



CHAPTER xxxiv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Lanarkshire Traction. A.D. 1929.
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[20th December 1929.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Act 1899 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament :

62 & 63 Vict.
c. 47.
16 & 17
Geo. 5. c. 18.

Be it therefore enacted by the King'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. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirma-
tion of Order
in schedule.
2. This Act may be cited as the Lanarkshire Traction Order Confirmation Act 1929. Short title.

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SCHEDULE.

Provisional Order to change the name of the Lanarkshire Tramways Company to make provision as to the abandonment of the tramways owned by that Company to enlarge the powers of the Company with regard to the running of omnibuses and for other purposes.

WHEREAS by the Lanarkshire Tramways Acts 1900 to 1920 the Lanarkshire Tramways Company (hereinafter referred to as "the Company") are authorised to construct and work a system of tramways and to run omnibuses in extension thereof in the county of Lanark :

And whereas by the said Acts the Company are authorised to create and issue share capital to the amount of five hundred and sixty-nine thousand pounds and to borrow a sum not exceeding one hundred and seventy-three thousand pounds :

And whereas the Company have already created and issued share capital to the extent of three hundred and seventy three thousand seven hundred and fifty fully paid shares of one pound each and have issued debentures to the amount of one hundred and one thousand seven hundred and fifty pounds repayable at varying dates :

And whereas it is expedient that provision be made for the abandonment of all or some of the tramways of the Company if the traffic thereon is insufficient to allow the same to be worked remuneratively and the public needs are or can be met by services of omnibuses :

And whereas the existing power of the Company to run omnibuses is limited to the running of omnibuses on any tramway route on which the running of cars is interrupted or in extension of their tramway system throughout the county of Lanark and it is expedient that the said limitations should be repealed in order that the powers of the Company to run omnibuses may continue after the abandonment of their tramways :

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And whereas by the Act and Order authorising the tramways of the Company they were required in addition to maintaining the portions of streets and roads in which the tramways are laid to construct numerous and expensive street widenings and new streets including a new street (now known as Keith Street) in the burgh of Hamilton to contribute to the cost of the reconstruction of certain bridges and also to make large annual payments to the county and burgh authorities in whose districts the tramways of the Company are situate which payments are calculated at a sum per mile of street or road on which the tramways are laid :

And whereas all the streets and roads forming the route of the said tramways are now used by road motor vehicles of all descriptions including large numbers of omnibuses which make use of the streets or roads constructed or widened by the Company without making any payment therefor or any annual contribution to the said county or burgh authorities similar to those which the Company are required to make :

And whereas an extensive and unfair competition is thus carried on by such omnibuses with the tramways of the Company with the result that the Company have not for some years been able to pay any dividends on their capital or to carry any appreciable sum to reserve for depreciation :

And whereas in view of the altered conditions resulting from the development of road motor transport it is expedient that the enactments requiring the Company to make the said annual payments to the county and burgh authorities should be repealed and that certain other provisions as in this Order contained should be made for removing some of the disabilities under which the Company now carry on their undertaking :

And whereas it is expedient that powers to raise further moneys by borrowing and that the other powers in this Order contained should be conferred upon the Company :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

A.D. 1929. Now therefore in pursuance of the powers contained in the said Act as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

Short and
collective
titles.

1.—(1) This Order may be cited as the Lanarkshire Traction Order 1929 and shall come into operation on the passing of the Act confirming this Order which date is in this Order referred to as “the commencement of this Order.”

(2) The Lanarkshire Tramways Acts 1900 to 1920 and this Order may together be cited as the Lanarkshire Traction Acts 1900 to 1929.

Incor-
poration
of parts of
general
Acts.

2. The provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the borrowing of money by the Company on mortgage or bond and with respect to the provision to be made for affording access to the special Act by all parties interested and of Part IV (relating to change of name) of the Companies Clauses Act 1863 so far as they are applicable to and are not varied by or inconsistent with the provisions of the existing Act and Orders and this Order are hereby incorporated with this Order.

Interpre-
tation.

3. In this Order unless the context otherwise requires—

“The Company” means the Lanarkshire Traction Company;

“The Act of 1900” “the Order of 1903” “the Order of 1908” and “the Order of 1920” mean respectively the Hamilton Motherwell and Wishaw Tramways Act 1900 the Lanarkshire Tramways Order 1903 the Lanarkshire Tramways Order 1908 and the Lanarkshire Tramways Order 1920;

“The existing Act and Orders” means the Act of 1900 the Order of 1903 the Order of 1908 and the Order of 1920;

“The undertaking” means the undertaking of the Company under the existing Act and Orders as amended by this Order and under this Order;

“The Company’s tramways” means the tramways constructed by the Company under the existing Act and Orders;

“Equipment” means posts standards brackets cables wires works and apparatus forming part of or provided and used in connection with the Company’s tramways but does not include the rails and paving setts thereof; A.D. 1929.

“Omnibus” means any stage carriage moved by animal power or by mechanical power (including in that expression steam electrical and every other motive power not being animal power) obtained from some internal source;

“The Minister” means the Minister of Transport; and

“Road authority” means with reference to any road or bridge with the immediate approaches thereto or any part thereof the authority company or person charged with or liable to contribute to the maintenance of such road or bridge with the immediate approaches thereto or any part thereof.

4. After the commencement of this Order the name of the Company shall be the Lanarkshire Traction Company. Change of name.

5.—(1) After the commencement of this Order the Company shall be deemed to be incorporated for the purpose of providing road transport services and for other the purposes of the existing Act and Orders as amended by this Order and of this Order and of any other Act or Order from time to time relating to the Company. Objects of Company.

(2) So much of section 5 (Company incorporated) of the Act of 1900 as is inconsistent with subsection (1) of this section is hereby repealed.

6.—(1) Where on any application made to him by the Company the Minister is satisfied—

(a) that it is just and expedient that an order should be made under the provisions of this section having regard to the financial results of working the Company’s tramways or any part thereof in respect of which the application has been made and to any other relevant circumstances; and

As to abandonment of Company’s tramways.

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- (b) that the requirements of public traffic on the routes of the Company's tramways or such part thereof are or can be adequately met by services of omnibuses;

the Minister may by order authorise the abandonment of the whole or any part of the tramways referred to in the application and prescribe a date (in this section referred to as "the prescribed date") which shall not unless the Company otherwise agree be earlier than six months from the making of the order on which date such abandonment shall take effect.

(2) Before making an order under this section the Minister shall—

- (a) require the Company to give public notice of the application for the order and as to the manner in which and the time within which representations may be made and to give a similar notice in writing to the road authority of the road or bridge on which any tramway proposed to be abandoned is situate; and

- (b) consider any representations which may be duly made.

(3) As from the prescribed date the Company shall discontinue the working of the tramway to which such order relates and (except as in subsection (9) of this section expressly mentioned) all powers obligations and liabilities of the Company in relation to or in respect of such tramway or the maintenance of the roads in which it is situate or otherwise existing under or by virtue of any Act Order lease agreement or other instrument whatsoever shall cease and determine and the provisions of the existing Act and Orders and of any Acts incorporated therewith shall cease to apply to such tramway.

(4) Subject to the provisions of subsections (8) and (9) of this section and except as may be otherwise agreed in pursuance of the section of this Order of which the marginal note is "Agreements with local and road authorities &c." the Company—

- (a) shall within one year from the prescribed date or within such longer period as may be agreed between the Company and the road authority concerned take up and remove the tramway to

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which any order of the Minister under this section relates and the rails paving setts and equipment forming part thereof other than any underground cables wires works and apparatus; and

- (b) may within the said period of one year or such longer period as aforesaid take up and remove any underground cables wires works and apparatus forming part of the equipment of such tramway.

(5) The Company shall with all convenient speed after any such taking up and removal fill in the ground and make good the surface and where the rails paving setts or equipment so taken up and removed were situate in the carriageway or footpath of any public road restore subject to the approval of the road authority (which approval shall not be unreasonably withheld) the portion of the carriageway or footpath disturbed by such taking up and removal to as good a condition as that in which it was before such rails paving setts and equipment were laid or placed therein and clear away all surplus paving metalling or other material or rubbish occasioned by such work and in the meantime cause the place where the carriageway or footpath is opened or broken up to be fenced and watched and properly lighted at night :

Provided that the road authority (if they think fit) may within one month after the making of any order under this section give notice to the Company that they desire themselves to do the works necessary for the restoration of the road so far as the carriageway is concerned and the Company shall in lieu of carrying out the said works pay to the road authority in respect of the tramway or part thereof to be abandoned by the Company such sum as may be agreed between the road authority and the Company or as failing agreement may be determined by an arbiter to be appointed by the Minister to be the cost to the Company of fulfilling their obligation under this subsection.

(6) If the Company fail to comply with their obligations under paragraph (a) of subsection (4) of this section within the period of one year from the prescribed date or such longer period as may be agreed with the road authority or fail to comply with their obligations under subsection (5) of this section within the period

A.D. 1929. of one month after the expiration of the said one year or longer period as aforesaid or after compliance with the said paragraph (a) (whichever is the earlier) the road authority may at any time after such respective periods themselves do the works and things necessary for complying with such obligations and may recover from the Company the cost reasonably incurred by them in so doing.

(7) The Company may subject to the provisions of subsection (8) of this section appropriate and use any rails paving setts and equipment so taken up and removed by them and may sell or otherwise dispose of any rails paving setts and equipment forming part of the tramway to which any order of the Minister under this section relates whether or not so taken up and removed.

(8) Notwithstanding anything in the foregoing provisions of this section the following provisions shall have effect :—

(a) The Company may with the approval of the road authority concerned leave in the road all or any part of the rails and paving setts forming part of the tramway to which any order of the Minister under this section relates;

(b) If at any time before or within one month after the prescribed date any local authority shall give notice to the Company that they desire for the purpose of supplying electricity or of supporting any overhead wires or cables or for any other purpose that any of the overhead equipment on or above any road or footpath in the area of such local authority shall not be removed by the Company then the Company shall sell and the local authority giving the notice shall purchase the overhead equipment to which the notice relates on terms to be agreed between the Company and the local authority or failing agreement to be determined by an arbiter to be appointed on the application of either party by the sheriff of the county of Lanark;

(c) Subject to the provisions of paragraph (b) of this subsection the Company may enter into and carry into effect agreements with any authorised undertakers empowered to lay electric

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lines or cables in any road in or over which any part of the equipment may be laid or placed or with the Postmaster-General for the sale subject to the approval of the road authority (which approval shall not be unreasonably withheld) of any part of the equipment (whether underground or overhead) and on the execution of any such agreement the part of the equipment comprised therein shall vest in the purchaser subject nevertheless to the provisions of any Act or Order which would have applied to such part of the equipment if it had been laid or placed in or over such road or footpath by the authorised undertakers or the Postmaster-General as the case may be.

(9) (a) If any underground cables wires works and apparatus forming part of the equipment be not taken up and removed by the Company under the provisions of this section then as from the date when the Company shall have complied with their obligations under subsection (5) of this section in regard to the carriageway or footpath in which such part of the equipment is laid or placed or if there be no such obligations then as from the prescribed date; or

(b) If any rails and paving setts be left in any road by agreement with the road authority under paragraph (a) of subsection (8) of this section then as from the date of such agreement; or

(c) If any part of the overhead equipment be purchased by any local authority under paragraph (b) of the said subsection (8) or by any authorised undertakers or the Postmaster-General under paragraph (c) of that subsection then as from the date of such purchase

any and every obligation or liability imposed on the Company under or by virtue of any Act Order (including this Order) lease agreement or other instrument whatsoever with respect to the maintenance of or the taking up and removal of or otherwise relating to such equipment or rails and paving setts shall cease and determine and the provisions of the existing Act and Orders and of any Acts incorporated therewith shall cease to apply to such equipment or rails and paving setts as the case may be.

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(10) If any underground cables wires works and apparatus forming part of the equipment be neither taken up and removed by the Company within the period of one year from the prescribed date or such longer period as may be agreed between the Company and the road authorities concerned nor sold to any authorised undertakers within such period of one year such underground cables wires works and apparatus shall at the expiration of the said period of one year be vested in the said road authorities without payment.

(11) If any difference shall arise between the Company and any road authority under subsection (5) or subsection (6) or paragraph (c) of subsection (8) of this section the difference shall on the application of any party thereto be referred to and determined by the Minister whose decision shall be final.

Agreements
with local
and road
authorities
&c.

7. The Company on the one hand and any local or road authority on the other hand may enter into and carry into effect agreements for and with respect to the removal or non-removal of any of the Company's tramways and the rails paving setts and equipment forming part thereof or connected therewith and the reinstatement of the roadway or footpath in which any such tramway rails paving setts or equipment is or are situate and for and with respect to any other of the purposes or provisions of the section of this Order of which the marginal note is "As to abandonment of Company's tramways."

Enlarge-
ment of
powers to
run
omnibuses.

8.—(1) Section 9 (Power to provide and run omnibuses &c.) of the Order of 1908 shall be read and have effect as if the words "on any tramway route on which the running of cars is interrupted or in extension of their tramway system" were omitted therefrom and the expression "any point on the tramway" where used in the said section shall be deemed to mean any point which at the commencement of this Order is a point on the Company's tramways as now existing.

(2) The Order of 1920 shall be read and have effect as if the words "in extension of their tramway system" were omitted from section 13 (Further powers to run omnibuses) thereof and the expression "any point on the Company's tramways" where used in the said section

shall be deemed to mean any point which at the commencement of this Order is a point on the Company's tramways as now existing. A.D. 1929.

9.—(1) The provisions of sections 51 and 56 of the Tramways Act 1870 shall apply to and in relation to the omnibuses provided by the Company as if they were carriages used on tramways. Provisions as to Company's omnibuses.

(2) The Company may make byelaws for regulating the travelling in or upon such omnibuses and for the prevention of nuisances in or upon such omnibuses or in or against any premises held by the Company in connection therewith.

(3) The powers of this section shall only be exercisable by the Company subject to such byelaws (if any) as the magistrates or local authority or authorities as the case may be within whose district or districts such omnibuses may be run are now or may hereafter be empowered to make and enforce and may make and enforce with reference to omnibuses.

10. The Company may purchase by agreement take on lease and hold lands and buildings and may erect on any lands acquired by them omnibus carriage and motor houses buildings and sheds and may provide such plant appliances and conveniences as may be requisite or expedient for the establishment running equipment maintenance and repair of omnibuses or may use and adapt any of their existing carsheds for the said purposes or any of them but the Company shall not create or permit any nuisance on any lands upon which they erect any such houses buildings or sheds. Power to provide garages &c.

11. A list of the fares and charges authorised to be demanded and taken by the Company in respect of traffic on their omnibuses shall be exhibited in a conspicuous place inside each of the omnibuses. List of fares &c. to be exhibited.

12. The provisions of section 75 (Cheap fares for labouring classes) of the Act of 1900 as amended by section 12 (Tolls for passengers) of the Order of 1920 shall apply to any service of omnibuses provided by the Company along the route of any tramway the working of which shall be discontinued by the Company to the same extent as the said provisions applied to the tramway replaced by such service. Cheap fares on omnibus services substituted for tramways.

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Obligatory
omnibus
services.

13.—(1) On the date on which services of tramcars on any of the Company's tramways shall be discontinued in accordance with the section of this Order of which the marginal note is "As to abandonment of Company's tramways" the Company shall run and shall thereafter (subject to the provisions of this Order) continue to run adequate and satisfactory services of omnibuses on the routes of the Company's tramways on which services of tramcars have been so discontinued.

(2) The licensing authorities for the areas in which the Company's tramways are situate shall (subject to any rights possessed by them to approve or disapprove the fitness of vehicles for which a licence to ply for hire is desired) grant to the Company such number of licences for omnibuses to ply for hire as may be necessary for the purpose of complying with their obligations under this section. If any dispute shall arise between the Company and any licensing authority as to what number of licences are reasonably required by the Company for the said purpose the dispute shall be referred to the Minister whose decision shall be final.

(3) (a) If the Company shall at any time satisfy the Minister that the whole of the services then being run by the Company in pursuance of the foregoing provisions of this section does not yield a reasonable profit (after paying all proper expenses of and in connection with the working of those services and all other costs charges and expenses properly chargeable to revenue in connection with those services and making proper allowance for depreciation) the Minister may authorise such variation of those services or any of them or the discontinuance of such one or more of those services as he may think fit in order that the whole of the services to be run by the Company under this section shall yield a reasonable profit.

(b) If the Company satisfy the Minister that no adequate and satisfactory services of omnibuses can be run in accordance with the provisions of this section so as to yield a reasonable profit the Minister may declare that the Company's rights obligations and liabilities under this section shall cease and determine and in that event the provisions of this section shall be no longer binding on the licensing authorities.

(4) (a) The licensing authority of any area in which the Company are providing a service of omnibuses under subsection (1) of this section shall on receiving any application (otherwise than from the Company or from a railway company acting in pursuance of statutory powers existing at the commencement of this Order) for a licence for an omnibus to ply for hire in that area forthwith give notice in writing to the Company of the application and the Company shall be entitled to submit to the licensing authority either in writing or in person any objections to or representations on the grant of the licence which they may think fit. A.D. 1929.
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(b) The licensing authority when considering such an application as aforesaid shall have regard to the provisions of the section of this Order of which the marginal note is "Definition of 'adequate and satisfactory' services" and shall also consider any objections or representations submitted by the Company with reference to the application. Provided that the right of the applicant for the licence of appeal to the Minister from the decision of the licensing authority under section 14 (3) of the Roads Act 1920 shall not be affected but the Minister in making any order under that section shall have regard to the provisions of this section.

(5) (a) The licensing authority shall on making their decision with respect to any application for such a licence as is referred to in subsection (4) of this section forthwith give notice in writing to the Company of their decision.

(b) If the Company object to the decision of the licensing authority or to any conditions attached or to the non-attachment of any conditions to the licence the Company shall have a right of appeal to the Minister within the period of fourteen days after receiving notice of the decision of the licensing authority and the Minister shall have power to make such order thereon as he thinks fit. Any order made by the Minister under this subsection shall be final and binding and not subject to appeal in any court and shall be enforceable by any competent civil process of the Court of Session.

14. The expression "adequate and satisfactory" in relation to services of omnibuses where such expression is used in the section of this Act of which the marginal note is "Obligatory omnibus services" means such Definition of "adequate and satisfactory" services.

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services (including services for artisans mechanics and daily labourers) as may from time to time be agreed between the Company and the local authorities concerned or in case of difference settled on the application of the Company or the local authority by the Minister Provided that in any question as to what is an adequate and satisfactory service of omnibuses on any route regard shall be had to any service of omnibuses on that route which was being run on the first day of November one thousand nine hundred and twenty-eight which has continued in regular operation since that day and which is still being run by the person who was running it on that day or by his personal representative.

Application
for renewal
of existing
omnibus
licences not
to be
prejudiced.

15. Nothing in this Order shall be deemed to prevent or prejudice an application for renewal (by or in the name of the licensee or his personal representative transferee or assignee) by a licensing authority of any licence to ply for hire with an omnibus in any area in which the Company are providing a service of omnibuses under subsection (1) of the section of this Order of which the marginal note is "Obligatory omnibus services" if the licence was on the first day of November one thousand nine hundred and twenty-eight in force and applicable to and used for a service of omnibuses which service was on that date being operated and has since that date been regularly in operation in such area or to prevent the grant of a licence to ply for hire with an omnibus substituted by the licensee or his personal representative transferee or assignee for any omnibus to which the protection of this section applies or to restrict the running of any such last-mentioned omnibus or substituted omnibus in such area.

Working
and other
agreements.

16.—(1) The Company and any local authority empowered to run omnibuses in the county of Lanark may enter into and carry into effect agreements for the working user management and maintenance of all or any of the omnibus services which the contracting parties are empowered to provide subject to the provisions of the respective Acts and Orders under which such omnibus services are authorised.

(2) The Company and any company body or person may enter into and carry into effect agreements for the working user management and maintenance subject to the provisions of this Order of any omnibus services which the Company are empowered to provide.

(3) The Company and any such local authority company body or person as aforesaid may also enter into and carry into effect agreements for all or any of the following purposes (that is to say):—

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- (a) The working user management and maintenance of any omnibuses lands depots buildings sheds and property provided in connection with any such omnibus services as aforesaid by either of the contracting parties and the right to provide and use the same and to demand and take the fares and charges authorised in respect of such services;
- (b) The supply by any of the contracting parties under and during the continuance of any such agreement under this section of omnibuses and conveniences in connection therewith necessary for the purposes of such agreement and the employment of officers and servants;
- (c) The interchange accommodation conveyance transmission and delivery of traffic arising on or coming from or destined for any omnibus service of the contracting parties;
- (d) The payment collection and apportionment of the fares and charges and other receipts arising from any such omnibus service as aforesaid.

(4) The Company may subscribe for purchase hold and dispose of shares stock or securities in any company with whom the Company may have entered into any agreement under the provisions of this section or in any company manufacturing or dealing in any omnibuses vans and other road vehicles or appliances and articles used in or in connection with the manufacture provision or running of road vehicles and may lend money on mortgage bond or other security to any such company or to any firm or person manufacturing or dealing in such vehicles appliances or articles. Provided that the amount subscribed and lent by the Company under this subsection shall not at any time exceed one-half of the issued capital of the Company for the time being.

17. The Company may run through omnibuses along any of their omnibus routes or any specified portion of any such route and such omnibuses shall be distinguished from other omnibuses in such manner as

Through omnibuses.

A.D. 1929. — may be directed by the Company and they may demand and take for every passenger carried by such omnibuses a fare or charge not exceeding the maximum fare or charge for the time being authorised or chargeable for and in respect of the whole of such route or the whole of the portion thereof traversed by any such omnibuses Provided that during the running of such through omnibuses the Company shall maintain a reasonably sufficient ordinary service of omnibuses.

Power to reserve omnibuses for special purposes.

18.—(1) Notwithstanding anything in this Order to the contrary the Company may on any occasion run and reserve any of their omnibuses for any special purpose which the Company may consider necessary or desirable provided that such special omnibuses shall be distinguished from other omnibuses in such manner as the Company may direct and that during the running of such special omnibuses the Company shall maintain a reasonably sufficient ordinary service of omnibuses.

(2) The Company may make byelaws and regulations for prohibiting the use of any such omnibuses by any persons other than those for whose conveyance the same are reserved.

(3) The restrictions as to fares or charges to be demanded and taken by the Company shall not extend to any omnibus run for special purposes and in respect thereof the Company may demand and take such fares or charges as they shall think fit.

Shelters and waiting rooms.

19. The Company may erect and maintain shelters or waiting rooms for the accommodation of passengers on any of their omnibus routes and may with the consent of the local and road authority use for that purpose portions of the public streets or roads.

Cloak-rooms &c.

20. The Company may provide cloakrooms and rooms or sheds for the storage of bicycles tricycles and other vehicles at any depot or building used by them in connection with their omnibus services and at suitable places on any of their omnibus routes and the Company may make charges for the use of such cloakrooms rooms and sheds and for the deposit of articles and things and bicycles tricycles and other vehicles therein but shall not use for the purpose any part of a public street or road without the consent of the road authority.

21. For the protection of the London Midland and Scottish Railway Company and of the London and North Eastern Railway Company (each of which companies is in this section referred to as "the railway company") the following provisions shall unless otherwise agreed between the Company and the railway company have effect (that is to say):—

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For protection of
railway
companies.

- (1) On the taking up and removal by the Company under the section of this Order whereof the marginal note is "As to abandonment of Company's tramways" of any rails paving setts and equipment situate on any bridge or bridge approaches or on any railway level crossing maintainable by the railway company the Company shall restore the roadway (including footpaths) on the said bridges and approaches and on the said level crossings and otherwise make good the said bridges approaches and crossings all to the reasonable satisfaction of the railway company :
- (2) No equipment (including underground cables wires works and apparatus) shall be left in any bridge bridge approach or level crossing belonging to or maintainable by the railway company except with the consent of the railway company :
- (3) Any dispute which shall arise between the Company and the railway company under the foregoing provisions of this section shall be referred to and determined by an engineer to be appointed (failing agreement) by the President of the Institution of Civil Engineers on the application of either party :
- (4) The Company shall not exercise the powers of the sections of this Order whereof the marginal notes respectively are "Shelters and waiting rooms" and "Cloakrooms &c." on any bridge or road belonging to or maintainable by the railway company or so as to obstruct the convenient access to or exit from any station depot or other property of the railway company :
- (5) Nothing in this Order shall impose any obligation upon or enlarge any existing obligation of the railway company to maintain strengthen

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adapt alter or reconstruct any road maintainable by them or any bridge with the immediate approaches and all other necessary works connected therewith maintainable by them.

Byelaws.

22. All byelaws made by the Company under the provisions of this Order shall be made subject to and in accordance with the provisions of the Tramways Act 1870 with respect to the making of byelaws.

Prohibiting
stopping of
omnibuses
in part of
Keith
Street
Hamilton.

23. So long as a regular service of tramcars is provided on the tramways of the Company in Keith Street in the burgh of Hamilton no omnibus plying for hire by whomsoever provided shall be permitted when proceeding westwards to stop for the purpose of taking up or setting down passengers at any point in that street within a distance of fifteen yards East of the tramway standard at the West end of such street.

For pro-
tection of
Postmaster-
General.

24. Paragraph (b) of section 43 (For further protection of Postmaster-General) of the Order of 1903 shall be read and have effect as if the words "generated or used by or supplied to" were substituted in that paragraph for the words "generated by."

Borrowing
powers.

25.—(1) The Company may at any time after the commencement of this Order and without obtaining the certificate of a sheriff under section 42 of the Companies Clauses Consolidation (Scotland) Act 1845 raise on mortgage of their undertaking in respect of the existing capital of the Company amounting to three hundred and seventy-three thousand seven hundred and fifty pounds (which has already been issued and is fully paid) any sum or sums not exceeding in the whole the amount necessary to increase their borrowing powers to one-half of the amount of the said existing capital.

(2) The Company may also in respect of the unissued capital of one hundred and ninety-five thousand two hundred and fifty pounds which they are by the existing Act and Orders authorised to raise borrow on mortgage of their undertaking any sum or sums not exceeding in the whole one-half of the amount of such capital which at the time of borrowing has been raised but no part of any such sum or sums shall be borrowed until the Company have proved to the sheriff who is to certify under section 42 of the Companies Clauses Consolidation (Scotland) Act 1845 (before he so certifies)

that the whole of the shares or stock in respect of which the borrowing powers are to be exercised have been issued and accepted and that one-half of such portion of capital has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the said portion of capital as is to be raised by means of stock is fully paid up and that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons to whom the same were issued or their executors administrators successors or assignees and also so far as the said portion of capital is raised by shares that such persons or their executors administrators successors or assignees are legally liable for the same and upon production to such sheriff 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 certificate shall be sufficient evidence thereof. A.D. 1929.

(3) The powers of borrowing conferred by this section shall be in substitution for and not in addition to any powers conferred by the existing Act and Orders of borrowing further moneys in respect of the capital of the Company.

26. The provisions contained in the sections of the Order of 1908 the numbers and marginal notes of which are specified hereunder shall extend and apply as if they were also set forth and enacted in this Order (that is to say):— Incorporation of provisions of Order of 1908.

Section 17 (Company not to create debenture stock);

Section 18 (Receipt in case of persons not sui juris);

Section 19 (Mortgage to comprise purchase-money paid on compulsory purchase);

Section 21 (Application of moneys); and

Section 22 (Deposits for future Bills or Orders not to be paid out of capital).

27. Section 16 (For appointment of a judicial factor) of the Order of 1908 is hereby repealed (without prejudice to any appointment heretofore made or proceedings now pending) and the mortgagees of the undertaking of the For appointment of a judicial factor.

A.D. 1929. Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than five thousand pounds in the whole.

Priority of mortgages.

28. All mortgages granted by the Company before the commencement of this Order in pursuance of the powers of the Act of 1900 the Order of 1903 or the Order of 1908 and which shall be subsisting at the commencement of this Order shall (unless otherwise provided by such mortgage) during the continuance of such mortgages have priority over any mortgages to be granted by virtue of this Order and subject as aforesaid all moneys borrowed on mortgage by the Company under the powers of the Act of 1900 the Order of 1903 the Order of 1908 or this Order shall rank *pari passu* as regards both principal and interest and 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 or injuriously affected by the construction of the tramways of the Company or by the exercise of any of the powers conferred upon the Company.

Interim dividends and annual accounts.

29. If and so long as the ordinary meetings of the Company shall be held once only in each year—

- (a) It shall be lawful for the directors to declare and pay in any year an interim half-yearly dividend out of the profits of the Company without the sanction or direction of a general meeting;
- (b) The balance sheet and accounts made by them in accordance with section 119 of the Companies Clauses Consolidation (Scotland) Act 1845 shall relate to the transactions of the Company in the course of the preceding year.

Closing of transfer books.

30.—(1) The directors may close the register of transfers of shares or stock for a period not exceeding fourteen days previous to the payment of any interim

dividend and they may close the register of transfers of mortgages for a period not exceeding fourteen days previous to each date at which the interest thereon shall be payable and in the case of any such register they may fix a day for closing the same of which seven days' notice shall be given either by circular to each proprietor or by advertisement in a newspaper published in the county of Lanark. A.D. 1929.

(2) Any transfer of shares or stock or mortgages made during the time when the register of transfers of such security is so closed shall as between the Company and the person claiming under the same but not otherwise be considered as made subsequently to the payment of any such dividend or interest as the case may be.

31. Notwithstanding anything in the Companies Clauses Consolidation (Scotland) Act 1845 the attorney of any holder of shares or stock in the capital of the Company duly authorised in writing may appoint a proxy to vote for and on behalf of such holder and for that purpose may execute on behalf of the holder the necessary form of proxy Provided that the instrument appointing the attorney shall be transmitted to the secretary at the same time as the instrument appointing the proxy. Appoint-
ment of
proxies.

32. Notwithstanding anything in the Companies Clauses Consolidation (Scotland) Act 1845 where several persons are jointly entitled to and registered as holders of any shares or stock in the capital of the Company any one of those persons may vote at any meeting (at which holders of shares or stock of the same class are entitled to vote) either personally or by proxy in respect of the shares or stock as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof Several executors or administrators of a deceased member in whose name any shares or stock stand shall for the purposes of this section be deemed joint holders thereof. Joint
holders.

33.—(1) The directors may appoint any member of their body to be a managing director of the Company either for a fixed term or without any limitation as to As to
managing
director.

A.D. 1929. time and may remove or dismiss him from office and appoint another in his place.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto cease to be a managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by all or any of those modes.

(4) The directors may entrust to and confer upon any managing director such of the powers exercisable by the directors and subject to such conditions as they may think fit and may from time to time revoke withdraw alter or vary all or any of such powers.

Register of
share-
holders and
share-
holders'
address
book.

34. Notwithstanding anything in the Companies Clauses Consolidation (Scotland) Act 1845 it shall not be obligatory upon the Company—

(a) to keep separately a register of shareholders and a shareholders' address book but in lieu thereof the Company may if they think fit keep one register only containing such particulars as are required by the said Act to be entered in the register of shareholders and the shareholders' address book respectively; or

(b) to authenticate by the affixing of their common seal or otherwise the register of shareholders or any register which the Company may keep in lieu thereof under the powers of this section.

Auditors.

35.—(1) The Company shall annually appoint one person or two persons or a firm of accountants who shall be a chartered accountant or chartered accountants or a member or members of the Society of Incorporated Accountants and Auditors or an accountant or accountants approved by the Minister to be the auditor or auditors of the Company.

(2) It shall not be necessary for any auditor to hold any shares or stock in the Company.

A.D. 1929.

36. In addition to the powers which the directors may exercise under the Companies Clauses Consolidation (Scotland) Act 1845 they may determine the remuneration of the secretary.

Determina-
tion of
remunera-
tion of
secretary.

37. Notwithstanding anything in section 13 of the Companies Clauses Consolidation (Scotland) Act 1845 or in any other enactment the Company shall not be under any obligation to issue a new debenture or mortgage or a new certificate of any shares or stock or a new warrant in respect of interest or dividend in lieu of any debenture bond certificate or warrant lost or destroyed or alleged to be lost or destroyed until they have received from the person to whom such new debenture or mortgage certificate or warrant is to be issued such indemnity as the directors may require against any and every claim or expense which may be made against the Company or which the Company may incur in respect of such lost or destroyed debenture bond certificate or warrant or the debenture mortgage shares stock dividend or interest represented thereby.

Indemnity
may be
required
before
issue of
substituted
certificates
&c.

38.—(1) The directors may grant such gratuities pensions or superannuation allowances or make such other payments as they may think fit to any employees of the Company or where in their opinion adequate provision is not otherwise made to the widow or family or any dependant of any such employee and they may establish and maintain a fund out of which such gratuities pensions allowances and payments may be granted or made.

Power to
make
super-
annuation
and other
allowances.

(2) The directors may enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee widow family or dependant as aforesaid such gratuities pensions allowance or payments as are by this section authorised to be granted or made and may for all or any of the purposes of this section apply the funds and revenues of the Company.

39. The directors may subscribe or make donations to infirmaries and hospitals and convalescent homes and other similar institutions and objects or to industrial exhibitions or to the benevolent accident or sick funds of the officers servants and employees of the Company

Power to
directors
to make
donations
subscrip-
tions &c.

A.D. 1929. — and may for any of those purposes apply the funds and revenues of the Company.

As to omnibus accounts.

40. The Company shall keep the accounts in respect of their omnibus undertaking separate from their other accounts distinguishing therein capital from revenue.

Accounts to be furnished to Minister.

41. The Company shall in every year within three months after the close of their financial year or such longer period as the Minister may allow furnish to the Minister a copy of the annual accounts of the undertaking.

Inquiries by Minister.

42. In respect of the exercise of any powers or duties conferred or imposed on the Minister or the giving by him of any consents under this Order or any existing Act or Order of the Company the provisions of Part I of the Board of Trade Arbitrations &c. Act 1874 shall apply as if the Minister were referred to in the said Act instead of the Board of Trade and as if in section 4 of that Act the words "under the seal of the Minister of Transport" were substituted for the words "by writing under the hand of the President or of one of the secretaries of the Board."

Power to apply existing funds.

43. The Company may from time to time apply towards any of the purposes of this Order or to the general purposes of the undertaking (being purposes to which capital is properly applicable) any moneys which they have raised or may hereafter raise under any existing Act or Order or this Order and which may not be required for the purposes to which by the respective Act or Order such moneys are made applicable.

Recovery of demands.

44. Proceedings for the recovery of any demand made under the authority of this Order or any other Order or any Act relating to the Company or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any sheriff court having otherwise jurisdiction in the matter.

Recovery of penalties &c.

45. Save as otherwise by this Order expressly provided all offences against this Order and all penalties forfeitures costs and expenses imposed or recoverable under this Order or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner

Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts. A.D. 1929. —

46. The following enactments are hereby repealed :— Repeal.
The Act of 1900—

Subsection (1) (D) of section 7 (For the protection of the county authorities).

The Order of 1903—

Subsection 11 (D) of section 8 (For protection of county authorities in respect of tramways);

Subsection (2) of section 11 (For protection of Corporation of Hamilton);

So much of section 14 (For protection of the burghs) as extends and applies subsection (1) (D) of section 7 of the Act of 1900;

Section 16 (Payments to county authorities in certain events);

Section 17 (Payments to the burghs and county authorities).

The Motherwell Burgh Extension and Sewage Purification Act 1908—

Subsection (1) of section 25 (For the protection of the Lanarkshire Tramways Company).

The Order of 1920—

Subsections (1) and (2) of section 15 (Conditions as to running of motor omnibuses).

The Hamilton Burgh Order 1925—

Subsection (1) of section 22 (For protection of Lanarkshire Tramways Company.)

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

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