



CHAP. clxviii.

An Act to authorise the construction of Tramways from A.D. 1870.
Birmingham in the county of Warwick to Handsworth,
West Bromwich, and Tipton in the county of Stafford ;
and for other purposes. [10th August 1870.]

WHEREAS the laying down of tramways in certain streets and roads in the parishes of Handsworth, West Bromwich, and Tipton in the county of Stafford, to be worked by animal power only, and constructed so as not to impede or injure the ordinary traffic, would be of great local and public advantage :

And whereas it is expedient that the persons herein-after named, with others, should be incorporated into a company, and empowered to lay down and maintain the several tramways in this Act particularly described :

And whereas plans and sections showing the lines and levels of the tramways and works by this Act authorised to be made, and the lands to be taken for the purposes thereof, and books of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the clerks of the peace for the counties of Warwick and Stafford, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as "The Birmingham and Staffordshire Tramways Act, 1870." Short title.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870.

Provisions
of general
Acts herein
named in-
corporated.

2. "The Companies Clauses Consolidation Act, 1845," Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869" (except the provisions thereof with respect to the purchase of lands otherwise than by agreement), are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpreta-
tion of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" shall mean the company incorporated by this Act; the expression "the tramways," "the tramway," or "the undertaking," shall mean the tramways and works and undertaking by this Act authorised or any part thereof; the expression "street" shall mean the carriageway of any street, road, thoroughfare, or place along or across which any tramway authorised by this Act is intended to be laid, and includes the surface, pavement, soil, and subsoil of a street, and any bridge forming part of a street, and includes drains and gulleys for keeping the street dry, and being under the control of the street authority; the expression "the Corporation of Birmingham" shall mean the mayor, aldermen, and burgesses of the borough of Birmingham; the expression "street authority" shall mean the bodies corporate, or persons having respectively the duty of directing the repair or the control or management of the street; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or in any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Company
incorporated.

4. Edward Gem, Edward Fisher Smith, and Joseph William Williams, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making, maintaining, and working the tramways, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Birmingham and Staffordshire Tramways Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

5. Subject to the provisions of this Act, the Company may make, form, lay down, maintain, and work in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with the deposited plans and sections, the tramways herein-after described, with all proper rails, plates, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The tramways herein-before referred to and authorised by this Act are,—

A.D. 1870.
Power to
make tram-
ways accord-
ing to depo-
sited plans.

A tramway (No. 5) three furlongs eight and three-quarter chains or thereabouts in length, and a tramway (No. 6) four furlongs or thereabouts in length, wholly situate respectively in the township and parish of Handsworth, commencing respectively at the boundary between the parish and borough of Birmingham and the parish of Handsworth, on or near the bridge carrying the roadway of Hockley Hill and the turnpike road from Birmingham to Wednesbury, and to Great Bridge and to Nether Trindle, near Dudley (herein-after called "the said turnpike road"), or one of them, over the Hockley Brook, thence passing respectively into and along the said turnpike road, tramway (No. 5) terminating at or near the Soho Hill toll-gate by a junction with tramway (No. 6), and tramway (No. 6) terminating at a point about thirty yards, measuring along the said turnpike road in a northerly direction, from the Soho Hill toll-gate:

A tramway (No. 6a) sixty yards in length, wholly in the township and parish of Handsworth, commencing by a junction with the tramway (No. 6) at or near the commencement thereof, as above described, thence passing along the said turnpike road, and terminating by a junction with the said tramway (No. 5) at a distance of about sixty yards from the commencement thereof, as above described:

A tramway (No. 6b) sixty yards in length, wholly in the township and parish of Handsworth, commencing by a junction with the tramway (No. 5) at a point about sixty yards from the commencement thereof, as above described, thence passing along the said turnpike road, and terminating by a junction with the said tramway (No. 6) at a distance of 120 yards from the commencement thereof:

A tramway (No. 7) one mile one furlong in length, wholly situate in the township and parish of Handsworth, commencing by a junction with tramway (No. 6) at its termination as

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870.

above described, thence passing along the said turnpike road, and terminating at a point in the said turnpike road opposite the public-house called the "New Inns:"

A tramway (No. 7a) one furlong six and a quarter chains in length, wholly situate in the township and parish of Handsworth, commencing by a junction with the tramway (No. 7) in the said turnpike road at a point nearly opposite the public-house called the "Red Lion Inn," thence passing along the said turnpike road, and terminating thereon by a junction with tramway (No. 7) nearly opposite the junction of Booth Street with the said turnpike road:

A tramway (No. 8) two miles five furlongs nine and a half chains in length, wholly situate in the township and parish of Handsworth and parish of West Bromwich, commencing by a junction with tramway (No. 7) at its termination as above described, thence passing along the said turnpike road, and passing wholly or partially through the following or one of the following streets, viz., High Street and Carter's Green, and terminating at a point about sixty-six yards to the south-east of the front entrance of the public-house called or known by the name of the "Grand Junction Hotel:"

A tramway (No. 9) one furlong three chains in length, wholly in the township and parish of Handsworth, commencing by a junction with tramway (No. 8) opposite Woodville House, passing thence along the said turnpike road, and terminating by another junction with the said tramway (No. 8) opposite the public-house called or known as the "Leveretts Inn:"

A tramway (No. 10) one furlong two chains in length, wholly situate in the parish of West Bromwich, commencing by a junction with tramway (No. 8) in the said turnpike road, at or near the junction of that road with the Beeches Road, thence passing along the said turnpike road, and terminating by a junction with tramway (No. 8) at a point at or near the junction of the said turnpike road with Roebuck Lane:

A tramway (No. 11) three furlongs nine and a quarter chains in length, wholly situate in the parish of West Bromwich, commencing by a junction with tramway (No. 8) at a point at or near the junction of Victoria Street with High Street, thence passing along the said turnpike road, and passing wholly or partially through the following or one of the following streets, viz., High Street and Carter's Green, and terminating by a junction with tramway (No. 8) at its termination as above described:

A.D. 1870.

A tramway (No. 12) two miles five and three-quarter chains or thereabouts in length, situate in the parishes of West Bromwich and Tipton, commencing by a junction with tramway (No. 8) at its termination as above described, thence passing along the said turnpike road, and passing wholly or partially through the following or some of the following streets, viz., High Street, Carter's Green, Dudley Street, Swan Street, Great Bridge Street, and terminating at a point about fifty yards, measuring along the said turnpike road in a north-easterly direction, from the centre of the bridge carrying the Birmingham, Wolverhampton, and Stour Valley branch of the London and North-western Railway over the said turnpike road :

A tramway (No. 13) one furlong six and a quarter chains in length, wholly situate in the parish of West Bromwich, commencing by a junction with tramway (No. 12) at a point nearly opposite the public-house called the "Wellington Inn," thence passing along the said turnpike road, and passing wholly or partially through the following or some of the following streets, viz., Dudley Street, Swan Street, and Great Bridge Street, and terminating by a junction with tramway (No. 12) at a point nearly opposite the public-house called the "Foresters' Arms :

A tramway (No. 14) seven furlongs nine and a half chains in length, wholly situate in the parish of West Bromwich, commencing by a junction with tramway (No. 8) at its termination as above described, thence passing along the said turnpike road, and passing wholly or partially through the following or some of the following streets, viz., High Street, Carter's Green, Old Meeting Street, Black Lake, and Hill Top, and terminating at Hill Top at a point nearly opposite the public-house called the "Hen and Chickens."

6. Every tramway to be made, formed, or laid down under this Act shall be constructed on the gauge of four feet eight inches and half an inch, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the street, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic by the surveyor of the street authority, or by such other person as may be prescribed by any Public Act for the time being in force for the regulation of tramways.

Mode of
formation of
tramways.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870.
Protecting
bridges over
railways and
canals.

7. Wheresoever any tramway shall be constructed upon a bridge carrying a road over a railway or canal the following provisions shall apply :

- (A.) The Company shall give fourteen days notice in writing to the company whose railway or canal is crossed of the intention to commence the construction of the tramway, and shall at the same time send sufficient specifications or other information to show the nature of the interference with the bridge :
- (B.) If the engineer of the railway or canal company shall be of opinion that the mode proposed of constructing the tramway will render the bridge insecure or injure it, and no method is agreed on of constructing the tramway to the satisfaction of the said engineer, the matter shall be referred to some engineer to be agreed upon between the parties, or, if they cannot agree, to be appointed by the Board of Trade, and the award of such referee shall be binding on both companies :
- (C.) The works on the bridge shall be executed under the superintendence and to the reasonable satisfaction of the engineer of the railway or canal company :
- (D.) Any additional expense in the maintenance of the bridge, or of the roadway on the same, or of the approaches thereto, occasioned by the construction, use, and maintenance of the tramway, shall be borne by the Company.

Great
Western
Company
may recon-
struct bridge
carrying
Dudley
Street over
their rail-
way in the
parish of
West Brom-
wich.

8. Should the Great Western Railway Company at any time or times hereafter require to reconstruct the bridge which carries Dudley Street over their railway in the parish of West Bromwich in the county of Stafford, between the points marked on the deposited plans of tramway No. 12, as denoting one furlong and two furlongs on the said plans, nothing in this Act contained shall prevent, hinder, or obstruct their doing so, and the Great Western Railway Company shall not be required to make good or repay any loss, damage, or expenses, or be responsible in any way for an obstruction to or stoppage of the traffic on the said tramway No. 12 by or in consequence of the reconstruction of the said bridge, or in any way arising therefrom, or from the works connected therewith : Provided always, that the Great Western Railway Company shall complete the reconstruction of the said bridge and works after commencing the same with all reasonable expedition.

Power to
break up
streets, &c.

9. Subject to the provisions of this Act, the Company from time to time for the purpose of making, forming, laying down, maintaining,

and renewing the tramways by this Act authorised, or any part or parts thereof respectively, may open and break up any street. A.D. 1870.

10. Where the Company proceed to open or break up a street for the laying down and making of a tramway, the following provisions shall have effect; namely,

Restrictions as to breaking up of streets for laying down tramways.

1. They shall give to the street authority notice of their intention, specifying the time at which they will begin to do so, and the portion of street proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work:
2. They shall not open or break up or alter the level of any street, except under the superintendence and to the reasonable satisfaction of the street authority, unless that authority refuses or neglects to give such superintendence at the time specified in the Company's notice, or discontinues the same during the work:
3. They shall pay all reasonable expenses to which the street authority is put on account of such superintendence.

11. The Company shall not, without the consent of the street authority, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length, and in the case of any street exceeding a quarter of a mile in length the Company shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the street, and they shall not open or break up at any such place a greater length than one hundred yards. Where the carriageway over any bridge forms part of or is a road within the jurisdiction of the street authority, but such bridge is vested in some person or persons, corporation, or company distinct from such street authority, any work which the Company is empowered to construct, and which affects or in anywise interferes with the structural works of such bridge, shall be constructed under the superintendence (at the cost of the Company) and to the reasonable satisfaction of such person, persons, corporation, or company, unless after notice to be given by the Company seven days at least before the commencement of such work such superintendence is refused or withheld. Where the carriageway in or upon which any tramway is authorised to be formed or laid down is crossed by any railway or tramway on the level, any work which the Company is empowered to construct, and which affects or in anywise interferes with such railway or tramway, or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the Company) and to the

Size and intervals between openings in streets.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. reasonable satisfaction of the person, corporation, or company owning such railway or tramway, unless after notice to be given by the Company seven days at least before the commencement of such work such superintendence is refused or withheld.

Completion
of work and
reinstatement
of
streets.

12. After the Company have opened or broken up any portion of any street, they shall be under the following further obligations; namely,

1. They shall with all convenient speed, and in all cases within four weeks at the most, unless the street authority otherwise consents in writing, complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and to the satisfaction of the street authority restore the portion of the street to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby:
2. They shall in the meantime cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted at night:
3. They shall pay all reasonable expenses of the repair of the street for six months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the Company fail to comply in any respect with the provisions of the present section they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them) be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for each day during which any such failure continues after the first day on which such penalty is incurred.

Repair of
part of street
where tram-
way is laid.

13. The Company shall, at their own expense, at all times maintain in good condition and repair, with such materials and in such manner as the street authority shall direct, and to their satisfaction, so much of any street whereon any tramway of the Company is laid as lies between the rails of the tramway and (where two tramways of the Company are laid in any street at a distance of not more than four feet from each other) the portion of the street between the tramways, and in every case so much of the street as extends eighteen inches beyond the rails of and on each side of any tramway of the Company. If the Company abandon their undertaking or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within six weeks at the most (unless the street

A.D. 1870.

authority otherwise consents in writing), fill in the ground and make good the surface, and to the satisfaction of the street authority restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work, and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always, that if the Company fail to comply with the provisions of this section the street authority, if they think fit, may themselves at any time, after seven days notice to the Company, open and break up the street and do the works necessary for the repair and maintenance or restoration of the street, to the extent in this section above mentioned, instead of the Company, and the expense incurred by the street authority in so doing shall be repaid to them by the Company.

14. The street authority on the one hand, and the Company on the other hand, may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the Company shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

Street authority and Company may contract for paving roads on which tramways are laid.

15. Notwithstanding anything in this Act contained, the Company shall not acquire, or be deemed to acquire, any right other than that of user of any street along or across which they lay any tramway, nor shall anything contained in this Act exempt the Company or any other person using such tramway from the payment of such tolls as may be levied in respect of the use of such road by the trustees thereof.

Right of user only.

16. Nothing in this Act shall take away or affect any power which any street authority, or the owners, commissioners, undertakers, or lessees of any railway, tramway, or inland navigation, may have by law to widen, alter, divert, or improve any street, railway, tramway, or inland navigation.

Reserving powers of street authorities to widen, &c. streets.

17. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the Company may from time to time, where and as far as it is necessary or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or works in connexion with the same, alter the position of any mains or pipes for the supply of gas or water, or any

Provision as to gas and water companies.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 Vict.]
Tramways Act, 1870.

A.D. 1870. occasioned thereby; and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the street authority, at the reasonable costs, charges, and expenses in all respects of the Company; and when any new, altered, or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the Company under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the street authority, and be maintained by them, as the case may be, as any sewers or works now are or hereafter may be.

Rights of
authorities
and com-
panies, &c.
to open
roads.

19. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or street authority for any of the purposes for which such authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, but in the exercise of such power every such local authority, street authority, company, body, or person shall be subject to the following restrictions; (that is to say,)

1. They shall cause as little detriment or inconvenience to the Company as circumstances will admit:
2. Before they commence any work whereby the traffic on the tramway will be interrupted, or whereby the safety of any persons using such tramway may be endangered, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before commencement of the work:
3. They shall not be liable to pay to the Company any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:
4. If and whenever by such last-mentioned notice the local authority or street authority, for the purpose of enabling them to execute such work, shall so require, the Company shall either stop their traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there;

A.D. 1870.

provided that such work shall always be completed by the local authority or the street authority, as the case may be, with all reasonable expedition :

5. They shall not execute such work, so far as it immediately affects the tramway, except under the superintendence of the Company, unless the Company refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the progress of the work, and they shall execute such work at their own expense and to the reasonable satisfaction of the Company ; provided that any additional expense imposed upon them by reason of the existence of the tramway in any street or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the Company.

20. With respect to the notices aforesaid, and to the delivery thereof by or to the Company, the following provisions shall have effect ; namely,

Form and
delivery of
notices.

1. Every notice shall be in writing or print, or partly in writing and partly in print, and if given by the Corporation of Birmingham shall be sufficiently authenticated by being signed by the town clerk or by the borough surveyor, and if given by any other street authority by being signed by their clerk or secretary :

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

21. If any difference arises between the Company on the one hand, and any local authority or street authority, or any gas or water company, or any company, body, or person to whom any sewers, drains, mains, pipes, tubes, wires, or apparatus for telegraphic or other purposes may belong, or any other company, on the other hand, with respect to any interference or control exercised or claimed to be exercised by them or him, or on their or his behalf,

Difference
between
Company
and street
authority,
&c.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. or by the Company, by virtue of this Act, in relation to any of the Company's tramways or works, or in relation to any work or proceeding of the local authority, street authority, body, company, or person, or with respect to the necessity or propriety of or the mode of execution of any tramway or work, or with respect to the amount of any compensation to be made by or to the Company, or on the question whether any work is such as ought reasonably to satisfy the local authority, street authority, body, company, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs.

Licenses to use the tramway may in certain events be granted to third parties by the Board of Trade.

22. If at any time after any tramway or part of any tramway shall have been for three years opened for public traffic in any district it shall be represented in writing to the Board of Trade by the local authority of such district, or by twenty inhabitant rate-payers of such district, or by the street authority of any street in which such tramway or part of a tramway is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade may (if they consider that *primâ facie* the case is one for inquiry) direct an inquiry by a referee under this Act into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction, the Board may from time to time grant licenses to any company or person to use such tramway, in addition to the Company or their lessees, for the conveyance only of passengers and their personal luggage, with carriages to be approved by the Board, subject to the following provisions, conditions, and restrictions; that is to say,

1. The license shall be for any period not less than one year nor more than three years from the date of the license, but shall be renewable by the Board if they upon inquiry think fit:
2. The license shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Board, having reference to the cause for granting the license, shall think right:
3. The license shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which and times at which such carriages shall be run:
4. The licenses shall specify the tolls to be paid to the Company or to their lessees by the licensee or licensees for the use of the tramways:

A.D. 1870.

5. The licensee or licensees and their officers and servants shall permit one person duly authorised for that purpose by the Company, or by their lessees, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey :

6. The Board of Trade may at any time after the granting of any license revoke, alter, or modify the same for good cause shown to them.

23. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage, it shall be lawful for the Company or their lessees to whom the same are payable to detain and sell such carriage, or if the same shall have been removed from the tramway or premises of such Company or lessees to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys and such of the carriages as shall remain unsold to the person entitled thereto.

In default of payment of tolls, licensees carriages may be detained and sold.

24. Every licensee shall on demand give to an officer or servant authorised in that behalf by the Company or their lessees entitled to be paid tolls by such licensee an exact account in writing signed by such licensee of the number of passengers conveyed by any and every carriage used by him on the tramways.

Licensees to give account of passengers carried by them.

25. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee with intent to avoid the payment of any tolls gives a false account, he shall for every such offence forfeit to the Company or to their lessees entitled to be paid tolls by such licensee a sum not exceeding five pounds, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Licensees not giving account of passengers carried liable to penalty.

26. If any dispute arise concerning the amount of the tolls due to the Company or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage under the provisions herein contained, the same shall be settled by two justices, and it shall be lawful for the Company or their lessees in the meanwhile to detain the carriage, or (if the case so require) the proceeds of the sale thereof.

Disputes as to amount of toll to be settled by two justices.

27. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and, without prejudice to the right of

Owners of carriages liable for damage done by their servants.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. action against the licensee or any other person, every such servant, or other person may lawfully be convicted of such trespass or damage before two justices, either by the confession of the party offending or by the oath of some credible witness, and upon such conviction every such licensee shall pay to the Company, lessees, or persons injured, as the case may be, the damage, to be ascertained by such justices, so that the same do not exceed fifty pounds.

Tramways to
be removed
in certain
cases.

28. If at any time after the opening of any tramway in any district for traffic the Company discontinue the working of such tramway, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Company, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Board of Trade, the said Board, if they think fit, may by order declare that the powers of the Company in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the Company shall cease and determine, unless the same are purchased by the local authority in manner by this Act provided. Where any such order has been made the street authority of such district may at any time after the expiration of two months from the date of such order, under the authority of a certificate to that effect by the Board of Trade, remove the tramway or part of the tramway so discontinued, and the Company shall pay to the street authority the cost of such removal and of the making good of the road by the street authority, such cost to be certified by the clerk for the time being, or by some other authorised officer of the street authority, whose certificate shall be final and conclusive; and if the Company fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the street authority may, without any previous notice to the Company (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as the street authority may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid, and of the cost of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the street authority to the Company.

Proceedings
in case of
insolvency of
Company.

29. If at any time after the opening of any tramway in any district for traffic it appears to the local authority or the street authority of such district that the Company are insolvent, so that

they are unable to maintain such tramway, or work the same with advantage to the public, and such street authority makes a representation to that effect to the Board of Trade, the Board of Trade may direct an inquiry by a referee into the truth of the representation, and if the referee shall find that the Company are so insolvent as aforesaid the Board of Trade may by order declare that the powers of the Company shall at the expiration of six calendar months from the making of the order be at an end, and the powers of the Company shall cease and determine at the expiration of the said period, unless the same are purchased by the local authority in manner by this Act provided, and thereupon such street authority may remove the tramway in like manner and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for recovery of such costs, in every respect, as in cases of removal under the next preceding section.

A.D. 1870.

30. The street authority, if by resolution passed at a special meeting of the members constituting such street authority they so decide, may within six months after the expiration of a period of twenty-one years from the passing of this Act, and within six months after the expiration of every subsequent period of seven years, or within three months after any order made by the Board of Trade under either of the two next preceding sections, with the approval of the Board of Trade, by notice in writing require the Company to sell, and thereupon the Company shall sell to them their undertaking, or so much of the same as is within such district, upon terms of paying the then value (exclusive of any allowance for past or future profits of the undertaking, or any compensation for compulsory sale, or other consideration whatsoever) of the tramway, and all lands, buildings, works, materials, and plant of the Company suitable to and used by them for the purposes of their undertaking within such district, such value to be in case of difference determined by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference to be borne and paid as the referee directs; and when any such sale has been made all the rights, powers, and authorities of the Company in respect to the undertaking sold, or where any order has been made by the Board of Trade under either of the next preceding sections, all the rights, powers, and authorities of the Company previous to the making of such order in respect to the undertaking sold, shall be transferred to, vested in, and may be exercised by the authority to whom the same has been sold, in like manner as if such tramway was constructed by such authority under

Future purchase of undertaking by street authority.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. the powers of this Act. No such resolution shall be valid unless a month's previous notice of the meeting and of the purpose thereof has been given in manner in which notices of meetings of such street authority are usually given, nor unless two thirds of the members constituting such street authority are present and vote at the meeting, and a majority of those present and voting concur in the resolution, and it shall be lawful for the chairman of any such meeting, with the consent of a majority of the members present, to adjourn the same from time to time. The local authority in any district may pay the purchase money and all expenses incurred by them in the purchase of the undertaking under the authority of this section out of the like rate, and shall have the like powers to borrow on the security of the same as if such expenses were incurred in applying for, obtaining, and carrying into effect any provisional order obtained by them under any general Act relating to tramways. Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such purchase money and expenses, the Board of Trade may by provisional order extend the limit of such local rate to such amount as they shall think fit and prescribe for the payment of such purchase money and expenses. Every such provisional order shall be confirmed in like manner as a provisional order under the authority of any general Act relating to tramways, and until such confirmation such provisional order shall not have any operation. Subject and according to the preceding provisions of this section, two or more local authorities may jointly purchase the undertaking, or so much of the same as is within their districts.

As to winding up the affairs of the Company, &c.

31. After the expiration of such period of six calendar months from the making of any such order as in this Act above mentioned by the Board of Trade, declaring that the powers of the Company shall cease, the Court of Chancery may at any time, upon the petition of the Company or of creditors of the Company representing not less than one thousand pounds of the debts owing by the Company, make an order for the winding up of the affairs of the Company and for the dissolution of the Company, and "The Companies Act, 1862," and "The Companies Act, 1867," in reference to the winding up the affairs and to the dissolution of a company by the Court, may, so far as the said Court shall think it convenient and expedient so to do, be applied to the winding up the affairs of the Company under an order made for that purpose, or the said Court may otherwise regulate and conduct the winding up the affairs of the Company as to the said Court may seem most convenient or expedient.

32. Where any tramway in any district has been opened for traffic for a period of six months the Company may, with the consent of the Board of Trade, sell their undertaking to any person, persons, corporation, or company, or to the local authority of such district, and when any such sale has been made all the rights, powers, authorities, obligations, and liabilities of the Company shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, corporation, company, or local authority to whom the same has been sold, in like manner as if such tramway was constructed by such person, persons, corporation, company, or local authority under the powers conferred upon them by this Act, and in reference to the same they shall be deemed to be the Company: Provided always, that a local authority shall not purchase any undertaking under the provisions of this section unless they shall decide to make such purchase by resolution passed at a special meeting of the members constituting such local authority, which resolution shall be made in the same manner and shall be subject to the same conditions as to validity as resolutions made in regard to the purchases by the next preceding section authorised.

A.D. 1870.
Power of
sale.

33. Subject to the provisions of this Act,

The street authority of any district in which any tramway is laid down may from time to time make regulations as to the following matters:

Byelaws
by street
authority.

The rate of speed to be observed in travelling upon the tramway:

The distances at which carriages using the tramway shall be allowed to follow one after the other:

The stopping of carriages using the tramway:

The traffic on the road in which the tramway is laid.

The Company and their lessees may from time to time make regulations—

For preventing the commission of any nuisance in or upon any carriage or in or against any premises belonging to them:

For regulating the travelling in or upon any carriages belonging to them:

And for better enforcing the observance of all or any of such regulations it shall be lawful for such street authority and Company respectively to make byelaws for all or any of the aforesaid purposes, and from time to time repeal or alter such byelaws and make new byelaws, provided that such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect.

Within one month after the making of any byelaw notice of the making of the same and a copy of such byelaw shall be pub-

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870.

lished by the street authority or the Company making the same, by advertisement inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by such byelaw, and also by advertisement inserted once at least in the "London Gazette," and unless such notice is published in manner aforesaid such byelaw shall be disallowed by the Board of Trade.

No such byelaw shall have any force or effect which shall be disallowed by the Board of Trade within two calendar months after a true copy of such byelaw shall have been laid before the Board, and a true copy of every such proposed byelaw shall, not less than two calendar months before such byelaw shall come into operation, be sent to the Board of Trade, and shall be delivered to the Company if the same was made by the street authority, and to such street authority if made by the Company.

Penalties in byelaws.

34. Any such byelaw may impose reasonable penalties for offences against the same, not exceeding forty shillings for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence ten shillings for every day during which the offence continues, but all byelaws shall be so framed as to allow in every case part only of the maximum penalty being ordered to be paid.

Power to street authority to license drivers, conductors, &c.

35. The street authority shall have the like power of making and enforcing rules and regulations and of granting licenses with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant with respect to hackney carriages and the drivers and other persons having the charge thereof, and to the standings for the same in the streets and district of or under the control of the street authority: Provided always, that in any district in which any of the powers aforesaid in relation to hackney carriages and the matters aforesaid in connexion therewith are vested in any authority other than the street authority of such district, such authority shall have and may exercise the powers by this section conferred upon the street authority.

Penalty for obstruction of Company in laying out tramway.

36. If any person wilfully obstructs any person acting under the authority of the Company in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of the tramway, or damages or destroys any property of the Company, he shall for

every such offence forfeit to the Company a sum not exceeding five pounds. A.D. 1870.

37. The Company may use on their tramways carriages with flange wheels, or wheels suitable only to run on a grooved rail, but all such carriages, and all carriages used on the tramways by persons other than the Company, shall be moved by animal power only. No carriage used on the tramways shall extend beyond the outer edge of the wheels, of such carriage more than eleven inches on each side.

Power to Company to use tramway with flange-wheeled carriages, &c.

38. Subject to the provisions of this Act, the Company shall have the exclusive use of their tramways for carriages with flange wheels, or other wheels suitable only to run on a grooved rail.

Company to have exclusive use of tramways for flange wheels.

39. If any person or corporation other than the Company (except by agreement with the Company, or under license from the Board of Trade, as by this Act provided) use the tramways or any of them, or any part thereof, with carriages having flange wheels, or other wheels suitable only to run on a grooved rail, such person or corporation shall forfeit and pay to the Company (over and beyond any tolls which may be payable by them or him to the Company under this Act) the sum of twenty pounds for every such carriage using, and for every time that it uses, the tramways, or any of them, or any part thereof.

Persons using tramways with carriages with flange wheels, &c. to forfeit 20*l.* on each occasion to the Company.

40. The Company on the one hand, and the Corporation of Birmingham, or any other corporation or any other company, or any person, on the other hand, from time to time may enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use and working of the tramways, or any of them, or any part or parts thereof respectively, and also for and with reference to the use and working by the Company of any tramways which may from time to time be constructed by the Corporation of Birmingham, and the tolls, rates, and charges to be paid for and the terms and conditions of such use and working respectively, and all incidental matters.

Authorising agreements for use of tramways.

41. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things; namely,

Penalties for wilful injury or obstruction to tramways, &c.

Interferes with, removes, or alters any part of a tramway of the Company or of the works connected therewith;

Places or throws any stones, dirt, wood, refuse, or other material on any part of the tramway;

Does or causes to be done anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon;

Or knowingly aids or assists in the doing of any such thing;

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. he shall for every such offence (in addition to any proceedings by way of indictment or otherwise to which he may be liable) be liable to a penalty not exceeding five pounds.

Company to be responsible for all damages.

42. The Company shall be answerable for all accidents, damages, and injuries happening through the act or default of the Company, or of any person in their employment, by reason or in consequence of any of the Company's works or carriages, and shall save harmless all street authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

Arrangements between turnpike road trustees and Company.

43. The trustees of any turnpike road and the Company may, with the approval of the Board of Trade, enter into agreements with each other for the payment of a composition to such trustees in respect of the user of such road for such tramway and the conveyance of traffic thereon, and may with the same approval alter such agreements from time to time.

Reservation of rights of owners, &c. of mines.

44. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals, nor shall any such owner, lessee, or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the working in the usual and ordinary course of their mines or minerals.

Power to police authorities to regulate traffic in streets.

45. Nothing in this Act shall limit or affect the power of the street authority, or the police of any district, to regulate the passage of any traffic along or across any street along or across which any of the Company's tramways are laid down, and the said authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the Company as to the traffic of other persons.

Reservation of right of public to use streets.

46. Nothing in this Act or in any byelaw made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any street along or across which any tramway of the Company is laid, whether on or off the tramway, with carriages not having flange wheels, or wheels suitable only to run on the rail of the tramway.

Regulating inquiries before referee

47. Every inquiry which by this Act the Board of Trade are empowered to make or direct shall be made in accordance with the following provisions :

[33 & 34 VICT.] *The Birmingham and Staffordshire* [Ch. clxviii.]
Tramways Act, 1870.

1. The inquiry shall be held in public before an officer to be appointed in that behalf by the Board, herein-after called the referee, whose appointment shall be by writing, which shall specify all the matters referred to him : A.D. 1870.
—
appointed
by the Board
of Trade.
2. Ten days notice at the least shall be given by the referee to the Company, and to the street authority, body, or person upon whose representation the Board of Trade shall have directed the inquiry, of the time and place at which the inquiry is to be commenced :
3. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit :
4. The referee, by summons, shall, on the application either of the Company or of the street authority, body, or person aforesaid, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him, and every person summoned shall attend the referee and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons, or refuses to answer any question put to him by such referee for the purposes of the said inquiry, shall be liable to a penalty not exceeding five pounds : Provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case, in obedience to any such summons, to travel more than ten miles from his place of abode :
5. The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a court of justice, to any person tendered or summoned as a witness on the inquiry :
6. Any person who upon oath or affirmation wilfully gives false evidence before the referee shall be deemed guilty of perjury :
7. The referee shall make his report to the Board of Trade in writing, and shall deliver copies of the report, upon request, to all or any of the parties to the inquiry.
48. The capital of the Company shall be fifty thousand pounds, Capital.
in five thousand shares of ten pounds each.
49. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof. Shares not
to issue
until one
fifth part
paid up.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870.

Calls.

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

Receipts on behalf of incapacitated persons.

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

Power to borrow on mortgage.

52. The Company may from time to time borrow on mortgage any sum or sums not exceeding in the whole twelve thousand pounds, and of that sum they may borrow from time to time not exceeding five thousand pounds in respect of every twenty thousand pounds of their capital, but no part of any such sum of five thousand pounds shall be borrowed until the whole of the respective twenty thousand pounds of capital in respect of which it is to be borrowed is subscribed for, issued, and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845" (before he so certifies), that the whole of the respective twenty thousand pounds of capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such twenty thousand pounds has been paid on account thereof before or at the time of the issue or acceptance thereof, and that the respective twenty thousand pounds of capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

For appointment of a receiver.

53. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver shall be made shall not be less in the whole than one tenth part of the sum for the time being borrowed by the Company.

Moneys borrowed on mortgage to have priority.

54. All moneys to be borrowed on mortgage under this Act, from the time when the same shall be advanced, and the interest for the time being due thereon, shall have priority against the Company,

and all the property from time to time of the Company, over all other claims on account of any debts incurred or to be incurred, or engagements entered into or to be entered into by them, but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act, or injuriously affected by the construction of the tramways, or by the exercise of any of the powers conferred upon the Company. A.D. 1870.

55. The Company may create and issue debenture stock. Debenture stock.

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

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

58. The quorum of a general meeting of the Company, whether ordinary or extraordinary, shall be five shareholders holding in the aggregate not less than one thousand pounds of the capital of the Company. Quorum of general meetings.

59. The number of directors shall be three, but the Company may from time to time increase the number of directors, so that the number be not more than five. Number of directors.

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

61. The quorum of a meeting of directors shall be two, but if the number of directors be increased the quorum shall be three. Quorum.

62. Edward Gem, Edward Fisher Smith, and Joseph William Williams shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the power herein-before contained for increasing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870, — continue to be directors until others are elected in their stead in manner provided by the same Act.

Period for completion of works.

63. The tramways shall be completed within three years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Land by agreement.

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

Tolls for passengers.

65. The Company may demand and take for every passenger travelling upon the tramways by this Act authorised to be made, used, or worked, or any of them, or any part or parts thereof respectively, including tolls for the use of the tramways and of carriages and for motive power, and every other expense incidental to such conveyance, any tolls or charges not exceeding twopence per mile, and in computing the said tolls and charges the fraction of a mile shall be deemed a mile: Provided always, that in no case shall the Company be bound to charge a less sum than threepence.

Passengers luggage.

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

Company not bound to carry goods.

67. The Company shall not be bound, unless they think fit, to carry passengers luggage exceeding the weight in this Act in that behalf mentioned, nor any parcel, goods, or other article or thing.

Lists of tolls, &c. to be exhibited in carriages.

68. A list of all the tolls and charges authorised by this Act to be taken, and which shall be exacted by the Company, shall be exhibited in a conspicuous place on the inside and outside of each of the carriages used by the Company upon any of their tramways.

Tolls to be paid as directed by the Company.

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

Penalty on passengers practising frauds on the Company.

70. If any person travelling or having travelled in any carriage of the Company avoid or attempt to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceed in any such carriage beyond such distance, and shall not pay the additional fare for the additional distance, or shall attempt to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every

[33 & 34 VICT.] *The Birmingham and Staffordshire* [Ch. clxviii.]
Tramways Act, 1870.

such offence forfeit to the Company a sum not exceeding forty shillings. A.D. 1870.

71. It shall be lawful for any officer or servant of the Company, and all persons called by him to his assistance, to seize and detain any person who shall be discovered either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, and whose name or residence shall be unknown to such officer or servant, until such person can be conveniently taken before a justice, or until he be otherwise discharged by due course of law. Transient offenders.

72. No person shall be entitled to carry or to require the Company to carry on the tramways any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the Company may be of a dangerous nature, and if any person send by the tramways any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the Company with whom the same are left at the time of such sending, he shall forfeit to the Company twenty pounds for every such offence, and it shall be lawful for the Company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact. Penalty for bringing dangerous goods on the tramways.

73. All tolls, charges, penalties, and other moneys which under this Act, or under any byelaw made in pursuance of this Act, may become payable to or by the Company, may be recovered in any court of competent jurisdiction, or (at the option of the party claiming the payment, or, as the case may be, of the Company) in manner provided by "The Companies Clauses Consolidation Act, 1845," with respect to the recovery of damages not specially provided for, and penalties. Recovery of tolls, penalties, &c.

74. The Company may contract with any company, street authority, or other body or persons, for or with reference to the lighting of all or any or any part of the streets along which the tramways are laid. Authorising agreements with reference to the better lighting of some of the streets or roads where tramways laid.

75. Nothing contained in this Act shall in anywise prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities of or belonging to or vested in the Birmingham and Staffordshire Gaslight Company, otherwise than is by this Act expressly provided, or, except so far as may be required for the purposes of this Act, authorise the taking or user of, or any interference with, any land, mains, pipes, or property of that company. Saving rights of the Birmingham and Staffordshire Gaslight Company.

[Ch. clxviii.] *The Birmingham and Staffordshire* [33 & 34 VICT.]
Tramways Act, 1870.

A.D. 1870. — without their consent in writing, under their common seal, previously obtained.

Tramways
not exempt
from provi-
sions as to
general Acts.

76. Nothing herein contained shall be deemed or construed to 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.

Expenses of
Act.

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

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