.D. 1872.

share under the authority of this Act, unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares.

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

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

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

Half shares to be registered and certificates issued.

18. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it be shown to their satisfaction that the certificate is destroyed or lost, and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificates.

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

Forfeiture of preferred shares.

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

Preferred shares not to be cancelled, &c.

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

Half shares to be half shares in capital.

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

Receipts on behalf of incapacitated persons.

23. If any money be payable to any shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate, as the case may be, shall be a sufficient discharge to the Company for the same.

Power to borrow on mortgage.

24. The Company may from time to time borrow on mortgage any sum or sums not exceeding in the whole seven thousand five hundred pounds, and of that sum they may borrow from time to time not exceeding three thousand seven hundred and fifty pounds in respect of every fifteen thousand pounds of their capital, but no part of any such sum of three thousand seven hundred and fifty pounds shall be borrowed until the whole of the respective fifteen thousand pounds of capital in respect of which it is to be borrowed is subscribed for, 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 the respective fifteen thousand pounds of capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such fifteen thousand pounds has been paid on account thereof before or at the time of the issue or acceptance thereof, and that the respective fifteen thousand pounds of capital

A.D. 1872.

was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their 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.

Arrears may be enforced by appointment of a receiver.

25. 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 shall be made shall not be less in the whole than one tenth part of the sum for the time being borrowed by the Company.

Moneys borrowed on mortgage to have priority.

26. All moneys to be borrowed on mortgage under this Act, 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 tramway, or by the exercise of any of the powers conferred upon the Company.

No debenture stock.

27. The Company shall not create debenture stock.

Mortgages to comprise purchase money paid on compulsory sale.

28. 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 mortgages of notice of power of purchase by local authority.

29. Every mortgage deed to be granted or issued by the Company under this Act shall be indorsed with notice that such mortgage will not be a charge upon the tramways in the event of their being purchased by the local authority under the 43rd section of "The Tramways Act, 1870."

Application of moneys.

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

First ordinary meeting.

31. The first ordinary meeting of the Company after the passing of this Act shall be held within six months next after the passing of this Act.

Quorum of general meetings.

32. The quorum of a general meeting of the Company, whether ordinary or extraordinary, shall be ten shareholders, holding in

the aggregate not less than two thousand pounds of the capital of the Company.

Number of directors.

33. The number of directors shall be six, but the Company may from time to time reduce the number of directors, so that the number be not less than three.

Qualification of directors.

34. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum.

35. The quorum of a meeting of directors shall be three, but if the number of the directors be reduced to three the quorum shall be two.

First directors.

Election of directors.

36. William Morris, James Montgomery Walker, and such four other duly qualified persons as they or the majority of them shall nominate in that behalf, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act or nominated as aforesaid being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Period for completion of works.

37. The tramway shall be completed within three 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.

Land by agreement.

38. The Company may from time to time purchase and acquire (by agreement) such land as they may require for their undertaking, not exceeding in the whole ten acres.

Tolls for passengers.

39. The Company may demand and take for every passenger travelling upon the tramway, or any part or parts thereof, including tolls for the use of the tramway and of carriages, and for motive

A.D. 1872.

power, and every other expense incidental to such conveyance, any tolls or charges not exceeding one penny per mile (and for this purpose the fraction of a mile beyond an integral number of miles shall be deemed a mile), but the Company may charge for any less distance than three miles any sum not exceeding threepence: Provided always, that if at any time after three years from the opening for public traffic of the tramway by this Act authorised it shall be represented in writing to the Board of Trade by the road authority, or by twenty inhabitant ratepayers of any parish in which the tramway or part of any tramway of the Company is laid, that the Company are charging a greater sum than twopence for distances not exceeding two miles, and that under the circumstances then existing such charge is unreasonable, the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board under the provisions of "The Tramways Act, 1870," into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction, the Board may make an order in writing limiting the amount of the rates and fares to be thenceforth charged by the Company for the conveyance of passengers for distances not exceeding two miles to twopence, and the Company shall thenceforth conform to and abide by such order: Provided always, that the Board of Trade may from time to time, after making such order, revoke or modify the same for good cause shown to them.

Passengers luggage.

40. Every passenger travelling upon the tramway may take with him his personal luggage, not exceeding twenty-eight pounds in weight, without any charge being made for the carriage thereof.

Cheap fares for labouring classes.

41. The Company shall and they are hereby required at all times after the opening of the tramway for public traffic to run at least two carriages each way every morning in the week and every evening in the week (Sundays, Christmas Day, and Good Friday always excepted), at such hours, not being later than seven in the morning or earlier than six in the evening respectively, as the Company think most convenient for artisans, mechanics, and daily labourers, at fares not exceeding one halfpenny per mile, the Company nevertheless not being required to take any fare less than one penny; provided that in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages, the said Board shall have power to fix and regulate the same from time to time.

Company not to carry goods on tramway.

42. The Company shall not carry on the tramway any goods, animals, articles, or merchandise.

Tolls to be paid as directed by the Company.

43. The tolls and charges by this Act authorised shall be paid to such persons, and at such places upon or near to the tramway, and in such manner, and under such regulations, as the Company shall by notice to be annexed to the list of tolls appoint.

Interest not to be paid on calls paid up.

44. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of calls made in respect of the shares held by him: Provided always, that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with "The Companies Clauses Consolidation Act, 1845."

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

45. 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.

Tramway not exempt from provisions of present and future general Acts.

46. Nothing herein contained shall be deemed or construed to exempt the tramway 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.

Expenses of Act.

47. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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