CHAPTER cxlvii.

An Act for conferring further powers on the South Eastern Metropolitan Tramways Company for using mechanical power on their tramways and for other purposes. A.D. 1900.

[30th July 1900.]

WHEREAS by the South Eastern Metropolitan Tramways Act 1888 (in this Act called "the Act of 1888") the South Eastern Metropolitan Tramways Company (in this Act called "the Company") were incorporated with a share capital of fifty thousand pounds and with power to borrow twelve thousand five hundred pounds and were authorised to construct and have constructed certain tramways in the county of London to be worked by animal power:

And whereas it is expedient that provision be made as in this Act contained for the working of the tramways of the Company by mechanical power:

And whereas the Company have raised by the creation and issue of shares a sum of fifty thousand pounds and it is expedient that they should be empowered for the purposes of this Act to raise further capital as in this Act provided:

And whereas the objects aforesaid 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 (that is to say):—

1. This Act may be cited for all purposes as the South Eastern Metropolitan Tramways Act 1900. Short title.

2. The following Acts and parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say):— Incorporation of general Acts.

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The provisions of the Companies Clauses Consolidation Act 1845 with respect to the several matters following namely:—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money;

The conversion of borrowed money into capital;

The consolidation of the shares into stock;

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act;

and Parts I and II of the Companies Clauses Act 1863 (as amended by subsequent Acts) relating respectively to cancellation and surrender of shares and to additional capital and Parts II and III 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 unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act have the same respective meanings:

The expression "the undertaking" means the undertaking of the Company;

The expression "mechanical power" includes electric and every other motive power not being animal power;

The expression "engine" includes motor.

Provisions as to motive power.

4. The carriages used on the tramways (which expression in the provisions of this Act relating to motive power includes the existing tramways of the Company and any tramways for the time being run over worked or used by the Company) may be moved by animal power or subject to the following provisions by mechanical power other than steam or the overhead electrical trolley system (that is to say):—

(1) The mechanical power shall not be used except with the consent of and according to a system approved by the Board of Trade:

(2) The Board of Trade shall make regulations (in this Act referred to as "the Board of Trade regulations") for securing to the public all reasonable protection against danger arising from the use under this Act of mechanical power on the tramways and for regulating the use of electric power:

(3) The Company or any other company or person using any mechanical power on the tramways contrary to the provisions of this Act or of the Board of Trade regulations shall for every such offence be liable to a penalty not exceeding ten pounds and also in the case of a continuing offence to a further penalty not exceeding five pounds for every day during which such offence is continued after conviction thereof:

(4) The Board of Trade if they are of opinion—

(*a*) That the Company or any other company or person using mechanical power have or has made default in complying with the provisions of this Act or of the Board of Trade regulations whether a penalty in respect of such non-compliance has or has not been recovered; or

(*b*) That the use of mechanical power as authorised under this Act is a danger to the passengers or the public;

may by order either direct the Company or such other company or person to cease to use such mechanical power or permit the same to be continued only subject to such conditions as the Board of Trade may impose and the Company shall comply with every such order. In every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

Power to execute street works.

5. The Company may make all such alterations of their existing tramways or any part or parts thereof and may execute all such works on or in connexion therewith and in or under the streets or roads in which the same are laid as may be necessary or expedient for adapting the tramways to be worked by mechanical power as aforesaid and may lay down construct and maintain on in or under the surface of any street road or place such conductors wires tubes mains plates cables ropes and apparatus and may make and maintain such openings and ways in on or under any such surface as may be necessary or convenient either for the working of the tramways or for connecting any portions of the tramways or for providing access to or forming connections with any generating station or other stations engines machinery or apparatus and all works to be executed by the Company in pursuance of the powers of this section shall be deemed to be works of a tramway subject in all respects to the provisions of

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section 30 of the Tramways Act 1870 as if they had been therein expressly mentioned.

Byelaws.

6. Subject to the provisions of this Act the Board of Trade may make byelaws with regard to any of the tramways upon which mechanical power may be used for all or any of the following purposes (that is to say) :—

For regulating the use of any bell whistle or other warning apparatus fixed to the engine or carriages ;

For regulating the emission of smoke or steam from engines used on the tramways ;

For providing that engines and carriages shall be brought to a stand at the intersection of cross streets and at such places and in such cases of horses being frightened or of impending danger as the Board of Trade may deem proper for securing safety ;

For regulating the entrance to exit from and accommodation in the carriages used on the tramways and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages ;

For providing for the due publicity of all byelaws and Board of Trade regulations in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere :

Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings.

Recovery of penalties.

7. Any penalty under this Act or under any byelaws or regulations made under this Act may be recovered in manner provided by the Summary Jurisdiction Acts.

As to fares on Sundays or holidays.

8. The Company shall not take or demand on Sunday or any public holiday any higher fares or charges than those levied by them on ordinary week days.

Amendment of Tramways Act 1870 as to byelaws by local authority.

9. The provisions of the Tramways Act 1870 relating to the making of byelaws by the local authority with respect to the rate of speed to be observed in travelling on the tramways shall not authorise the local authority to make any byelaw sanctioning a higher rate of speed than that authorised by this Act or by the Board of Trade regulations at which engines are to be driven or propelled on the tramways under the authority of this Act but the local authority may if they think fit make byelaws under the

provisions of the Tramways Act 1870 for restricting the rate of speed to a lower rate than that so authorised. A.D. 1900.

Orders &c. of Board of Trade.

10. All orders regulations and byelaws made by the Board of Trade under the authority of this Act shall be signed by a secretary or an assistant secretary of the Board.

Conveyance of mails.

11. Notwithstanding any provision in any Act or Provisional Order relating to any of the existing tramways of the Company the Conveyance of Mails Act 1893 shall extend and apply to all such tramways as if the same had been authorised by an Act of Parliament passed after the first day of January one thousand eight hundred and ninety-three and to the Company as the body or person owning or working such tramways.

For protection of Postmaster-General.

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

(B) In the event of the carriages on the tramways being moved by electrical power or of electrical energy being supplied for any purpose under this Act the following provisions shall have effect :—

(1) The Company shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by Her Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein If any question arises as to whether the Company have constructed their electric lines or other works or work their undertaking in contravention of this subsection such question shall be determined by arbitration and the Company shall be bound to make any alterations in or additions to their system which may be directed by the arbitrator :

(2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Company of their electric lines and works or by the working of the undertaking

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of the Company the Company shall pay the expenses of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection:

(3) (a) Before any electric line is laid down or any act or work for working the tramways by electricity or otherwise for the supply of electrical energy is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the lines of the Postmaster-General at right angles at the point of shortest distance and so continuing for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work;

(b) Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by arbitration:

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

(5) Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice:

(6) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously

affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work:

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

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

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

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

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

For protection of London County Council.

13. If on or before the first day of October one thousand nine hundred the London County Council give notice in writing to the Company of the particular surface or underground system of electric traction which the County Council intend to adopt on the tramways which may hereafter be worked by them in connexion with the tramways of the Company the Company shall adopt some surface or underground system of traction which will work in connexion with the surface or underground system so adopted by the London County Council.

In the event of any difference arising between the County Council and the Company under this section the same shall on the application of either party be determined by an arbitrator to be appointed by the Board of Trade.

For protection of South Metropolitan Gas Company.

14. Any works to be executed by the Company in pursuance of the provisions of this Act and of section thirty of the Tramways Act 1870 which will occasion any interference with the gas mains pipes or other apparatus of the South Metropolitan

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Gas Company (herein-after referred to as "the gas company") shall if the gas company so desire be executed by the gas company at the reasonable expense of the Company and in that case the gas company shall within seven days of receiving notice from the Company of the intention to execute any such works give notice of the intention themselves to execute such works and shall commence and complete the same with all reasonable despatch and in default of so doing the Company may carry out such works Any difference which may arise between the Company and the gas company under this section shall be determined by an arbitrator to be appointed by the President of the Institution of Civil Engineers upon the application of either party.

For protection of Kent Waterworks Company.

15. Any works to be executed by the Company in pursuance of the provisions of this Act and of section thirty of the Tramways Act 1870 which will occasion any interference with the water mains pipes or other apparatus of the Kent Waterworks Company (herein-after referred to as "the water company") shall if the water company so desire be executed by the water company at the reasonable expense of the Company and in that case the water company shall within seven days of receiving notice from the Company of the intention to execute any such works give notice of the intention themselves to execute such works and shall commence and complete the same with all reasonable despatch and in default of so doing the Company may carry out such works Any difference which may arise between the Company and the water company under this section shall be determined by an arbitrator to be appointed by the President of the Institution of Civil Engineers upon the application of either party.

Special provisions as to use of electric power.

16. The following provisions shall apply to the use of electrical power under this Act unless such power is entirely contained in and carried along with the carriages :—

(1) The Company shall employ either insulated returns or uninsulated metallic returns of low resistance :

(2) The Company shall take all reasonable precautions in constructing placing and maintaining their electric lines and circuits and other works of all descriptions and also in working their undertaking so as not injuriously to affect by fusion or electrolytic action any gas or water pipes or other metallic pipes structures or substances or to interfere with the working of any wire line or apparatus from time to time

used for the purpose of transmitting electric power or of telegraphic telephonic or electric signalling communication or the currents in such wire line or apparatus :

(3) The Company shall be deemed to take all reasonable precautions against interference with the working of any wire line or apparatus if and so long as they adopt and employ at the option of the Company either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with the electric wires lines and apparatus of other parties and the currents therein as may be prescribed by the Board of Trade regulations and in prescribing such means the Board shall have regard to the expense involved and to the effect thereof upon the commercial prospects of the undertaking :

(4) At the expiration of two years from the passing of this Act the provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire line or apparatus or the currents therein unless in the construction erection maintaining and working of such wire line and apparatus all reasonable precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents :

(5) If any difference arises between the Company and any other party with respect to anything herein-before in this section contained such difference shall unless the parties otherwise agree be determined by the Board of Trade or at the option of the Board by an arbitrator to be appointed by the Board and the costs of such determination shall be in the discretion of the Board or of the arbitrator as the case may be :

(6) The electric power shall be used only in accordance with the Board of Trade regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return :

(7) When any department of Her Majesty's Government represents to the Board of Trade that the use of electrical power under this Act injuriously affects or is likely to

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injuriously affect any instruments or apparatus whether electrical or not used in any observatory or laboratory belonging to or under the control of that department the Board of Trade after such inspection or inquiry as they may think proper may by their regulations require the Company to use such reasonable and proper precautions including insulated returns as the Board of Trade may deem necessary for the prevention of such injurious affection For the purposes of this subsection any inspector of the Board of Trade may during his inspection of the Company's works and apparatus be accompanied by any person or persons appointed in that behalf by the Government Department concerned and the Company shall give all due facilities for the inspection Provided always that in the case of any observatory or laboratory established after the passing of this Act or of any instrument or apparatus hereafter used in any existing observatory or laboratory which may be of greater delicacy than those used therein at the passing of this Act the Board of Trade shall consider to what extent if any it is expedient in the interests of the public that the powers of this subsection should be exercised regard being had to the site of the observatory or laboratory or the purposes of the instruments or apparatus as the case may be:

(8) The expression "Company" in this section shall include licencees and any person owning working or running carriages over any tramway of the Company.

Agreements for supply of electricity.

17. The Company and the Blackheath and Greenwich District Electric Lighting Company Limited or any other company local authority body or person for the time being authorised to supply electrical energy under the provisions of the Electric Lighting Acts 1882 and 1888 may enter into and carry into effect agreements for the supply by either of the contracting parties to the other of electrical energy in bulk but such agreements shall in all respects be subject to the approval of the Board of Trade Provided that any supply of electrical energy to the Company shall be subject to the provisions of the Act or Order by which the supplying company local authority or person may be authorised to generate and supply electrical energy.

Agreements with local and road authorities.

18. The Company on the one hand and the authorities having respectively the control or management or the duty of directing the repairs of the streets roads and places respectively in which the tramways or any of them or any parts or part

thereof are or is laid on the other hand may enter into contracts or agreements with regard to all or any of the purposes of this Act and as to the laying down altering maintaining renewing repairing working and using of the tramways and the rails plates sleepers ways and works connected therewith and for facilitating the passage of carriages and traffic over or along the same.

For protection of Lewisham district.

19. Section twenty-three of the Act of 1888 shall apply to the reconstruction of the tramways under this Act in the same manner as it applied to the original construction save subsection 10 of that section shall not apply and nothing in subsection 12 shall be deemed to require the Company to pay the costs of the Lewisham Board in relation to this Act.

Company may apply their funds and raise additional capital.

20. The Company may apply towards any of the purposes of this Act any monies which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised and the Company may raise for the same purposes and for the general purposes of their undertaking any additional capital not exceeding in the whole thirty-two thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively which shares or stock shall form part of the general capital of the Company.

Shares or stock not to vest until one-fifth part paid up.

21. The Company shall not issue any share created under this Act under the nominal value of ten pounds nor shall any share or stock created under this Act vest in the person accepting the same unless and until a sum not being less than one-fifth of the amount of such share or the whole of such stock shall have been paid in respect thereof.

Power to borrow.

22. The Company may in respect of the additional capital of thirty-two thousand pounds which they are by this Act authorised to raise borrow any sum not exceeding in the whole ten thousand pounds and of that sum they may borrow any sum not exceeding in the whole two thousand pounds in respect of each six thousand pounds of the said additional capital but no part of any such sum shall be borrowed until shares for the portion of capital in respect of which the borrowing powers are to be exercised are issued and accepted and one half of such portion of capital 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

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that the whole of such 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 in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such 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 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.

Existing mortgages to have priority.

23. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Appointment of receiver.

24. All enactments in force under any Act relating to the Company with respect to the appointment of a receiver by mortgagees of the undertaking of the Company are hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under such enactment.

The mortgagees of the undertaking 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 two thousand pounds in the whole.

Company not to create debenture stock.

25. The Company shall not create debenture stock.

Application of moneys.

26. All moneys raised by the Company under this Act whether by shares stock or borrowing shall be applied to the purposes of this Act and to the general purposes of the Company being in each case purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

27. If any money is payable to a shareholder or mortgagee being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Interest on calls not to be paid out of capital.

28. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise 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.

29. 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 railway or to execute any other work or undertaking.

Provisions as to arbitration.

30. Where under the provisions of the Tramways Act 1870 and this Act any matter in difference is referred to the arbitration of any person nominated by the Board of Trade the provisions of the Arbitration Act 1889 or of any rules made thereunder shall apply in every such arbitration.

Provision as to general Tramway Acts.

31. Nothing in this Act contained shall exempt the Company 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 or charges authorised by this Act.

Costs of Act.

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

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