CHAPTER cxlvii.

An Act to amend the Swansea Improvements and Tramways Act, 1874, and to confer further powers upon the Swansea Improvements and Tramways Company; and for other purposes. A.D. 1878.

[4th July 1878.]

WHEREAS by the Swansea Improvements and Tramways Act, 1874 (in this Act called the Act of 1874), the Swansea Improvements and Tramways Company (who are in this Act referred to as the Company) were incorporated and authorised to make new streets and improvements of streets, and to lay down tramways in and near Swansea in the county of Glamorgan: 37 & 38 Vict. c. cxxxviii.

And whereas the Company have proceeded to carry the said Act into execution:

And whereas it is expedient that the Company should be empowered to make the new tramways by this Act authorised:

And whereas by the Act of 1874 the Company are empowered to agree with the owners for the time being of the Oystermouth railway or tramroad, or the persons competent to sell and dispose thereof or to lease the same, for the purchase or lease of the said undertaking, and it is expedient that such owners or persons should be empowered to sell or grant a lease of the said undertaking to the Company:

And whereas the share capital of the Company consists of two hundred thousand pounds in twenty thousand shares of ten pounds each, and, subject to the special provisions of the Act of 1874, the Company have power to borrow eight thousand seven hundred and fifty pounds upon the credit of the tramway undertaking, and seventy-three thousand five hundred pounds upon security of lands and buildings acquired by them in connexion with street improvements, but no provision is made in the said Act as to the division of such share capital into two separate capitals, one to be deemed Swansea Tramways Capital and the other Swansea Improvements Capital:

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And whereas it is expedient that provision should be made for such division of capital:

And whereas the Company have not borrowed any money under the Act of 1874:

And whereas seventy-nine thousand one hundred and fifty pounds of the said share capital have been subscribed and paid up:

And whereas plans and sections describing the lines, situations, and levels of the works intended to be authorised by this Act, and delineating the lands to be taken under this Act, and a book of reference to those plans, containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, and describing those lands, have been deposited with the clerk of the peace for the county of Glamorgan (which are in this Act referred to as the deposited plans, sections, and book of reference):

And whereas it is expedient that the powers and provisions of the Act of 1874 should be in certain respects altered and amended:

And whereas the objects aforesaid cannot be accomplished 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,)

Short title.

1. This Act may be cited as the Swansea Improvements and Tramways Act, 1878.

Construction of Act.

2. This Act and the Act of 1874, as altered and amended by this Act, shall be read and construed together as one Act.

Incorporation of general Acts.

3. The following enactments; (namely,)

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;

Section 3 (interpretation of terms), section 19 (local authority may lease or take tolls), and Parts II. and III. of the Tramways Act, 1870,

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

so far as the same are applicable for the purposes of and are not varied by or inconsistent with the provisions of this Act, are hereby incorporated with and form part of this Act.

Interpretation of terms.

4. In this Act—

Terms to which meanings are assigned by the Act of 1874, or by enactments incorporated with that Act, have the same respective meanings, unless there be something in the subject or context repugnant to such construction;

The word "tramways" shall mean the tramways by this Act authorised.

Power to take lands shown on deposited plans.

5. Subject to the provisions of this Act, the Company may for the purposes of Tramway No. 3 by this Act authorised enter upon, take, hold, and use any of the private lands shown on the deposited plans, and described in the deposited book of reference with respect to the said tramway, not being part of the Oystermouth railway or tramroad, but without prejudice to the power of the Company to enter upon and use the lands of the said railway or tramroad for the purpose of effecting the junction therewith by this Act authorised.

Correction of errors in deposited plans and book of reference.

6. If there be any omission, mis-statement, or wrong description of any lands, or of the owners, lessees, or occupiers of any lands shown on the deposited plans, or specified in the deposited book of reference, the Company, after giving ten days notice to the owners, lessees, and occupiers of the lands in question, may apply to two justices acting for the county of Glamorgan for the correction thereof, and if it appear to the justices that the omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and they shall in their certificate state the particulars of the omission, and in what respect any such matter is mis-stated or wrongly described; and such certificate shall be deposited with the clerk of the peace for the county of Glamorgan, and a duplicate thereof shall also be deposited with the parish clerks of the several parishes in which the lands affected thereby are situate; and such certificate and duplicate respectively shall be kept by such clerk of the peace and parish clerks respectively with the other documents to which the same relate, and thereupon the deposited plans and book of reference shall be deemed to be corrected according to such certificate, and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

Powers to Corporation of Swansea as to contributions to street improvements.

7. The Company and the Corporation may from time to time enter into and carry into effect agreements relative to all or any of the following matters:

The apportionment of the twenty-five thousand pounds which the Corporation are by the Act of 1874 authorised and required, upon the conditions therein specified, to contribute towards the expense of the street improvements by that Act authorised:

The alteration of such apportionment.

Power to lay down and maintain

8. Subject to the provisions of this Act, and of Parts II. and III. of the Tramways Act, 1870, the Company may make, form, lay

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certain new tramways.

33 & 34 Vict. c. 78.

down, work, use, 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 tramways herein-after described, with all proper rails, plates, works, and conveniences connected therewith.

Tramways authorised.

9. The tramways herein-before referred to and authorised by this Act will be wholly situate in the county of Glamorgan, and are the following; (namely,)

A tramway (No. 1), consisting of two miles one furlong and 6.50 chains of single line, commencing at a point in the Neath turnpike road at Morriston eight chains northward from the junction of Martin Street with the Neath turnpike road and passing thence in a southerly direction along the Neath turnpike road, and terminating in that road at a point forty feet or thereabouts north of the centre of Villiers Street at its junction with the said Neath turnpike road.

A tramway (No. 1L), consisting of fifty links of single line wholly in the Neath turnpike road, commencing by a junction with Tramway No. 1 at a point two chains thirty links north of the Great Western Railway bridge where it crosses the said road at Landore and passing thence westward, and terminating in the Landore Tin Plate Works.

A tramway (No. 1M), consisting of fifty links of single line wholly in the Neath turnpike road, commencing by a junction with Tramway No. 1 at a point two chains seventy links north of Great Western Railway bridge where it crosses the said road at Landore, and passing thence westward, and terminating in the Millbank Ironworks.

A tramway (No. 1N), consisting of fifty links of single line wholly in the Neath turnpike road, commencing by a junction with Tramway No. 1 at a point six chains fifty links north of the Great Western Railway bridge where it crosses the said road at Landore, and passing thence eastward, and terminating at the Landore Chemical Works.

A tramway (No. 1O), consisting of fifty links of single line wholly in the Neath turnpike road, commencing by a junction with Tramway No. 1 at a point three chains north of the "Red Cow" public-house, and passing thence eastward into the Coal Works of John Glasbrook at Plas Marl.

A tramway (No. 3), consisting of two furlongs seven chains and eighty links of single line, commencing by a junction with the Oystermouth Railway at a point opposite or nearly opposite the centre of Powell Street at its junction with the Strand,

passing thence into and along the Strand and Neath turnpike road, and terminating by a junction with Tramway No. 1 at a point eleven links north of the junction of Jersey Street with the last-mentioned road.

A tramway (No. 4), consisting of fifty-five links of single line wholly in Saint Helen's Road, commencing by a junction with the tramway now laid therein at a point two chains fifty links north of the centre of Fleet Street, and passing thence eastward, and terminating in the Saint Helen's Works.

As to construction of Tramway No. 3.

10. The Company shall construct Tramway No. 3 in accordance with the agreement, whereof a copy is set forth in the Schedule to this Act, and which agreement is hereby confirmed and shall be carried into effect accordingly.

Tramway No. 3 not to be opened without consent of Corporation.

11. The Company shall not open Tramway No. 3 for the conveyance of passengers without the consent of the Corporation given in writing under their common seal.

Corporation may order single instead of double line of tramway between certain points.

12. If within twelve months from the opening of the tramway between Christina Street and Nichol Street the Corporation are of opinion that the maintenance of a double line of tramway between those points is dangerous to the public, or obstructive to traffic, the Company shall, on receiving notice to that effect from the Corporation, remove one of such lines of rail, and shall maintain between the said points a single line of tramway only: Provided always, that nothing herein contained shall be held to prejudice the right of the Company to construct the said tramway as a single line of tramway as authorised by the Act of 1874.

Limit of time for completion of tramways.

13. If the tramways by this Act authorised be not completed within two years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making the said tramways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Deposit money not to be repaid until tramways opened.

14. 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 seventy-five pounds, being more than five per centum upon the amount of the estimate in respect of the tramways by this Act authorised, has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act (which sum is referred to in this Act as the deposit fund): Be it enacted, that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to or on the

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application of the 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, (which persons, survivors or survivor, are or is in this Act referred to as the depositors,) unless the Company shall, previously to the expiration of the period limited by this Act for completion of the said tramways, open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the said tramways for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade specifying the length of the portion of the tramways opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramways so opened bears to the entire length of the tramways hereby authorised, the Court shall, on the application of the depositors, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct, and the certificate of the Board of Trade shall be sufficient evidence of the facts therein 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.

15. If the Company do not previously to the expiration of the period limited for the completion of the said tramways complete the same and open them for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the tramways, or any portion thereof, or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation has been paid, 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 tramway, 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

is payable, or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, 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 Chancery 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: Provided that until the deposit fund 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 depositors.

Certain sections of Act of 1874 extended to this Act.

16. Sections 73 to 80, both inclusive, and sections 82 to 92, both inclusive, and section 94 of the Act of 1874, shall extend and apply, mutatis mutandis, to the tramways by this Act authorised.

For protection of traffic of Oystermouth railway or tramroad.

17. With a view of preventing, so far as is practicable in working Tramway No. 3, and in conveying traffic over the same to or from the Oystermouth railway or tramroad, any interference with the working of the traffic of the said railway or tramroad, the Company shall, if and when required by the owners for the time being of that railway or tramroad, construct and maintain all such sidings and other works upon any lands belonging to the Company or to the said owners as may be agreed upon; and if any difference shall arise under this enactment, the same shall be from time to time referred to and determined by an engineer to be appointed on the application of either party by the Board of Trade.

Saving rights of owners of Oystermouth railway or tramroad.

18. Nothing in this Act contained shall in any way prejudice the rights and claims of any person or persons to the ownership of the Oystermouth railway or tramroad.

Extension of powers as to lease or sale of Oystermouth railway or tramroad.

19. The powers conferred by the 96th section of the Act of 1874 upon the Company as to agreeing with the owners for the time being of the Oystermouth railway or tramroad, or the persons competent to sell and dispose of or to lease the same, shall be enlarged and extended so as to enable such owners and persons to grant a lease of or to sell the said undertaking to the Company.

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Saving rights of Swansea Harbour Trustees. 29 & 30 Vict. c. cclviii.

20. Nothing in this Act contained shall extend to take away, alter, diminish, or prejudice any of the rights, powers, or privileges which the Swansea Harbour Trustees now have or are entitled to of passing over and using with their engines, horses and carriages, waggons and trucks, so much of the Oystermouth railway or tramroad as is described in the 21st section of the Swansea Harbour Act, 1866, upon the terms therein mentioned.

For protection of London and North-western Railway Company.

21. Nothing in this Act contained shall affect any of the powers and provisions of the Act of 1874 for the protection of or relating to the London and North-western Railway Company or their undertaking, and such powers and provisions shall, so far as they are applicable, extend to and be incorporated with this Act.

As to division of Company's capital into Swansea Improvements and Swansea Tramways Capitals.

22. The Company may, by a resolution to be passed at a meeting specially convened for the purpose, and passed with the assent of the shareholders (present in person or by proxy) holding in the aggregate not less than three fourths of the paid-up capital of the Company represented at that meeting, resolve that the capital of the Company shall be divided into two separate and distinct capitals, one of which shall be called "Swansea Improvements Capital," and the other "Swansea Tramways Capital," and which shall respectively consist of such amounts as the Company by such resolution may determine, provided that the total amount of the two capitals shall be the sum of two hundred thousand pounds and no more.

Provisions as to division of capital.

23. In the event of a resolution being passed under the last preceding section, the following provisions shall take effect; viz.,—

The capital of the Company shall be deemed to be divided into separate and distinct capitals in accordance with such resolution.

The capital which at the date of the passing of the resolution shall have been issued shall be divided into equal moieties, of which one shall be part of the Swansea Improvements Capital and the other part of the Swansea Tramways Capital, and each holder of the capital which shall have been at that time issued shall be entitled to and shall receive one half of the amount of the capital held by him in each of the said capitals: Provided always, that no share shall for this purpose be sub-divided, and in cases where a person shall hold only one share or an odd number of shares, he shall be entitled, at his option, to receive in respect of such only or odd share a share in the Swansea Improvements Capital or in the Swansea Tramways Capital.

New certificates to be issued.

24. Forthwith after the passing of the resolution the directors shall proceed to make the division of the then issued capital, and shall issue new certificates in exchange for the old certificate.

Vesting of divided shares in proprietors.

25. Every share which may be so divided as aforesaid shall be subject to the same liability for calls, and subject and liable to the same trusts, powers, provisions, declarations, agreements, charges, liens, and incumbrances as immediately before such division taking place affected the share which may be so divided, and so as to give effect to and not revoke any testamentary disposition of or affecting the same.

Undertakings to be separate for the purposes of dividend.

26. The holders of the several capitals, or of so much thereof respectively as shall be issued, shall, subject to the provision hereinafter contained as to the payment of general expenses, be solely entitled to the whole of the profits of the separate undertakings; that is to say, the holders of the Swansea Improvements Capital, or of so much thereof as shall be issued, to the profits of the improvements undertaking, and the holders of the Swansea Tramways Capital, or so much thereof as shall be issued, to the profits of the tramways undertaking.

Apportionment of general expenses of Company.

27. The general expenditure of the Company, whether incurred previously to or after the passing of the resolution, shall be apportioned between and borne by the said two undertakings respectively in such proportions as the Company shall by the resolution have determined, or if no provision with reference thereto be made by the resolution then in equal proportions.

As to debts of Company after division of the capital.

28. All debts which after the date of the passing of the resolution shall be contracted or incurred on account or in respect or for the purposes of the improvements undertaking shall be payable only out of the Swansea Improvements Capital and the receipts in respect of the improvements undertaking, and all debts which after such date shall be contracted or incurred on account or in respect or for the purposes of the tramways undertaking only shall be payable only out of the Swansea Tramways Capital and the receipts in respect of the tramways undertaking; and no creditor shall, in respect of any such debt, be entitled to require or enforce payment thereof as against the Company except out of the capital, or the property, effects, or moneys subscribed or received, acquired, or appropriated for or towards or on account or in respect or for the purposes of the undertaking on account or in respect or for the purposes of which the debt shall have been contracted or incurred: Provided always, that no creditor or person

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shall be affected by the provision herein-before contained with regard to such debts, unless at the time when the debt was contracted or incurred the person with or to whom the same was contracted or incurred had express notice of the same being contracted or incurred on account or in respect or for the purposes of the undertaking on account or in respect or for the purposes of which the same shall be contracted or incurred.

Providing for reduction of Improvements Capital.

29. Whenever and so often as any money shall be in hand which shall have been derived from the improvements undertaking, after the improvements have been completed, and shall not be fairly considered as part of the profits or earnings of the improvements undertaking, the same may be distributed amongst the holders of the Swansea Improvements Capital as a return of part of the capital; and whenever by such means the whole amount of such capital shall have been repaid, such capital shall be deemed to be extinguished, and the capital of the Company shall thenceforth consist only of the Swansea Tramways Capital.

As to votes of proprietors of the two capitals.

30. The holders of Swansea Improvement Capital shall not be entitled to vote at meetings upon questions relating solely to the tramways undertaking, nor the holders of Swansea Tramways Capital upon questions relating solely to the improvements undertaking, and meetings may be held of the holders of either capital separately for the purpose of dealing with questions relating only to the undertaking to which the capital relates.

Separate accounts to be kept.

31. The Company shall keep separate accounts of their receipts and payments in respect of each undertaking, so as to give effect to the provisions herein-before contained.

As to payment of dividends.

32. Dividends may be paid upon either capital out of the profits of the separate undertaking to which the capital relates, notwithstanding that during the corresponding period, or at any other time, any loss has been incurred in respect of the other undertaking.

Obligations of shareholders.

33. Except as herein-before provided, the holders of the respective capitals shall be subjected and entitled to the same regulations, rights, powers, and privileges as they would have been entitled to if no such division as aforesaid had been made, and the capital held by them formed part of the present capital.

Saving rights of Corporation.

34. Except as by this Act expressly provided, nothing herein contained shall take away, alter, or prejudice any of the estates, rights, powers, or privileges of the Corporation.

Tramways not exempt from provisions of any present and future general Tramways Acts.

35. Nothing in this Act 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 charges authorised by this Act.

Expenses of Act.

36. The costs, charges, and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act shall be paid by the Company.

SCHEDULE referred to in the foregoing Act.

Memorandum of Agreement made this twentieth day of May one thousand eight hundred and seventy-eight between the Swansea Improvements and Tramways Company (herein-after called "the Company") of the one part and the Mayor, Aldermen, and Burgesses of the Borough of Swansea (herein-after called "the Corporation") of the other part. Whereas the Company are promoting a Bill in Parliament, and the Corporation have expressed their consent thereto, subject to certain amendments which are proposed to be introduced therein in Committee, a copy of the said Bill as amended being at the time of the execution of this agreement signed by the town clerk on behalf of the Corporation, and by Mr. Walter Webb on behalf of the Company: And whereas the Company propose to construct a tramway, called No. 3 in the said Bill, between the Oystermouth Railway in the Strand and the Aberdyberthy Bridge, and it is deemed desirable that a portion of the roadway should be widened before the said tramway is constructed, a plan showing in the colour red the proposed widening is on the execution of this agreement signed by the borough surveyor on behalf of the Corporation, and by Mr. Joseph Kincaid on behalf of the Company: it is agreed between the parties as follows:

1. The Company will, before commencing the construction of Tramway No. 3 in the said Bill mentioned, execute the works referred to in the next paragraph of this agreement for widening the Neath Road as delineated in red on the said plan.

2. The Company will construct the whole of the works to the satisfaction of the borough surveyor of the Corporation for the time being, including the following; videlicet,

(A.) A culvert of sufficient size to carry away the Burlesbrook underneath the Road and Cwm tramways:

(B.) To remove the two walls between the "Vernon Arms" and the south-east end of White's Brewery, and to form and metal a roadway, and to do the necessary paving, kerbing, and channelling in front of the

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existing buildings, and to remove the gulleys to suitable positions alongside the new kerbing, and to lay down the necessary drain pipes connecting the same with the existing sewers:

(c.) To widen on the western side of the Neath Road by throwing into the roadway that portion of the Flint Mill premises as shown on the said plan and coloured red: Provided always, that the Company shall not be required to carry out the said widening on the western side for a period of three years, unless previously they shall acquire the tenants interest in the Flint Mill premises.

3. The Corporation shall be entitled to effect a junction between the Cwm tramway and the said Tramway No. 3 at or near the "Vernon Arms" in the Neath Road, for the purpose of conveying passengers, minerals, or other things which may be brought down the Cwm tramways, should that tramway be constructed, and the Corporation shall enjoy full running powers over the said Tramway No. 3 between the "Vernon Arms" and the south-east end of the Flint Mill premises without any charge or payment whatsoever for the exercise thereof, also that as between such premises and the junction of Tramway No. 3 with the Oystermouth line no charge is to be made if the Corporation shall establish their ownership to the Cwm tramway, which formerly existed between the same points.

4. The Company shall be entitled to the materials removed in carrying out the works mentioned in this agreement.

5. Subject to the provisions of this agreement the said Tramway No. 3 shall be constructed according to the plans signed at the time of the execution of this agreement by the borough surveyor on behalf of the Corporation, and by Mr. Joseph Kincaid on behalf of the Company.

In witness whereof the Swansea Improvements and Tramways Company, and the said Mayor, Aldermen, and Burgesses of the Borough of Swansea, have hereunto set their respective common seals.

(L.S.) Seal of the Corporation.
(L.S.) Seal of the Swansea Improvements and Tramways Company.

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