



CHAP. clxxvii.

An Act to authorise the construction of Street Tramways in certain parts of the suburbs of Birmingham ; and for other purposes. A.D. 1870.
[10th August 1870.]

WHEREAS the laying down in certain streets in this Act mentioned in the town of Birmingham and its suburbs of tramways to be worked by animal power only, and constructed so as not to impede or injure the ordinary traffic of the streets, would be of great local and public advantage :

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

And whereas the undertaking by this Act authorised is formed by the union of portions of the undertakings proposed to be authorised by two several Bills introduced into Parliament in the present session, the short titles of which Bills were the " Birmingham Tramways " Bill and the " Birmingham Street Tramways " Bill :

And whereas plans and sections showing the lines and levels of the tramways and works proposed to be authorised by the said Bills respectively, and the lands proposed to be taken for the purposes thereof, and books of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of those lands, have been deposited with the respective clerks of the peace for the counties of Warwick and Worcester :

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 Tramways Act, 1870." Short title.

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

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

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

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 tramways" or "the undertaking" shall mean the tramways and works and undertaking by this Act authorised, or any part thereof; the expressions "street" and "road" mean respectively any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same; and the expression "road authority," as regards the tramways hereinafter authorised, being portions of the tramways distinguished on the plans deposited as aforesaid with respect to the "Birmingham Tramways Bill" by the Nos. 4 and 4a, shall mean the local board of health for the district of Aston-juxta-Birmingham in the county of Warwick, and as regards the tramways hereinafter authorised, being portions of the tramways distinguished on the plans deposited as aforesaid with respect to the "Birmingham Street Tramways Bill" by the Nos. 4 and 4a, shall mean the trustees of the Birmingham and Sperial Ash turnpike roads, and the trustees of the Birmingham, Watford Gap, and Kingsbury branch turnpike road; the term "district," in relation to a road authority, means the area within the jurisdiction of such road authority, and in this Act and in any Act wholly or in part incorporated herewith; the term "two justices" shall, in addition to its ordinary signification, mean one stipendiary or police magistrate acting in any police court for the district; the expression "superior courts," or "court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and the word "contingencies," in the "Companies Clauses Act, 1845," (section 122) as incorporated with this Act, shall include the contingency of the undertaking being

sold to the road authority at a sum less than the aggregate amount of the capital and debts of the company. A.D. 1870.

4. William Busby, William Williams, Henry Richard Cooksey, Daniel Busby, Edward Bickerton Whitehead, and Frank Bolton, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the tramways, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Birmingham 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. Company incorporated.

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

(A.) So much of the tramways distinguished on the plans and sections deposited as aforesaid with respect to the "Birmingham Tramways Bill" by the Nos. 4 and 4a as lies between the commencement of the said tramways respectively, as shown on the said deposited plans, in Park Road, Aston, at or near its northern end, to the southward of Aston Church, and the point in the Aston Road at which the boundary of the borough of Birmingham intersects the last-mentioned road on the bridge carrying the said road over Hockley Brook;

(B.) So much of the tramways distinguished on the plans and sections deposited as aforesaid with respect to the "Birmingham Street Tramways Bill" by the Nos. 4 and 4a as lies between the point in the Moseley Road at which the boundary of the borough of Birmingham crosses that road, near the junction of Montpelier Street with that road, and the point of termination, as shown on the last-mentioned deposited plans, of the said tramways respectively at or near King's Heath Church, where Black

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Lane forms a junction with the Birmingham and Spernal Ash, otherwise Alcester, turnpike road.

Mode of
formation
of tramways.

6. Every tramway to be made, formed, or laid down under this Act shall be constructed with two rails to be laid at a distance (reckoning from the inside edge of each rail) of four feet eight inches and half an inch from each other, and to 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 in the manner (if any) prescribed by the Board of Trade by any rules for the time being in force made by them under the powers of any Act of Parliament enabling them in that behalf.

Passing
places to be
constructed
where less
than a cer-
tain width
left between
footway and
tramway.

7. Where in any street or road in which a double line of tramway is laid there shall be less width between the outside of the footpath on either side of the street or road and the nearest rail of the tramway than nine feet six inches, the Company shall and they are hereby required to construct a passing place or places connecting the one tramway with the other, and by means of such passing place or places the traffic shall, when necessary, be diverted from the one tramway to the other.

Tramways
to be kept
on level with
surface of
roads.

8. If any road authority shall hereafter alter the level of any road along or across which any tramway of the Company is laid or authorised to be laid, the Company may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Power to
break up
roads, &c.

9. 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 road, subject to the following regulation :

(1.) They shall give to the road authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road 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 any road except under the superintendence and to the reasonable satisfaction of the road 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 road authority is put on account of such superintendence :

(4.) The Company shall not, without the consent of the road authority, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length, and in the case of any road 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 road, and they shall not open or break up at any such place a greater length than one hundred yards :

(5.) Where the carriageway over any bridge forms part of or is a road within the jurisdiction of a road authority, but such bridge is vested in some person or persons, corporation, or company distinct from such road authority, any work which the Company may be 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 :

(6.) Where the carriageway in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the Company may be 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 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.

10. When the Company have opened or broken up any portion of any road they shall be under the following further obligations ; (namely,)

Completion
of works
and rein-
statement of
roads.

(1.) They shall with all convenient speed, and in all cases within four weeks at the most (unless the road 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 road authority restore the portion of the road to as good condition as that in which it was

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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 road is opened or broken up to be fenced and watched, and to be properly lighted at night:
- (3.) They shall bear or pay all reasonable expenses of the repair of the road 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
road where
tramway
is laid.

11. The Company shall, at their own expense, at all times maintain and keep in good condition and repair, with such materials and in such manner as the road authority shall direct, and to their satisfaction, so much of any road 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 road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road 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 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 road authority otherwise consents in writing), fill in the ground and make good the surface, and to the satisfaction of the road authority restore the portion of 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 road authority, if they think fit, may themselves, at any time after seven days notice to the Company, open and break up the road and do the works necessary for the paving, repair, and maintenance or restoration of the road, to the extent in this

section above mentioned, instead of the Company, and the expense incurred by the road authority in so doing shall be repaid to them by the Company.

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12. If at any time within two years after the passing of this Act the trustees of the Birmingham, Watford Gap, and Kingsbury branch turnpike roads shall raise the road over the bridge which crosses Aston Brook at Aston-juxta-Birmingham, the expense of such raising, to be certified by the surveyor for the time being of the said trustees by writing under his hand, shall be repaid by the Company to the said trustees, and any difference as to the reasonableness of the amount so certified shall be determined by arbitration in manner provided by the "Railways Clauses Consolidation Act, 1845," with respect to settlement of disputes by arbitration.

Cost of raising road over bridge at Aston-juxta-Birmingham to be borne by the Company.

13. The road 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.

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

14. The Company on the one hand, and the trustees of the Birmingham, Watford Gap, and Kingsbury branch turnpike roads, or the trustees of the Birmingham and Sernal Ash turnpike roads, on the other hand, from time to time may enter into contracts or agreements for the payment of a composition to the said trustees in respect of the user of the said turnpike roads respectively for the tramways by this Act authorised, and the conveyance of traffic thereon, and such contracts or agreements may respectively be for such term as the contracting parties agree, and the said trustees respectively shall have the right at any time hereafter to require the Company to enter into contracts or agreements with them for such composition as aforesaid, and the term for which such contract or agreement shall be made, and the amount of the composition thereunder, shall, in case of difference, be determined in manner provided by the "Railways Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

As to composition for tolls on turnpike roads.

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 road along or across which they lay any tramway.

Right of user only.

16. Nothing in this Act shall take away or affect any power which any road authority, or the owners, commissioners, under-

Reserving powers of road

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authorities
to widen, &c.
streets.

As to
widening
of part of a
certain road.

takers, or lessees of any railway, tramway; or inland navigation, may have by law to widen, alter, divert, or improve any road, railway, tramway, or inland navigation.

17. If at any time within six months after the passing of this Act the trustees of the Birmingham and Spernal Ash turnpike road shall widen to an extent not exceeding thirty feet so much of the road along which the tramways (B.) by this Act authorised are intended to be laid as is situate and lies between the Park Road, Moseley, and the termination of those tramways at King's Heath Church, the costs and expenses incurred by the said trustees in and about such widening shall be repaid to them by the Company on demand, and in default may be recovered by the trustees from the Company in any court of competent jurisdiction: Provided always, that such widening shall be executed under the superintendence and to the reasonable satisfaction of the engineer of the Company: Provided also, that unless and until such widening shall have been executed the Company shall not lay any tramway in any part of the said turnpike road beyond Park Road, Moseley, aforesaid.

Provision as
to gas and
water
companies.

18. 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 tube, wires, or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions; (that is to say,)

Company
may alter
position of
gas and
water pipes.

- (1.) Before laying down a tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid, the Company shall, whether they contemplate altering the position of any such mains or pipes, wires, or apparatus, or not, give seven days notice to the company, persons, or person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such company or person that the construction of the tramway as proposed would endanger any such main or pipe, tube, or wire, or apparatus, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such company or person (as the case may be) may give notice to the Company to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus, in such

manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the Company and other companies or persons, and all alterations to be made under this section shall be made with as little detriment and inconvenience to the company, persons, or person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company or persons, or of their surveyor or engineer, if they or he think fit to attend, after receiving not less than forty-eight hours notice for that purpose, which notice the Company are hereby required to give :

- (2.) The Company shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such company or persons, or do anything to impede the passage of water or gas, or the telegraphic or other communication, into or through such mains or pipes, without the consent of such company or person, or in any other manner than such company or person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas, or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the Company have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, or of such person, or in case of disagreement between such surveyor or engineer and the Company, as an engineer appointed by the Board of Trade shall direct :

Company not to disturb pipes until they have laid down others for continuing the supply of water or gas.

- (3.) The Company shall not lay down any such pipes contrary to the regulations of any Act of Parliament relating to such water or gas or other company, or relating to telegraphs :

Pipes not to be laid contrary to Acts.

- (4.) The Company shall make good all damage done by them to property belonging to or controlled by any such company or person, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property, or with the private service pipes of any person supplied by any such company or person with water or gas :

Company to make good all damage done to property of water or gas company.

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If Company obstruct supply of water or gas, to forfeit 20*l.* per day.

For protection of sewers, &c.

(5.) If by any such operations as aforesaid the Company interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding twenty pounds for every day upon which supply shall be so interrupted.

19. Where any of the tramways or any work connected therewith interferes with any sewer, drain, watercourse, subway, defence, or work under the jurisdiction or control of the road authority, or of any corporation, local board of health, or local board, or with any sewers or works to be made or executed by the road authority, or any such corporation, local board of health, or local board, or in any way affects the sewerage or drainage of the districts under their or any of their control, the Company shall not commence any tramway or work until they shall have given to the road authority, corporation, or board, as the case may be, fourteen days previous notice in writing of their intention to commence the same by leaving such notice at the principal office of such authority, corporation, or board, as the case may be, with all necessary particulars relating thereto, nor until the road authority, corporation, or board, as the case may be, shall have signified their approval of the same, unless they do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid, and the Company shall comply with and conform to all reasonable directions and regulations of the road authority, corporation, or board, as the case may be, in the execution of the said works, and shall provide by new, altered, or substituted works in such manner as the road authority, corporation, or board shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the tramways, and shall save harmless the respective road authority, corporation, and board against all and every the expense to be 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 road authority, corporation, or board, as the case may be, 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 work 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 road authority, corporation, and board respectively, and be maintained by them, as the case may be, as any sewers or works.

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20. 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 road authority for any of the purposes for which such authority is constituted, or 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 any such power the road authority, company, body, or person shall be subject to the following restrictions; (that is to say,)

Saving
rights of
road
authorities
to open
roads.

- (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, 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 the 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.) Whenever for the purpose of enabling them to execute such work the road authority 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; provided that such work shall always be completed by the road authority with all reasonable expedition:
- (5.) Any company, body, or person shall not execute such work, so far as it immediately affects the tramway, except under the superintendence of the Company, unless they 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 road 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.

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Protecting
bridges
over rail-
ways.

21. Wheresoever the tramway shall be constructed upon a bridge carrying a road over a railway, the following provisions shall apply:

(A.) The Company shall give fourteen days notice in writing to the railway company whose railway 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 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 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.

Form and
delivery of
notices.

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

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

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

Difference
between
Company
and road
authority,
&c.

23. If any difference arises between the Company on the one hand, and any road authority, or any gas or water company, or any company, body, or person to whom any sewer, drain, tube, 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, 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 road authority, body, company, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, 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 road 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.

24. 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 purpose of setting out the line of the tramway, or damages or destroys any property of the Company, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for obstruction of Company in laying out tramway.

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

Power for the Company to use tramways with flange-wheeled carriages, &c.

26. If at any time after any tramway or part of any tramway by this Act authorised shall have been for three years opened for public traffic it shall be represented in writing to the Board of Trade by the road authority of any road in which such tramway or part of a tramway is laid, or by twenty inhabitant ratepayers of any parish in which any tramway or part of any tramway of the Company is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade may (if they consider that *prima 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

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

A.D. 1870. 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, other than and in addition to the Company, to use the tramways by this Act authorised 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 the tramways by this Act authorised or for the time being opened for public traffic, or such part or parts of the tramways 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 the tramways, 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 by the licensee or licensees for the use of the tramways:
- (5.) The licensee or licensees and their officers and servants shall permit one person duly authorised for that purpose by the Company 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.

In default of payment of tolls, Company may detain and sell licensee's carriages.

27. 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 to detain and sell such carriage, or, if the same shall have been removed from the tramways or premises of the Company, to detain and sell any other carriages on such tramways 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.

Licensees to give account of passengers carried by them.

28. Every licensee shall on demand give to an officer or servant authorised in that behalf by the Company 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.

29. If any such licensee fail 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, give a false account, he shall for every such offence forfeit to the Company 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.

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Licensees not giving account of passengers carried liable to penalty.

30. If any dispute arise concerning the amount of the tolls due to the Company 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 in the meanwhile to detain the carriage or (if the case so require) the proceeds of the sale thereof.

Disputes as to amount of tolls to be settled by justices.

31. 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 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 of the peace, 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 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.

Owners of carriages liable for damage done by their servants.

32. If any person or any other corporation 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 for every such offence be liable to a penalty not exceeding twenty pounds.

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

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

Authorising agreements for use of tramways.

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

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

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

A.D. 1870.

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

Company to be responsible for all damages.

35. 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 their works or carriages, and shall save harmless all road and other 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.

Power for authorities to regulate traffic in roads.

36. Nothing in this Act shall limit or affect the power of any road authority to regulate the passage of any traffic along or across any road along or across which any of the Company's tramways are laid down, and such road authority may exercise their power 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 roads.

37. 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 road 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 rails of the tramway.

Tramways to be removed in certain cases.

38. 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 such 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 road authority in manner by this Act provided. Where any such order has been made,

the road 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 road authority the cost of such removal and of the making good of the road by the road authority, such cost to be certified by the clerk for the time being, or by some other authorised officer of the road 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 road 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 tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as the road 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 road authority to the Company.

39. If at any time after the opening of any tramway for traffic it shall appear to any road authority that the Company are insolvent, so that they are unable to work such tramway with advantage to the public, and the road authority shall make 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, and thereupon the road 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.

Proceedings
in case of
insolvency
of Company.

40. The road authority may, if by resolution passed at a special meeting of the members constituting such authority they so decide, 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

Future
purchase of
undertaking
by road
authority.

A.D. 1870. 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 of 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 that authority had been authorised by this Act to construct the tramways, and had been named in this Act instead of the Company. 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 authority are usually given, nor unless two thirds of the members constituting such 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.

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

41. 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. A.D. 1870.

42. When the tramways by this Act authorised have 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 authorities of the districts in which the tramways of the Company are situate, and when any such sale has been made all the rights, powers, authorities, obligations, and liabilities of the Company in respect to their undertaking shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, corporation, company, or local authorities to whom the same has been sold, in like manner as if such person, persons, corporation, company, or local authorities had been authorised to construct the tramways in lieu of the Company: Provided always, that no local authority shall purchase, or concur in purchasing, the undertaking of the Company under the provisions of this section, unless they shall decide to make, or to concur in, such purchase by resolution passed at a special meeting of the members constituting such local authority, and 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 local authority are usually given, nor unless two thirds of the members constituting such local 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 their proportion of the purchase money, and all expenses incurred by them in the purchase of the undertaking under the authority of this or the preceding 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 the "Tramways Act, 1870." 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: Provided always, that every such provisional order shall be confirmed in like manner as a provisional order under the authority of Part I. of the last-mentioned Act, and until such confirmation such provisional order shall not have any operation.

Power of sale after tramways opened for six months.

A.D. 1870.

Regulating
inquiries
before
referee ap-
pointed by
the Board of
Trade.

43. 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 :

- (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 :
- (2.) Ten days notice at the least shall be given by the referee to the Company, and to the parties 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 of any party interested in the inquiry, 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.

44. The capital of the Company shall be sixty thousand pounds, in six thousand shares of ten pounds each.

A.D. 1870.

Capital.

45. 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 paid up.

46. 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.

Calls.

47. Subject to the provisions of this Act the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share:" Provided always, that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up, and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share, (being the whole amount payable thereon,) and the residue to the credit of the preferred half share.

Power to divide shares.

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

Dividends on half shares.

49. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number; but if in any year ending the thirty-first day of December there shall not be profits available for the payment of

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

A.D. 1870. the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Half shares to be registered and certificates issued.

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

Terms of issue to be stated in certificates.

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

Forfeiture of preferred shares.

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

Preferred shares not to be cancelled or surrendered.

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

Half shares to be half shares in capital.

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

Receipts on behalf of incapacitated persons.

55. 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. A.D. 1870.

56. The Company may from time to time borrow on mortgage any sum or sums not exceeding in the whole fifteen 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.

Power to borrow.

57. 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.

For appointment of a receiver.

58. 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

Moneys borrowed on mortgage to have priority.

A.D. 1870. — affected by the construction of the tramway, or by the exercise of any of the powers conferred upon the Company.

Debenture stock. **59.** The Company may create and issue debenture stock.

Application of moneys. **60.** All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting. **61.** The first ordinary meeting of the Company after the passing of this Act shall be held within six months next after the passing of this Act.

Quorum of general meetings. **62.** The quorum of a general meeting of the Company, whether ordinary or extraordinary, shall be ten shareholders holding in the aggregate not less than three thousand pounds of the capital of the Company.

Number of directors. **63.** The number of directors shall be six, but the Company may from time to time reduce the number of directors, so that the number be not less than three.

Qualification of directors. **64.** The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum. **65.** The quorum of a meeting of directors shall be three, but if the number of the directors be reduced to three the quorum shall be two.

First directors. **66.** William Busby, William Williams, Henry Richard Cooksey, Daniel Busby, Edward Bickerton Whitehead, and Frank Bolton 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 reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained, and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be

Election of directors.

directors until others are elected in their stead in manner provided by the same Act. A.D. 1870.

67. 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. Period for completion of works.

68. 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 twenty acres. Land by agreement.

69. The Company may demand and take for every passenger travelling upon any or either of the tramways, or any part or parts thereof respectively, including tolls for the use of the tramway and of carriages and for motive power, and every other expense incidental to such conveyance, any tolls or charges not exceeding one penny per mile (and for this purpose the fraction of a mile beyond an integral number of miles shall be deemed a mile), but the Company may charge for any less distance than three miles any sum not exceeding threepence: Provided always, that if at any time after three years from the opening for public traffic of any of the tramways by this Act authorised, it shall be represented in writing to the Board of Trade by the street authority or by twenty inhabitant ratepayers of any parish in which any tramway, or part of any tramway of the Company is laid, that the Company are charging a greater sum than twopence for distances not exceeding two miles, and that under the circumstances then existing such charge is unreasonable, the Board of Trade may (if they think fit) direct an inquiry by a referee 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 make an order in writing limiting the amount of the rates and fares to be thenceforth charged by the Company for the conveyance of passengers for distances not exceeding two miles to twopence, and the Company shall thenceforth conform to and abide by such order: Provided always, that the Board of Trade may from time to time, after making such order, revoke or modify the same for good cause shown to them. Tolls for passengers.

70. 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. Passengers luggage.

71. The Company shall and they are hereby required at all times after the opening of the tramways for public traffic to run at least Cheap fares for labouring classes.

A.D. 1870.

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

Company not bound to carry goods.

72. The Company shall not be bound to carry, unless they think fit, any parcel, goods, articles, or things other than passengers luggage, not exceeding the weight in this Act in that behalf mentioned.

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

73. 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 inside and outside of each of the carriages used by the Company upon any of the tramways.

Tolls to be paid as directed by the Company.

74. 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.

75. If any person travelling or having travelled in any carriage of the Company avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding forty shillings.

Power to trustees of the Birmingham, Watford Gap, &c. turnpike roads to use tramways in certain events.

76. If at any time before the first day of October next after the passing of this Act the trustees of the Birmingham, Watford Gap, and Kingsbury branch turnpike roads shall, by notice in writing under the hand of their clerk for the time being, require the Company to extend their authorised tramways along the said turnpike roads in the direction of the town of Sutton Coldfield to any point to be specified in such notice, the Company shall apply, either by way of provisional order or by special Act, at the option of the Company, for power to extend their tramways accordingly, and if the Company fail to obtain such powers, or within two years from

Company as shall for the
of the said turnpike roads,
shall in case of difference be
manner provided by the Railways
1845, with respect to the settlement of

lawful for any officer or servant of the Company,
called by him to his assistance, to seize and detain
who shall be discovered either in or after committing or
attempting to commit any such offence as in the next preceding
section mentioned, and whose name or residence is 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.

78. No person shall be entitled to carry or to require to be carried
on any tramway any goods which may be of a dangerous nature, and
if any person send by any tramway any such goods without
distinctly marking their nature on the outside of the package con-
taining 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 be liable to a penalty not
exceeding 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.

79. Subject to the provisions of this Act, the road authority may
from time to time make regulations as to the following matters:

Byelaws.

- 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 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 carriage belonging
to them.

notice of the making of the same shall be published by the Board of Trade, and the same by advertisement, according to the provisions in Part II. of the Schedule (C) annexed, and unless such notice is published, any such byelaw shall be disallowed by the Board of Trade, and no such byelaws shall have any force or effect which shall be disallowed by the Board of Trade within two calendar months after the date on which such byelaw shall have been laid before the Board, and a 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 road authority, and to such road authority if made by the Company.

Penalties in byelaws.

80. 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.

Proof of byelaws.

81. The production of a written or printed copy of any byelaws made under the authority of this Act, authenticated by the signature of any secretary or assistant secretary of the Board of Trade, shall, without proof of the signature of such secretary or assistant secretary, be evidence of the existence of such byelaws, and that all preliminaries requisite to the making and operation thereof have been duly observed and fulfilled.

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

82. The road 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 their control.

... with respect to
... any Act amending the

... otherwise expressly provided,
... shall prejudice, diminish, alter, or take
... rights, powers, privileges, or authorities of
... Birmingham and Spernal Ash turnpike roads.

Saving
rights of
Birmingham
and Spernal
Ash turn-
pike road
trustees.

... contained in this Act shall in anywise prejudice,
... 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 inter-
ference with, any land, mains, pipes, or property of that Company,
without their consent in writing under their common seal previously
obtained.

Saving
rights of the
Birmingham
and Staf-
fordshire
Gaslight
Company.

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

Interest not
to be paid
on calls paid
up.

87. The Company shall not, out of any money by this Act autho-
rised to be raised, pay or deposit any sum which, by any standing
order of either House of Parliament now or hereafter in force,
may be required to be deposited in respect of any application to
Parliament for the purpose of obtaining an Act authorising the
Company to construct any other tramway or to execute any other
work or undertaking.

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

88. 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.

Tramways
not exempt
from pro-
visions of
general Acts.

