



CHAPTER clxxiv.

An Act for incorporating the Chester Tramways Company, and for empowering them to construct Tramways in the city of Chester ; and for other purposes. [22d July 1878.] A.D. 1878.

WHEREAS the laying down of tramways in certain roads in the city of Chester would be of public and local advantage :

And whereas the persons herein-after named, with others, are willing, at their own expense, to construct such tramways, and it is expedient that powers should be conferred upon them for that purpose :

And whereas plans and sections showing the lines and levels of the tramways by this Act authorised, and books of reference to such plans, have been deposited with the clerks of the peace for the county of Chester and for the county of the city of Chester, respectively, 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 effected without the authority of Parliament :

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

1. This Act may be cited for all purposes as the Chester Tramways Act, 1878. Short title.

2. The Companies Clauses Consolidation Act, 1845, and Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act, 1863, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking, and section three (interpretation), section nineteen Incorporation of general Acts. 8 & 9 Vict. c. 16. 26 & 27 Vict. c. 118. 8 & 9 Vict. c. 18.

23 & 24 Vict.
c. 106.
32 & 33 Vict.
c. 18.
33 & 34 Vict.
c. 78.

Interpreta-
tion of terms.

(local authority may lease or take tolls), Part II. (construction of tramways), and Part III. (general provisions) of the Tramways Act, 1870, are, except where expressly varied by this Act, incorporated with and form part of this Act.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially 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 Chester Tramways Company incorporated by this Act ;

The expressions "the tramways" and "the undertaking" shall mean the tramways and works and the undertaking respectively by this Act authorised ;

The terms "local authority" and "the Corporation" shall mean the mayor, aldermen, and burgesses of the city and borough of Chester, acting either by the town council or by any committee for the time being appointed, and acting under and in execution of the powers of an Act passed in the ninth year of Her present Majesty's reign, intituled "An Act for the better paving, lighting, and improving the borough of Chester, and for establishing new market places therein ;"

8 & 9 Vict.
c. xv.

8 & 9 Vict.
c. 16.

33 & 34 Vict.
c. 78.

The word "contingencies" in the Companies Clauses Consolidation Act, 1845, section one hundred and twenty-two, shall, with reference to the Company, be construed to include the contingency of the undertaking being sold to the local authority under the Tramways Act, 1870, section forty-three, at a sum less than the aggregate amount of the capital and debts of the Company ;

And for the purposes of this Act the expression "superior courts," or "court of competent jurisdiction," or any other like expression in this Act or 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 simple contract debt, and not a debt or demand created by statute.

Company
incorporated.

4. Walter Durfee Coggeshall, Alfred Saunders, Henry William White, and all other persons who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and they are hereby united into a Company for the purposes of making and maintaining the tramways, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of the Chester Tramways Company, and by

that name shall be a body corporate, with perpetual succession and a common seal, with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

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5. Subject to the provisions of this Act, and of Parts II. and III. of the Tramways Act, 1870, the Company may make, form, lay down, work, use, and maintain the tramways herein-after described in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with those plans and sections, with all proper rails, plates, works, and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act are—

Power to make tramways according to deposited plans. 33 & 34 Vict. c. 78.

The city and station route, distinguished on the deposited plans by the numbers 1, 1A, 1B, 1C, and 1D, one mile and seven chains in length, of which seven furlongs and six and a quarter chains is double line, and one furlong and three quarters of a chain is single line, commencing in the Grosvenor Road at or near the city walls, and passing thence in a northerly direction along Grosvenor Road, into and along Grosvenor Street, Bridge Street, the Cross, Eastgate Street (passing under the city walls at the Eastgate), Foregate Street, and City Road, into and terminating at the north end of the City Road; and the tramways numbers 1 and 1D shall be constructed and maintained as a single line for a length of fifteen yards from such termination:

The city and Saltney route, distinguished on the deposited plans by the numbers 2, 2A, 2B, 2C, 2D, 2E, 2F, and 2G, one mile two furlongs and three and a quarter chains in length, of which two furlongs and eight chains is double line, and seven furlongs and five and a quarter chains is single line, commencing in Saltney, at the junction of Curzon Street with Chester Street, and passing thence in an eastwardly direction along the road from Saltney to Chester, Hough Green, Grosvenor Road (over Grosvenor Bridge), and terminating in Grosvenor Road by a junction with the city and station route at the commencement thereof as herein-before described:

6. The capital of the Company shall be thirty-two thousand pounds, in three thousand two hundred shares of ten pounds each.

Capital.

7. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Shares not to issue until one fifth part paid up.

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Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

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

Power to borrow on mortgage.

8 & 9 Vict.
c. 16.

10. The Company may from time to time borrow on mortgage any sum not exceeding in the whole eight thousand pounds, at the time and subject to the restrictions herein-after contained; that is to say, in respect of each sum of sixteen thousand pounds, part of the said capital of thirty-two thousand pounds, the Company may borrow the sum of four thousand pounds, but no part of any such sum of four thousand pounds shall be borrowed until the whole of the capital of sixteen thousand pounds in respect of which the same is borrowed is 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 such capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

As to appointment of a receiver.

11. 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. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Company not to create debenture stock.

12. The Company shall not create debenture stock.

- 13.** Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under section forty-three of the Tramways Act, 1870, and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage. A.D. 1878.
Mortgage to comprise purchase money paid on compulsory sale. 33 & 34 Vict. c. 78.
- 14.** Every mortgage deed granted by the Company under this Act shall be endorsed with notice that such mortgage will not be a charge upon the tramway in the event of its being purchased by the local authority under the forty-third section of the Tramways Act, 1870. Endorsement of mortgage with notice of power of purchase by local authority. 33 & 34 Vict. c. 78.
- 15.** All moneys raised under this Act, whether by shares or borrowing, shall be applied for the purposes of this Act only. Application of moneys.
- 16.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act. First ordinary meeting.
- 17.** The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three. Number of directors.
- 18.** The qualification of a director shall be the possession in his own right of not less than twenty shares. Qualification of directors.
- 19.** The quorum of a meeting of directors shall be three; provided that if the number of directors be reduced to three, the quorum shall be two. Quorum.
- 20.** Walter Durfee Coggeshall, Alfred Saunders, Henry William White, and two persons to be nominated by them or the majority of them, and consenting to such nomination, 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 nominated as aforesaid, or any of them, or may elect a new body of directors to supply the place of those not continued in office, the directors appointed by this Act or nominated as aforesaid 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 elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act, 1845; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act. First directors.
Election of directors.
8 & 9 Vict. c. 16.

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Mode of
formation of
tramways.

21. Every tramway by this Act authorised shall consist of a single pair of rails, which shall be constructed on the gauge of four feet eight and a half inches, 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 road, and in such manner, as regards construction, rails, sleepers, fastenings, width of groove, foundations, paving materials used, and in all other respects, as the Corporation shall approve.

10,000*l.* of
capital to be
subscribed
before works
commenced
in city of
Chester.

22. Before the Company open or break up any road within the jurisdiction of the Corporation they shall prove to the satisfaction of the Corporation that ten thousand pounds of the capital of the Company has been issued and accepted, and one fifth thereof paid up, and that such capital was issued *bonâ fide*, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same.

Traffic on
roads not to
be impeded.

23. During the construction of any works by this Act authorised in any road in any district, the Company shall make such arrangements in relation to the execution of such works as may, in the opinion of the local authority or the road authority of such district, be proper for preventing the traffic along such road from being unnecessarily impeded.

As to paving
of roads and
application
of road
material.

24. So much of every road whereon any tramway is laid as (1) lies between the rails of such tramway, (2) lies between the rails of any loop, passing-place, crossing, siding, or junction in connexion with any tramway, (3) lies between the rails of such tramway and any such loop, passing-place, crossing, siding, or junction, (4) not being more than four feet in width, lies between any two tramways laid by the Company, and (5) extends eighteen inches beyond the rails of and on each side of every tramway loop, passing-place, crossing, siding, and junction, shall be paved by the Company, at their own expense, with granite cubes upon a foundation or substructure of concrete, under the superintendence and to the satisfaction of the road authority, or with such other paving as the road authority may approve, and shall be deemed to be road which is to be at all times afterwards maintained and kept in good condition and repair by the Company within the intent and meaning of this Act and the Tramways Act, 1870; and the reasonable expense to which such road authority is put on account of such superintendence shall be paid by the Company: Provided always, that the Company may use on any road at present unpaved (other than the City Road) any paving setts excavated from any other road for the purpose of

33 & 34 Vict.
c. 75.

paving the same with granite cubes, or otherwise in accordance with this section, but only if and so far as such setts shall be deemed satisfactory and proper by the road authority. A.D. 1878.

25. So much of section twenty-six of the Tramways Act, 1870, as provides that the promoters shall not do certain things therein mentioned, 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 notice, or discontinues the same during the works, and that the promoters shall pay all reasonable expenses to which the road authority is put on account of such superintendence, shall extend and apply also to the works in the twenty-seventh and twenty-eighth sections of the said Act and the twenty-fourth section of this Act referred to (except as to maintenance and repairs), and to all other works of every description affecting any road, sewer, or other works or property of or under the control or jurisdiction of the Corporation. Extending application of s. 26 of 33 & 34 Vict. c. 78.

26. The Corporation, in their absolute discretion, at any time and from time to time, either before the first construction of the tramways, or any of them, or afterwards, may, by notice in writing given to the Company, require the Company— Corporation may require certain alterations in tramways.

- (1.) To substitute on the city and station route a double line of rails for the whole length or any part of the length of any tramway which is shown on the deposited plans or is constructed as a single line;
- (2.) In all cases where two tramways shall be laid in any road, to make or (as the case may be) to bring the lines of such tramways within four feet of each other, for the whole or any part of the length thereof, and as nearly as possible in the centre of the street; and
- (3.) To deviate from the line of any tramway as shown on the deposited plans, or as constructed in such places, to such extent and in such manner as the Corporation may deem expedient:

Provided always, that no such double line or deviation shall be so laid that for a distance of thirty feet or upwards a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway, if one third of the owners and occupiers of the houses, shops, or warehouses abutting upon the part of the road where such less space shall intervene shall, within one month after written notice by the Corporation to them of the intention to lay such double line, or to make such deviation, express their dissent in writing to the town clerk: Provided also, that if the Company do

A.D. 1878. not, within such reasonable time as shall be in that behalf specified in any such notice, comply with the requirements of such notice, the Corporation from time to time may, without prejudice to any other remedy against the Company, carry out the requirements of such notice, and all costs and expenses thereby incurred by them shall be paid to the Corporation by the Company, on demand, and shall be recoverable from the Company by proceedings in any court of competent jurisdiction. Any agreement, consent, act, approval, or dispensation by the Corporation in relation to the Company or the tramways shall be deemed to be subject to the provisions of this section, and shall not operate to waive, suspend, dispense with, or otherwise affect the powers of the Corporation under this section; provided that no such requisition shall be obligatory on the Company if it should prove to be necessary for the Company, in order to comply with the same, to obtain authority to do so by Act of Parliament or Provisional Order.

Company to adopt improvements if required by the Board of Trade.

27. The Board of Trade may from time to time, upon the application of the local authority or road authority of any district, require the Company to adopt and apply such improvements in the tramway within such district, including the rails thereof, and the carriages, rolling stock, break power, and plant of the Company, or used on or in connexion with the tramways, as experience may from time to time suggest, having regard to the greater security or convenience of the public and persons using the tramways and advantage to the ordinary traffic, and the Company shall with all reasonable despatch comply with any order made by the Board of Trade for the purpose of carrying out such improvements.

Inspection by Board of Trade.

28. The tramways shall not be opened for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways to be kept level with surface of road.

29. If and whenever after the passing of this Act any road authority shall alter the level of any road along or across which any part of any tramway of the Company is 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.

Penalty for not maintaining rails in good condition.

30. The Company shall at all times, with such materials and in such manner as the road authority shall direct, and to their satisfaction, maintain and keep in good condition and repair, and so as not to be a danger or annoyance to the ordinary traffic, the rails of the tramways of the Company, and the substructure upon which the same rest; and if the Company at any time fail to comply with this provision, or with any of the provisions of section twenty-eight of the Tramways Act, 1870, they shall (without prejudice to

the enforcement in any manner of the requirements of this Act, or to any other remedy against the Company,) be subject to a penalty not exceeding five pounds for every day on which such act of omission continues after forty-eight hours notice shall have been given to or left at the office of the Company by the clerk or surveyor for the time being of the road authority, and such penalty shall be a penalty within the meaning of section fifty-six of the said Act. The proviso in section twenty-eight of the Tramways Act, 1870, contained, empowering the road authority, if the promoters fail to comply with the provisions of that section after seven days notice to the promoters to do the works therein mentioned, and recover the expense thereof from the promoters, shall be read as though forty-eight hours were therein substituted for seven days, and, as so altered, shall extend and apply not only to the works necessary for the repairs and maintenance in that section mentioned, but also to the works necessary for the maintenance and repairs in this section provided for.

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33 & 34 Vict.
c. 78.

31. The Corporation, and their officers and servants, shall at all times have free access to and communication with all existing and future sewers and drains (whether public or private) under the control of or maintained or repaired by the Corporation, and the man-holes, ventilating shafts, and other works in connexion therewith, and shall have power, without the consent or concurrence of the Company, to construct any new or additional public or private sewers or drains, and any man-holes, ventilating shafts, or other works connected therewith, and any lateral or private drains to communicate therewith; and the provisions contained in the thirty-second and thirty-third sections of the Tramways Act, 1870, shall be applicable to the case of any such works as aforesaid, as though the same were a pipe for the supply of gas or water laid before the construction of the tramways: Provided always, that if at any time after the passing of this Act any of such sewers or drains (whether public or private), or any other works of or belonging to or under the control of the Corporation, shall be or become injured or damaged by reason or in consequence of any act, deed, matter, or thing of or by the Company or their servants, it shall be lawful for the Corporation, immediately thereupon or at any time thereafter, at the cost, expense, and risk of the Company, to do what the Corporation deem necessary in order to the thorough and efficient repair and reinstatement of such sewer, drain, or other work as aforesaid; and if the Company shall not, on demand, pay the Corporation the cost and expense incurred by the Corporation as aforesaid, the Corporation may recover the same from the Company as liquidated damages in any court of competent jurisdiction.

Corporation to have access to sewers, and to repair damages caused by works at cost of the Company.

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Power to make additional crossings, &c.

32. The Company may, subject to the provisions of this Act, and with the consent of the local authority and road authority, from time to time make, maintain, alter, and remove such crossing, passing-places, sidings, junctions, and other works, in addition to those particularly specified in and authorised by this Act, as they find necessary or convenient for the efficient working of the tramways, or for providing access to any warehouses, stables, or carriage houses or works of the Company: Provided that in the construction of any such works no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the footpath on either side of the road, if the owner or owners or occupier or occupiers of the premises abutting on the place where such rail is proposed to be laid shall, by writing under their hand addressed to the Company, express their objection thereto.

Application of road materials excavated in construction of works.

33. Any paving, metalling, or material excavated by the Company in the construction of the undertaking from any road under the jurisdiction or control of any road authority may (but only if and so far as the road authority deem them satisfactory and proper) be applied by the Company, so far as may be necessary, in or towards the reinstating of the road, and the maintenance, for six months after completion of any of the tramways within the district of such road authority, of so much of the roadway on either side of such tramways as the Company are by section twenty-eight of the Tramways Act, 1870, required to maintain; and the Company shall, if so required, deliver the surplus paving, metalling, or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority, or to such person or persons as he may appoint to receive the same: Provided that if within seven days after the setting aside of the surplus arising from the excavation of any such paving, metalling, or material, and notice duly given, such surplus is not removed by such surveyor or by some other person or persons named by him for that purpose, such surplus paving, metalling, or material shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act, 1870, with respect to differences between the promoters and any road authority.

33 & 34 Vict. c. 78.

Power to Corporation to suspend tramway traffic.

34. The Corporation shall have power at any time and from time to time, by notice in writing, to absolutely stop, delay, or suspend the working of the tramways in any of the roads within the borough, as well for police purposes, regulating traffic, and

facilitating traffic on any public occasion, as for the execution of any works by the Corporation, or any gas or water company, or individual, or for any other purpose which the Corporation, in the exercise of their powers for the good government of the city or the safety of the public, deem necessary; such stoppage, delay, or suspension to continue only as long as may be reasonably necessary for the purposes aforesaid, or any of them, and the Company shall not be entitled to claim any compensation or damages in respect thereof.

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35. In the exercise of the powers conferred on the Company by this Act they shall do as little damage as may be, and shall make compensation to the Corporation for all damage sustained by the Corporation by reason or in consequence of the exercise of those powers or any of them.

Company to do as little damage as possible.

36. The sole responsibility of maintaining and working the tramways free from damage or accident shall rest with the Company, and they shall have no claim whatever for any damage which may arise from or by reason or in consequence of any works executed or to be executed by the Corporation or any road authority, or the use of any engines, machines, implements, or materials whatsoever by the Corporation or any road authority in the exercise or discharge of any of their powers, duties, or rights.

Company to be solely responsible.

37. If the Corporation, at any time or times hereafter, or from time to time, give six months notice in writing to the Company requiring that the lines of tramway by this Act authorised shall be extended by lines (in this Act referred to as "the extension lines") to any other district or districts, place or places, within the borough, the Company shall and they are hereby required to take all steps necessary, by way of application to the Board of Trade or to Parliament, to enable them to comply with such notice, and shall use their best endeavours to obtain the powers necessary for the purpose: Provided always, that if, in the opinion of the Company, such extension lines would not be reasonably remunerative, or such request is, on account of their pecuniary position, or for any other cause, unreasonable, and any difference shall thereupon arise between the Corporation and the Company, the question in difference shall be determined in the manner provided by the thirty-third section of the Tramways Act, 1870; and in the event of the Company (if directed so to do by the engineer appointed under the said section) making default in applying for or failing to obtain the necessary powers for the construction, maintenance, and working of, or failing to construct, maintain, and work, the extension lines, or any of them; the Corporation may, at the cost and expense of the

Providing for future extensions.

33 & 34 Vict. c. 78.

A .D. 1878. Company, make application to the Board of Trade or to Parliament for such purpose, and for powers, at the expense of the Company, to construct and maintain such extension lines.

As to interchange of facilities in respect of any tramways to be hereafter constructed.

38. If at any time hereafter any tramways or tramway extensions or additions are constructed or purchased within or partly within the city and borough of Chester by the Corporation or any company (other than the Company) or person, the Company shall, if and when and as required by the Corporation or such other company or person, permit all necessary and convenient junctions and communications to be made and maintained between the tramways of the Company and the tramways of the Corporation or such other company or person as aforesaid ; and the Corporation or such other company or person as aforesaid and the Company shall each respectively, if required by the other, grant to each other and their respective assignees and lessees all such reasonable running powers and traffic facilities over and on their respective tramways, and upon such terms and conditions as to compensation and otherwise, as may be agreed on between them, or, in case of difference, shall be settled in manner provided by the thirty-third section of the Tramways Act, 1870.

33 & 34 Vict. c. 78.

For protection of the Dee Bridges Commissioners.

39. The following provisions shall have effect for the protection of the Dee Bridges Commissioners (herein-after referred to as "the Commissioners") :

- (1.) In laying down or constructing tramways on the Grosvenor Bridge and the approaches thereto, the Company shall not alter or in any way interfere with the structure or stability of the bridge, or the piers or abutments thereof, or the arches, embankment, and approaches to such bridge ; and such tramways shall at all times be so worked and maintained as not to interfere with such structural works or the stability of the same :
- (2.) The laying down and construction of the tramways on the said bridge and approaches, and all alterations or repairs thereof, shall be done under the superintendence and to the reasonable satisfaction of the Commissioners engineer, and according to plans, sections, and specifications to be previously submitted to such engineer and approved of in writing by him :
- (3.) The Company shall so lay down and construct the said tramways as not to stop the traffic passing over such bridge :
- (4.) The Company shall bear and, on demand, pay to the Commissioners the expense of the employment by the Commissioners, during the execution of any works affecting the said

bridge and approaches, of a sufficient number of inspectors and watchmen to superintend and watch the works : A.D. 1878.

- (5.) If by reason of the execution of any of the works or any act of the Company, or failure of any works, or omission of the Company or of their contractors, or otherwise, the said bridge or other the works of the Commissioners shall be injured, such injury shall forthwith be made good by the Company, at their own expense, or in the event of their failing so to do, then the Commissioners may make good the same and recover the expense thereof, with full costs, against the Company in any court of competent jurisdiction :
- (6.) If the engineer of the Commissioners and the engineer of the Company differ as to whether any of the proposed works will affect the structure or stability of the said bridge, works and approaches, or as to the plans, sections, and specifications to be submitted to the Commissioners engineer as aforesaid, every such difference shall be referred to and determined by an engineer, to be appointed on the application of either party by the Board of Trade :
- (7.) The Company shall not, without the consent of the Commissioners, take or interfere with the gate houses or toll gates belonging to the Commissioners and situate in Grosvenor Road :
- (8.) If, during the laying down or repair of the tramways on the said bridge and approaches, the Commissioners or their lessee shall sustain thereby any loss in respect of any decrease in the amount of their tolls, the amount of such loss shall be paid by the Company to the Commissioners on demand, and, in default, may be recovered in any court of competent jurisdiction :
- (9.) In lieu of the tolls authorised to be taken by the Commissioners, the Company shall pay to the Commissioners the annual and other sums herein-after mentioned; (that is to say,
 - One hundred pounds during the first year ;
 - One hundred and twenty-five pounds during the second year ;
 - One hundred and fifty pounds during the third year ;
 - One hundred and seventy-five pounds during the fourth year ;
 - Two hundred pounds during the fifth and every succeeding year :

But if the traffic of the Company shall at any time necessitate the use of more than eight cars on the city and Saltney route,

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the Company shall, in addition to the sums aforesaid, pay to the Commissioners for every additional car after the rate of twenty-five pounds per annum for the period during which the same shall be used. The said annual and other payments shall, as far as practicable, be made by equal monthly instalments, the payment of the first of such instalments to be made at the end of one month after the opening for public traffic of any part of the tramways to the southward of the Combermere Statue. The Commissioners and the Company may from time to time enter into agreements for altering the sums payable to the Commissioners, and the time and mode of payment.

Power to purchase lands, &c. by agreement.

40. The Company may from time to time purchase or take on lease, or otherwise acquire, but only by agreement, any lands which they may require for any of the purposes of their undertaking, not exceeding in the whole five acres, and the Company may erect on such lands such suitable buildings as they think necessary for the purposes of their undertaking.

Power to make agreements.

41. The Company on the one hand, and the mayor, aldermen, and burgesses of the city and borough of Chester, and the Dee Bridges Commissioners, or other the owners of the said Grosvenor Bridge, or either of them, on the other hand, may enter into and carry into effect contracts or agreements with respect to the laying down, removing, maintaining, renewing, repairing, working, and using of the proposed tramways, and the rails, plates, sleepers, and works connected therewith, and for facilitating the passage of carriages and traffic over or along the same, and with respect to the repairing and maintaining of all or any of the roads upon which the tramways or any of them may be laid, and the providing for the expense of such repairs, and with respect to any other matters arising out of this Act.

Deposit money not to be repaid until tramways opened or half the capital paid up and expended.

42. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of nine hundred and forty-eight pounds consolidated three per cent. annuities, being equal to five per centum upon the amount of the estimate in respect of the tramway, has been transferred into the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act (which sum is referred to in this Act as the deposit fund): Be it enacted, that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them,

(which persons, survivors or survivor, are or is in this Act referred to as the depositors,) unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways, open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the tramways for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade, specifying the length of the portion of the tramways opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramways so opened bears to the entire length of the tramways hereby authorised, the Court shall, on the application of the depositors, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding: Provided, nevertheless, that no part of the said deposit fund shall be so paid or transferred whilst any claim or demand which the Corporation may have against the Company at the time when the deposit fund or any part thereof becomes repayable shall remain unsatisfied.

43. If the Company do not, previously to the expiration of the period limited for the completion of the tramways, complete the same, and open it for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and after due notice in the "London Gazette" shall be applied, towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the tramways or any portion thereof, or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation has been paid, and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramways, and also in or towards paying the Corporation all claims and demands of the Corporation against the Company, including proper compensation for all loss, injury, damages, and expenses sustained or incurred by the Corporation

Application
of deposit.

A.D. 1878. — — by reason or in consequence of the application for or passing or putting into exercise by the Company of the powers of this Act, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit; and if no such compensation is payable, or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof: Provided that, until the deposit fund has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

Period for completion of works.

44. The Company shall and they are hereby required, within two years from the passing of this Act, to complete and open for public traffic the whole of the tramways authorised by this Act for the whole length thereof respectively, and if they shall fail or make default in so doing, then 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; and if such failure or default be proved to the satisfaction of the Board of Trade, a like order may be made by the Board of Trade as is provided by the Tramways Act, 1870, in the case of "discontinuance of tramways," and thereupon the provisions of that Act shall apply and take effect as though such order were an order duly made under and in pursuance of section 41 of the said Act, declaring the powers of the Company in respect of the whole of the said tramways to be at an end.

33 & 34 Vict. c. 78.

Tolls for passengers.

45. The Company may demand and take for any passenger travelling upon the tramways, or any part thereof, including tolls for the use of the tramway and of carriages, and for motive power,

A.D. 1878.

and for every other expense incidental to such conveyance, any tolls or charges not exceeding one penny per mile; and in computing the said tolls and charges the fraction of a mile shall be deemed a mile, but in no case shall the Company be bound to charge a less sum than threepence: Provided always, that if at any time after three years from the opening for public traffic of the tramways by this Act authorised, it shall be represented in writing to the Board of Trade by any road authority or by twenty inhabitant ratepayers of any parish or extra-parochial place in which any of the tramways are laid that the Company are charging a greater sum than twopence for distances not exceeding two miles, and that under the circumstances their exacting such charge is unreasonable, the Board of Trade may (if they think fit) direct an inquiry by a referee 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 any such order revoke or modify the same for good cause shown to them.

46. 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.

47. The Company shall not carry upon the tramways any goods, animals, or other things, other than passengers and passengers luggage not exceeding the weight in this Act in that behalf mentioned, and small parcels.

Company not to carry goods.

48. The Company, at all times after the opening for public traffic of the city and station route, and the city and Saltney route respectively, shall and they are hereby required to run carriages on such respective route, and from one extremity thereof to the other, at least twenty-four times each way every day on the city and station route, and at least twelve times each way every day on the city and Saltney route (Sundays, Christmas Day, and Good Friday excepted), at convenient hours; and any default or failure in this respect (unless arising from circumstances beyond the control of the Company), if continued after twenty-four hours notice from the Corporation that the same has occurred, shall be and be deemed a discontinuance to work the tramways within the meaning of the forty-first section of the Tramways Act, 1870.

Regulating number of carriages to be run daily.

33 & 34 Vict. c. 78.

A.D. 1878.

Cheap fares
for labouring
classes.

49. The Company, at all times after the opening of the city and station route, and the city and Saltney route, respectively, for public traffic, shall and they are hereby required to run on such respective route at least one carriage 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 artizans, 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: Provided that if for any continuous period of six months it shall be found that less than twenty passengers shall have been conveyed by each of such carriages, the Company, on proof thereof to the satisfaction of the Board of Trade, may discontinue the running of such carriages, but the Board of Trade may at any time order the resumption thereof by the Company if it shall seem desirable to the Board of Trade so to do.

As to bye-
laws of Cor-
poration.
33 & 34 Vict.
c. 78.

50. The power of the Corporation as the local authority under the Tramways Act, 1870, with respect to the making regulations and byelaws as to the matters and for the purposes therein mentioned, and to repeal or alter such byelaws and make new byelaws, shall extend and apply to the following matters and purposes; namely,

- (A.) The prohibiting the stopping of the Company's carriages to take up or set down passengers, or for any other purpose, and the entering or leaving of any carriage, between the following places; viz., between points respectively distant two furlongs and nine chains and three furlongs and four chains from the commencement of tramway No. 1 as shown on the deposited plans, and also between points respectively distant four furlongs and four furlongs and four chains from the commencement of the said tramway No. 1 as shown as aforesaid, and in any other places which the Corporation, having regard to the safety or convenience of the public, or the proper protection of any of the ratepayers, may from time to time deem necessary;
- (B.) The empowering the Corporation to cause to be removed from the tramways any carriage or horse which shall be certified by an officer to be appointed by the Corporation to be unfit for use on the tramways:

(c.) The prescribing from time to time the break power to be applied to the Company's carriages, and whether carriages shall be used singly, and not in connexion with or attached to any other carriage or otherwise; and,

A.D. 1878.

(d.) Generally for better enforcing and providing a summary remedy for the breach of any of the provisions of the Tramways Act, 1870, or this Act.

33 & 34 Vict.
c. 78.

51. The Company may, subject to the provisions of section forty-six of the Tramways Act, 1870, from time to time make byelaws as to the persons, times, and places to whom, and at and in which the tolls and charges by this Act authorised shall be paid.

Byelaws as
to tolls.
33 & 34 Vict.
c. 78.

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

As to notices.

(1.) Every notice shall be in writing or print, or partly in writing and partly in print, and, if given by the Corporation, shall be sufficiently authenticated by being signed by their town clerk, surveyor, or other authorised officer, and, if given by any road authority, by being signed by their clerk or secretary.

(2.) The Company shall, within three months after the passing of this Act, provide and at all times thereafter maintain an office within the boundaries for municipal purposes of the city of Chester, which office shall for all purposes be deemed the principal office of the Company.

(3.) Any notice by or to the Company to or by the Corporation or any road authority or other body or any company may be served by being left at the principal office of the Corporation or other 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 Corporation, 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.

53. Where under the provisions of the Tramways Act, 1870, or this Act, any matter in difference is referred to the arbitration of any person nominated by the Board of Trade, the provisions of the Common Law Procedure Act, 1854, and any statutory modification thereof for the time being subsisting, shall apply to every such arbitration, and the decision of the arbitrator shall be final and conclusive, and binding on all parties.

As to arbi-
trations.
33 & 34 Vict.
c. 78.
17 & 18 Vict.
c. 125.

54. Except as is by this Act otherwise expressly provided, nothing in this Act contained shall extend or be construed to extend

Saving rights
of Corpora-
tion.

A.D. 1878. to take away, abridge, lessen, prejudice, or in anywise affect or alter any of the estates, rights, interests, jurisdictions, powers, authorities, immunities, advantages, or privileges of or belonging or appertaining to the Corporation, whether as the municipal, road, sewer, or sanitary authority, or otherwise howsoever, but the Corporation shall and may have, use, exercise, and enjoy the same as fully, freely, and effectually in all respects as they could or might have done if this Act had not been passed; and all the powers, rights, and control of the Corporation under and in relation to and for all the purposes of this Act shall be co-extensive with the limits for municipal purposes of the borough of Chester, notwithstanding that any particular road in which any tramway is or may be laid is or may be maintained by any other authority, but this provision shall not take away, lessen, prejudice, affect, or alter in anywise the powers, rights, or control of any such other authority.

Interest not to be paid out of capital on calls paid up.

55. The Company shall not, out of any money by this Act authorised to be raised, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him, but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

8 & 9 Vict. c. 16.

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

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

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

57. Nothing in this Act contained shall exempt the Company or the tramway from the provisions of any general Act relating to tramways, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of tolls or charges authorised by this Act.

Expenses of Act.

58. 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.