



CHAPTER ccxxv.

An Act to authorise the construction of Tramways for connecting the Towns of Blackburn and Over Darwen; and for other purposes. A.D. 1879.
[15th August 1879.]

WHEREAS the laying down of tramways in and between the towns of Blackburn and Over Darwen would be of local and public advantage:

And whereas the persons herein-after named, with others, are willing, at their own expense, to construct and maintain such tramways, and it is expedient that they be incorporated into a Company for that purpose:

And whereas plans and sections, showing the lines and levels of the tramways and works authorised by this Act, and also books of reference to such plans, were duly deposited with the clerk of the peace for the county of Lancaster, and those plans, sections, and books of reference are herein-after respectively referred to as the deposited plans, sections, and books of reference:

And whereas the purposes 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:

1. This Act may be cited as the Blackburn and Over Darwen Tramways Act, 1879. Short title.

2. The Companies Clauses Consolidation Act, 1845, Part I. (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 of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking), and section 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.

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33 & 34 Vict.
c. 78.

Interpreta-
tion of terms.

three (interpretation of terms), section nineteen (local authority may lease and take tolls), and Parts II. and III. 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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction. The expression "the Company" means the Company incorporated by this Act; the expressions "the tramway," "the tramways," and "the undertaking" mean respectively the tramways and the undertaking by this Act authorised; 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 provisions of this Act and the Tramways Act, 1870, section forty-three, at a sum less than the aggregate amount of the capital and debts of the Company; the expression "the Corporation of Blackburn" means the mayor, aldermen, and burgesses of the borough of Blackburn, in the county palatine of Lancaster; the expression "the Corporation of Over Darwen" means the mayor, aldermen, and burgesses of the borough of Over Darwen, in the said county palatine; the expression "the justices" means the justices of the peace for the said county palatine; the expressions "the bridgemaster" or "the bridge surveyor" mean respectively the bridgemaster or the surveyor of county and hundred bridges for the said county palatine, acting within the hundred of Blackburn, in the said county palatine; 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 in-
corporated.

4. Joseph Robertson, Edward Faulckner Tremayne, Valentine Holt, Thomas Adair Masey, and all other persons, corporations, and companies who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and are hereby 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 and are hereby incorporated by the name of "The Blackburn and Over Darwen 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. A.D. 1879.

5. Subject to the provisions of this Act, 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.

Tramway No. 1, a single line, five furlongs five chains in length, commencing in Darwen Street, at the junction of that street with Jubilee Street, and passing along Darwen Street, Great Bolton Street, Nova Scotia, and the Bolton and Blackburn Road, and terminating in that road at a point one chain or thereabouts south of its junction with Infirmary Street:

Tramways Nos. 1a, 1b, 1c, and 1d, being respectively short passing-places connected with and subsidiary to Tramway No. 1:

Tramway No. 2, a single line, one mile seven furlongs seven and a quarter chains in length, wholly situate in the Bolton and Blackburn Road, commencing by a junction with Tramway No. 1 at its termination, and terminating four chains or thereabouts north of the Anchor Inn, in the township of Lower Darwen:

Tramways Nos. 2a, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, and 2j, being respectively short passing-places connected with and subsidiary to Tramway No. 2:

Tramway No. 3, a single line, one mile seven furlongs four and a half chains in length, commencing in the Bolton and Blackburn Road by a junction with Tramway No. 2 at its termination, and thence passing along that road, Duckworth Street, Market Street, Belgrave Square, Bolton Street, and Bolton Road, and terminating in that road at a point opposite the north end of the Bowling Green Cotton Mill, in the township of Over Darwen:

Tramways Nos. 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, and 3l, being respectively short passing-places connected with and subsidiary to Tramway No. 3:

Tramway No. 4, a single line, two furlongs seven and a half chains in length, commencing in the Bolton and Blackburn Road by a junction with Tramway No. 3 at its termination,

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and thence passing along and terminating in that road at a point opposite the Colliers Arms, in the township of Over Darwen :

Provided that nothing in this Act contained shall authorise the Company to construct and maintain the two turn-outs, or either of them, shown on the deposited plans in connexion with Tramway No. 1 by this Act authorised, at the junction of Darwen Street and Jubilee Street.

Deposit
money not
to be repaid
except in so
far as tram-
way opened.

6. 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 one thousand and fifty pounds New Three per Centum Annuities, being equal to five per cent. upon the amount of the estimate in respect of the tramway, has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act, which sum is referred to in this Act as the deposit fund : Be it enacted, that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to or on the 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 tramway, open the same for the public conveyance of passengers : Provided that if within such period as aforesaid the Company open any portion of the tramway 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 tramway 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 tramway so opened bears to the entire length of the tramway hereby authorised, the Court shall, on the application of the depositors, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct, and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

Application
of deposit.

7. If the Company do not previously to the expiration of the period limited for the completion of the tramway 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

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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 tramway, or any portion thereof, and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit; and if no such compensation is payable, or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Chancery Division thinks fit to order, on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof; provided that until the deposit fund has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

8. The tramway shall not, nor shall any part thereof, be opened for public traffic until it has been inspected and certified to be fit for such traffic by the Board of Trade.

Inspection
by Board
of Trade.

9. Subject as in this Act provided, the Company may and shall from time to time, if and whenever after the passing of this Act any road authority alters the level of any road along or across which any part of the tramway is laid, 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, and shall not be

Tramways to
be kept on
level of sur-
face of road.

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Further provisions as to construction of tramways.

10. In addition to the requirements of section twenty-six of the Tramways Act, 1870, the Company shall at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing, laying down, maintaining, and renewing any of the tramways, lay before the Board of Trade a plan showing the proposed mode of constructing, laying down, maintaining, and renewing such tramways, and a statement of the materials intended to be used therein; and the Company shall not commence the construction, laying down, maintenance, and renewal of any of the tramways, or part of any of the tramways respectively, until such plan and statement have been approved by the Board of Trade, and after such approval the works shall be executed in accordance in all respects with such plan and statement, and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority, as provided by section twenty-six of the said Act: Provided always, that the word "materials" in this enactment does not include materials used for paving any part of any street under the provisions of the Tramways Act, 1870, or this Act.

As to rails of tramways.

11. The rails of the tramways shall be such as the Board of Trade may approve.

Penalty for not maintaining rails and roads in good condition.

12. The Company shall at all times 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 which any of the tramways for the time being consist, and the substructure upon which the same rest, and section twenty-eight of the Tramways Act, 1870, shall extend and apply to such rails and substructure as if the same had been expressly referred to therein; and if the Company at any time make default in complying with this provision, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, as so extended, they shall, on information laid or complaint made, but without prejudice to the rights of the road authority under this Act or the Tramways Act, 1870, or to any other remedy of the road authority, be subject to a penalty not exceeding twenty-five pounds for every day on which such non-compliance continues, and such penalty shall be a penalty within the meaning of section fifty-six of the said Act, and shall be recoverable by and paid to the road authority; and for the purposes of this Act section twenty-eight of the Tramways Act, 1870, shall be read and have effect as

if the words "twenty-four hours" had been inserted therein instead of "seven days." A.D. 1879.

13. In any case in which it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate, or by twenty inhabitant ratepayers of such district, that the Company have made default in complying with the provisions in the preceding section contained, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, the Board of Trade may, if they think fit, direct an inquiry by an officer to be appointed by the said Board, such inquiry to be conducted in the manner provided by section sixty-three of the Tramways Act, 1870; and if the Board of Trade shall certify, under the hand of a secretary or assistant secretary of the Board, that the default mentioned in such representation has been proved to the satisfaction of the Board, the Company shall make good such default in the manner and within the time specified in such certificate, and if they shall fail to do so shall be subject to such penalty or penalties in respect of such failure as is or are by the preceding section imposed.

Appeal to
Board of
Trade.

14. Every sewer authority shall at all times have free access to and communication with all their sewers and drains, and power to lay lateral and private drains to communicate therewith, without the consent or concurrence of the Company; and the provisions contained in the thirty-second and thirty-third sections of the Tramways Act, 1870, shall be applicable in the case of any sewer or private drain of or under the control of the sewer authority, as if the same were a pipe for the supply of gas or water.

Sewer authority to have access to sewers.

15. The Board of Trade may from time to time, upon the application of the local authority or road authority, require the Company to adopt and apply such improvements in the tramways, including the rails thereof, and in their plant, carriages, and rolling stock, as experience may from time to time suggest, having regard to the greater security of the public 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 any such improvements.

Improvements in tramways.

16. The Company may, subject to the provisions of this Act, with the consent of the local authority and road authority, from time to time make, maintain, alter, and remove such crossings, 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 tram-

Power to make additional crossings, &c.

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ways, or for providing access to any warehouses, stables, or carriage-houses or works of the Company: Provided always, that such works shall be and be deemed to be tramways duly authorised within the meaning of section twenty-eight of the Tramways Act, 1870, as extended by this Act: Provided also, 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 his or their hand addressed to the Company, express his or their objection thereto.

Extending
certain pro-
visions of
33 & 34 Vict.
c. 78.

17. The provisions contained in sub-sections two and three of section twenty-six of the Tramways Act, 1870, shall extend and apply to the works referred to in and authorised by sections twenty-seven and twenty-eight of the said Act, as extended by this Act, and to all other works of every description affecting any street, road, sewer, or other property of or under the jurisdiction of the local authority or the road authority.

Application of
road ma-
terials exca-
vated in con-
struction of
works.

18. Any paving, metalling, or material excavated by the Company in the construction of the undertaking from any road under the jurisdiction or control of the justices or of any road authority, or which they are respectively by law bound to maintain and repair, may, if in the opinion of such justices or such road authority or their surveyor the same is fit and proper for the purpose, 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 the said justices or such road authority respectively of so much of the roadway on either side of such tramways as the Company are by this Act and 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 bridgemaster, or to the bridge surveyor, or to the surveyor for the time being of the road authority, or to such person or persons as such bridgemaster, bridge surveyor, or surveyor respectively may appoint to receive the same; provided that if within twenty-one 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 the bridgemaster, bridge surveyor, or other surveyor, as the case may be, or by some other person or persons named by such bridgemaster, bridge surveyor, or other surveyor

respectively 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.

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19. For the protection of the Corporation of Blackburn and of the Corporation of Over Darwen (which corporations in this section are referred to as the corporations), the following provisions shall have effect; (that is to say,)

For the protection of the Corporations of Blackburn and Over Darwen.

1. The word "apparatus" in this section includes gas and water mains, pipes, syphons, plugs, valves, fire cocks, hydrants, and all apparatus now or hereafter to be used for the supply of gas or water; and the word "sewers" includes all present and future public and private sewers and drains, manholes, ventilating shafts, and other works connected therewith.
2. The provisions of section thirty (provision as to gas and water companies), section thirty-two (rights of authorities and companies, &c. to open roads), and section thirty-three (difference between promoters and road authority, &c.) of the Tramways Act, 1870, shall, subject to the other provisions of this section, extend and apply to the apparatus and sewers of the corporations, and to the corporations in respect thereof; and in construing those sections for the purposes of this section, the word "Company" shall include the corporations.
3. All works which may in any way interfere with such apparatus or sewers may, if the respective corporation so think fit, be executed by the respective corporation, but at the cost in all things of the Company.
4. If by reason of the construction or maintenance of the tramways any new, substituted, or additional apparatus or sewers be requisite, the cost of constructing, providing, and laying of such apparatus and sewers shall be paid by the Company, subject to credit being given to the Company for the value of any apparatus and sewers rendered useless by the construction or maintenance of the tramways; provided that if such substituted apparatus or sewers be of larger dimensions or better quality than those for which the same are substituted, the additional cost arising therefrom shall, unless such larger dimensions or better quality be required by reason of the tramways, be borne by the respective corporations.
5. The corporations respectively may, on giving twenty-four hours previous notice to the Company, stop, delay, or

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suspend the working of the tramways in any of the streets or roads within their respective districts, as well for police purposes and for regulating and facilitating traffic on any public occasion as for the execution of any works of the respective corporations, or any individual, or for any other purpose which the respective corporations in the exercise of their respective powers for the good government of their respective districts, or the safety of the public, deem necessary; provided that such stoppage, delay, or suspension shall continue only as long as may be reasonably necessary for the purposes aforesaid, or any of them.

6. The Company in the exercise of their powers shall do as little damage as may be, and shall make compensation to the respective corporation for any damage sustained by them by reason or in consequence of the exercise of such powers.
7. The corporations shall not, either during the progress of the works or at any time thereafter, be liable for any loss which may accrue to the Company by reason of any suspension of or interference with the traffic on the tramways, nor for any accident, damage, or injury to the tramways, works, or property of the Company, or to any person or thing travelling on, or conveyed, or using the tramways, or any street or road in which they may be laid.
8. Nothing in this Act shall be held or construed in any manner to diminish, alter, prejudice, or take away any of the rights, powers, or authorities of the corporations.

Company to submit plans, &c. to bridg-master.

20. Before laying their tramways over any bridge repairable by the inhabitants of the hundred of Blackburn or county of Lancaster respectively, the Company shall submit plans and specifications of the works necessary for the same to the bridg-master or the bridge surveyor for his approval; and in the event of his not approving the same for one calendar month after the plans and specifications have been delivered to him, then the said tramways shall be laid down over such bridge according to plans and specifications to be approved by an engineer to be appointed by the Board of Trade on the application of either party; and the laying down of the said tramways upon and over any such bridge shall be commenced, carried on, and completed under the superintendence and to the reasonable satisfaction of the said bridg-master or bridge surveyor.

If damage done to bridges,

21. If any damage shall be occasioned to any bridge repairable by the inhabitants of the hundred of Blackburn or of the county of

Lancaster respectively, or any of the walls, buttresses, retaining walls, or supports thereof, by any locomotive of the Company, or any waggon, car, carriage, or other vehicle of the Company drawn or propelled by or together with a locomotive upon the tramways of the Company, the Company shall at their own expense repair or make good any such damage to the reasonable satisfaction of the bridgeman or bridge surveyor.

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Company to pay for same.

22. The capital of the Company shall be fifty thousand pounds, in five thousand shares of ten pounds each.

Capital.

23. The Company shall furnish the Corporations of Blackburn and Over Darwen respectively with a copy of every balance sheet made up and issued by them, within one month after the same shall have been made up and issued, and in default thereof shall forfeit and pay to the respective corporations a penalty of ten pounds for each day after the expiration of the said period of one month until the same shall be duly furnished, such penalty to be recovered by the said respective corporations, or either of them, in the manner prescribed by the fifty-sixth section of the Tramways Act, 1870; and the Company, on the request of either of the said corporations, shall at all times and from time to time produce to such person as the corporation making such request shall require, all books, accounts, and vouchers with reference to the Company's tramways and undertaking, and permit such person to take copies of and extracts from the same books, accounts, and vouchers, as he may think fit.

Company to furnish Corporations of Blackburn and Over Darwen with copy of balance sheet, &c.

24. 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.

25. 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 three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Calls.

26. 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.

Receipt in case of persons not sui juris.

27. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twelve thousand five hundred pounds, but no part thereof shall be borrowed until the whole

Power to borrow on mortgage.

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capital of fifty thousand pounds 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 receiver.

28. 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 twelve hundred pounds in the whole.

Company not to create debenture stock.

29. The Company shall not create debenture stock.

Mortgage to comprise purchase money paid on compulsory sale.

30. 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, or under this Act, and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Indorsement of notice of power of future purchase by local authority.

31. Every mortgage deed granted by the Company under this Act shall be indorsed 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, or under this Act.

Priority of mortgages over other debts.

32. All money raised or to be raised by the Company on mortgage under the provisions of this Act shall have priority against the Company, and the property from time to time of the Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always, that this priority shall not affect any claim against

the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company, in pursuance of any Act relating to the Company, which is entitled to rank in priority to or *pari passu* with the interest on their mortgages. A.D. 1879.

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

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

35. The number of directors shall be four, but the Company may from time to time reduce the number, provided that the number be not less than three. Number of directors.

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

37. The quorum of a meeting of directors shall be three whilst their number is four, and two when their number is three. Quorum of directors.

38. Joseph Robertson, Edward Faulckner Tremayne, Valentine Holt, and Thomas Adair Masey 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. First directors.

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 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. Election of directors.

39. 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 three acres. Purchase of land by agreement.

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Carriages
may be
moved by
animal,
steam, or
mechanical
power.

40. The carriages used on the tramways may, subject to the provisions of this Act, be moved by animal power, and during a period of seven years after the opening of the same for public traffic, and with the consent of the Board of Trade during such further periods, not exceeding seven years, as the said Board may from time to time specify in any order to be signed by a secretary or an assistant secretary to the said Board, by steam power, or any mechanical power: Provided always, that the exercise of the powers hereby conferred with respect to the use of steam or any mechanical power shall be subject to the regulations set forth in the Schedule (A.) to this Act annexed, and to any regulations which may be added thereto or substituted therefor respectively by any order which the Board of Trade may and which they are hereby empowered to make from time to time, as and when they may think fit, for securing to the public all reasonable protection against danger in the exercise of the powers by this Act conferred with respect to the use of steam or any mechanical power on the tramways.

Penalty for
using steam
or mechanical
power con-
trary to order
or regula-
tions.

41. The Company or any person using steam or any mechanical power on any of the tramways contrary to the provisions of this Act, or to any of the regulations set forth in the Schedule (A.) to this Act annexed, or to any regulation added thereto or substituted therefor by any order made by the Board of Trade under the authority of this Act, shall for every such offence be subject to a penalty not exceeding ten pounds, and also in the case of a continuing offence a further penalty not exceeding five pounds for every day after the first during which such offence continues: Provided always, that whether any such penalty has been recovered or not, the Board of Trade, in case in their opinion the Company or any person using steam or any mechanical power on the tramways under the authority of this Act have or has made default in complying with the provisions of this Act, or with any of the regulations set forth in the Schedule (A.) to this Act annexed, or with any regulation which may have been added thereto or substituted therefor as aforesaid, may by order direct the Company or such person to cease to exercise the powers aforesaid, and thereupon the Company or such person shall cease to exercise the powers aforesaid, and shall not again exercise the same, or any of the same, unless with the authority of the Board of Trade, and in every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

Byelaws.

42. Subject to the provisions of this Act, the Board of Trade may from time to time make, and when made may rescind, annul,

or add to, byelaws with regard to any of the tramways upon which steam or any mechanical power may be used, under the authority of this Act, for all or any of the following purposes; (that is to say,) A.D. 1879.

For regulating the use of the bell, whistle, or other warning apparatus fixed to the engine :

For regulating the emission of smoke or steam from engines used on the tramways :

For providing that engines and carriages shall be brought to a stand at the intersection of cross streets, and at such places, and in such cases of horses being frightened, or of impending danger, as the Board of Trade may deem proper for securing safety :

For regulating the entrance to, exit from, and accommodation in the carriages used on the tramways, and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages :

For providing for the due publicity of all regulations and byelaws in force for the time being in relation to the tramways, by exhibition of the same in conspicuous places on the carriages and elsewhere.

43. Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings. Penalty for breach of byelaws.

The provisions of the Tramways Act, 1870, with respect to the recovery of penalties, shall apply to any penalty under this Act, and to any penalty for non-observance of any byelaw made by the Board of Trade under the authority of this Act.

44. The provisions of the Tramways Act, 1870, relating to the making of byelaws by the local authority with respect to the rate of speed to be observed in travelling on the tramway, shall not authorise the local authority to make any byelaw sanctioning a higher rate of speed than that authorised by this Act, or by any regulation made by the Board of Trade under the authority of this Act, at which engines are to be driven or propelled on the tramways under the authority of this Act; but the local authority may, if they think fit, make byelaws under the provisions of the said Act for restricting the rate of speed to a lower rate than that so prescribed. Amendment of 33 & 34 Vict. c. 78. as to byelaws by local authority.

45. All orders and byelaws made by the Board of Trade under the authority of this Act shall be signed by a secretary or an assistant secretary of the Board of Trade, and when so signed the Orders, byelaws.

A.D. 1879.

same shall be deemed to have been duly made in accordance with the provisions of this Act.

Restricting
use of steam
power on
tramways.

46. No steam power shall be used upon any tramway laid down under this Act upon any part of a road the width whereof between the footways, or if there be no footway, then between the boundaries or fences on either side thereof, is less than thirty-four feet if a double line of tramway, or less than twenty-five feet if a single line only be laid thereon.

As to repair
of roads if
steam power
is used.

47. The Company shall maintain and keep in good and sufficient repair the entire width of any road (exclusive of the footpath or foot-pavement) along or across which any of their tramways shall be laid to the reasonable satisfaction of the road authority, and in such manner and with such materials as such authority may direct; and if the Company at any time fail or neglect so to do, the road authority may cause the necessary repairs to be done, and may in such case recover the reasonable cost of such repairs from the Company in any court of competent jurisdiction. The expressions "road" and "road authority" shall have the same meanings as are defined by the Tramways Act, 1870. Provided that the provisions of this section shall only apply when steam power is used on the tramways. Provided also, that, notwithstanding anything in this section contained, the Company may from time to time enter into and make such contracts or agreements with the road authority of either borough respectively for the repair and maintenance of such road, as may be approved by the Board of Trade.

Where steam
or mechanical
power is
used, con-
tract with
road autho-
rity not to
be for longer
than two
years at a
time.

48. Where steam or any mechanical power is used by the Company or any person on the tramways or any part thereof, no contract, agreement, or arrangement made before or after the commencement of the use of steam or mechanical power as aforesaid, with respect to the user by the Company or such person or the paving and keeping in repair of the whole or any part of the roadway of any road within the district of any road authority upon which such tramways or such part of such tramways are or is laid, or with respect to the payment by the Company or such person to such road authority of any annual or other sum in relation to such user, paving, and keeping in repair of such road, shall continue in force for any period exceeding two years at any one time after the commencement of the use of steam or mechanical power as aforesaid, or the making of such contract, agreement, or arrangement: Provided always, that any such contract, agreement, or arrangement may be renewed from time to time, with or without modification, or a new contract, agreement, or arrangement may be made instead thereof.

49. Where the Company or any person intend to use steam or any mechanical power under the authority of this Act on the tramways or any part thereof, they or he shall give two months previous notice of such intention to every road authority within whose district the tramways or any part thereof upon which they or he intend to use such power are or is situated.

A.D. 1879

As to contracts with road authorities where steam or mechanical power is to be used.

Where at the time of the giving of any such notice any contract, agreement, or arrangement is in force with respect to the user by the Company or such person or the paving and keeping in repair of the whole or any part of the roadway of any road within the district of such road authority upon which such tramways or such part of such tramways are or is laid, or with respect to the payment by the Company or such person to such road authority of any annual or other sum in relation to such user, paving, and keeping in repair of such road, then and in every such case, with the consent of the Board of Trade, it shall be lawful for the Company or such person, by such notice, or for such road authority, by notice to be served upon the Company or such person, not later than forty days after the receipt by such road authority of such first-mentioned notice, to determine such contract, agreement, or arrangement, and thereupon such contract, agreement, or arrangement shall, from and after the commencement of the use of steam or any mechanical power upon such tramways or such part thereof, be determined and of no effect.

50. Nothing in this Act, or in any contract, agreement, or arrangement to be made under this Act, shall operate to lessen the liability of the Company under section twenty-eight of the Tramways Act, 1870, with respect to the repair of any road whereon any tramway belonging to them is laid.

Company not to be relieved from certain liability.

51. The Company, or any person using the tramways under the authority of this Act, on the one hand, and any other company or person on the other hand, may, with the consent of the Board of Trade, from time to time, but subject to the provisions of this Act, enter into agreements with respect to the receiving from or forwarding to any such other company or person any passengers or parcels, and the fixing, collecting, and apportionment of tolls, charges, rents, or other receipts arising in respect of such traffic.

Power to enter into agreements with respect to traffic, &c.

52. In case any person deem himself aggrieved by any contract, agreement, or arrangement, or any renewal thereof, made under the authority of the last preceding section, by reason of the same affording undue preference or inequality of treatment, as to tolls or charges or facilities to any person, to the prejudice of such first-mentioned person, then and in every such case such first-mentioned

Appeal against agreements, &c.

A.D. 1879.

person may appeal against the same, or any part thereof, to the Board of Trade, and after the expiration of one month after notice of such appeal has been served by such first-mentioned person upon the parties to such contract, agreement, or arrangement, in such manner as the Board of Trade may from time to time order and direct, the Board of Trade may hear and determine the subject-matter of such appeal, and, where necessary, any such contract, agreement, or arrangement may be determined by the Board of Trade, whose decision in respect of any such contract, agreement, or arrangement, or the determination thereof, shall be final and conclusive, and binding on all parties. The expenses of such appeal shall be borne and paid as the Board of Trade may order. Provided always, that an appeal under this section may be made to the Board of Trade by a municipal or other public corporation, local authority, or road authority against any such contract, agreement, or arrangement, or any renewal thereof, without proof that the appellants are aggrieved by any such contract, agreement, arrangement, or renewal.

Period for
completion of
tramway.

53. The tramway shall be completed within two 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.

Tolls for
passengers.

54. The Company may demand and take for every passenger travelling upon the tramway or any part or parts thereof, 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 in computing the said tolls and charges the fraction of a mile shall be deemed to be a mile, but in no case shall the Company be bound to charge a less sum than threepence for each inside and twopence for each outside passenger.

Revision of
tolls.

55. If at any time after three years from the opening for public traffic of the tramways or any portion of the tramways, or after three years from the date of an order made in pursuance of this section in respect of the tramways or any portion of the tramways, it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate, or by twenty inhabitant ratepayers of any such district, or by the Company, that under the circumstances then existing all or any of the tolls and charges demanded and taken in respect of the traffic on the tramways, or on such portions of the tramways, should be revised, the

Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act, 1870, and if such referee report that it has been proved to his satisfaction that all or any of such tolls and charges should be revised, the said Board may make an order in writing altering, modifying, reducing, or increasing all or any of the tolls and charges to be demanded and taken in respect of the traffic on the tramways or on such portion of the tramways in such manner as they think fit, and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section: Provided always, that the tolls and charges prescribed by any such orders shall not exceed in amount the tolls and charges by this Act authorised.

A.D. 1879.

56. Every passenger travelling upon the tramway may take with him his personal luggage, not exceeding twenty-eight pounds in weight, without any charge being made for the carriage thereof; all such personal luggage to be carried by hand and at the responsibility of the passenger, and not to occupy any part of the seat, nor to be of a form or description to annoy or inconvenience other passengers.

Passengers
luggage.

57. The Company shall not carry on 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: Provided that the Company may demand and take—

Company not
to carry
goods,
animals, &c.

For any parcel not exceeding seven pounds in weight, three-pence;

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight, fivepence;

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight, sevenpence;

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight, ninepence;

For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight, such sum as the Company may think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

58. The Company at all times after the opening of the tramway for public traffic shall and they are hereby required to run at

Cheap fares
for labouring
classes.

A.D. 1879. least 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 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 in 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 be deemed desirable by the Board of Trade so to do.

Enabling
Corporations
of Blackburn
and Over
Darwen to
grant licenses
to any com-
pany, persons,
or person to
run carriages
over the
Company's
lines.

59. If after the tramways or any tramway by this Act authorised shall have been completed and opened for traffic, the Corporation of Blackburn within the limits for the time being of the borough of Blackburn, and the Corporation of Over Darwen within the limits for the time being of the borough of Over Darwen, or any company, persons, or person, with the consent of the respective corporations, each within their respective limits, and acting under the powers of an Act of Parliament, shall construct and open for traffic any tramway within either of the said boroughs respectively, having a physical junction with any tramways or tramway of the Company, it shall be lawful for the corporation having jurisdiction within the limits within which the said junction is effected, subject to the provisions herein and in the Tramways Act, 1870, contained, and to all byelaws and regulations of the Company for the time being in force, to grant licenses to any company, persons, or person, being the lessees or lessee, licensees or licensee, owners or owner of such tramway so to be constructed and opened as aforesaid, to run carriages with flanged wheels over and upon the rails of the tramways by this Act authorised within the borough of the corporation granting the license, upon payment to the Company of a mileage toll per carriage to be fixed, subject to the provisions of this Act, by such last-mentioned corporation, who shall have power, subject as aforesaid, to alter, amend, and vary the same tolls from time to time: Provided always, that if and whenever both or either of the said corporations shall grant any

license which by this section they are authorised and empowered to grant, the Company shall be entitled, if they think fit, to run their carriages over the tramway or tramways within the borough in respect of which such license shall have been granted, upon payment to the corporation, or the company, persons, or person licensed, as the case may be, of a mileage toll per carriage, to be fixed in like manner by the corporation granting such license, with like power to alter, amend, and vary the same tolls from time to time: Provided further, that the Company shall be entitled to run their carriages upon every such last-mentioned tramway for the same number of car miles per day as shall be run over the tramways of the Company by the carriages of the holder of every such license as aforesaid: Provided further, that the powers conferred by every such license shall be so exercised as not to interfere with, or impede, or in any way prejudice or obstruct the Company in the full use and enjoyment of their tramways by this Act authorised, or the traffic of the Company thereon.

A.D. 1879.

60. If the Company shall at any time hereafter be dissatisfied with any of the tolls so fixed by both or either of the said corporations under the last preceding section hereof, and shall, within three calendar months after the fixing of such tolls, signify such dissatisfaction to the corporation causing the same, then the tolls so objected to shall be submitted to, settled, and fixed by the Board of Trade.

Settlement of disputes as to mileage tolls for carriages.

61. Notwithstanding anything to the contrary in sections forty-three and forty-four of the Tramways Act, 1870, both or either of the said corporations may, within six months after the expiration of a period of ten years from opening for public traffic of the tramways by this Act authorised within their respective boroughs, and within six months after the expiration of every subsequent period of seven years, give notice to the Company, under the hand of their town clerk, requiring the Company to sell to them so much of their undertaking by this Act authorised as lies within the borough of the corporation giving the notice, and thereupon the Company shall sell to such corporation so much of their undertaking as aforesaid: Provided that if both or either of the said corporations shall so purchase so much of the said undertaking as aforesaid at the expiration of such first-mentioned period of ten years, or at the expiration of the first of the said subsequent periods of seven years, they shall give to the Company the option of taking a lease thereof for such term of years at the least as shall, with such first-mentioned period of ten years, or with such first-mentioned period of ten years and subsequent period of seven years, as the case may be, make up

As to sale to Corporations of Blackburn and Over Darwen.

A.D. 1879. — the aggregate term of twenty-one years from the date of the passing of this Act, at a rental calculated at the rate of five pounds per centum per annum on the amount of the purchase money to be paid by the corporation so purchasing, the Company remaining during the term of such lease liable for all rates, taxes, and assessments whatsoever, whether parliamentary, municipal, or parochial, and for the due maintenance and repair of the tramways and roads; and at the expiration of such lease the Company shall leave the tramways in as good working order and condition and state of repair as they may be in at the commencement of such lease: Provided that if the Company shall fail, for the space of one calendar month from the receipt by them of notice requiring them to exercise such option, to signify to the corporation so giving such notice in writing under their common seal their intention to exercise the same, the corporation which has given such notice may let the said tramways as they may think fit.

Company not to expend further capital after receipt of notice from corporations, to sell.

62. After receipt of a notice under the last preceding section, the Company shall not, except to complete or repair works already existing or in progress, expend further capital upon that part of their undertaking which lies within the district of the borough of the corporation by whom such notice has been given, or which may be comprised in the said notice.

Arbitration.

63. All disputes and differences that may arise between the Company and the justices, or any local or road authority, touching anything in this Act or any section or sub-section thereof contained, shall, subject as herein-before provided, be deemed to be a difference within the meaning of section thirty-three of the Tramways Act, 1870, and shall be settled as therein provided.

Enabling Company to use and acquire patents.

64. The Company may acquire and use any patent or other rights, and any licenses to use patent rights, in relation to any steam or mechanical power as aforesaid, but not so as to have any exclusive interest therein.

Interest not to be paid on calls paid up.

65. 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 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.

Deposits for future Bills not to be

66. 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. A.D. 1879.
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paid out of
capital.

67. Notwithstanding anything contained in this Act, the Company, and any persons using any tramways to which the same applies, shall be subject and liable to the provisions of any general Act which may hereafter be passed during this or any future session of Parliament relating to tramways, or by which any tax or duty may be granted or imposed for or in respect of tramways, or the passengers or traffic conveyed thereon, and to any future revision or alteration, under the authority of Parliament, of the maximum rates of tolls or charges authorised by any Act relating to the Company, and to any condition, regulation, or restriction which may be imposed upon the use of tramways, or upon the use on tramways of animal power, steam power, or any mechanical power by any such general Act as aforesaid. Company not
exempt from
provisions of
present or
future gene-
ral Tramway
Acts.

68. 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. Expenses of
Act.

A.D. 1879.

SCHEDULE referred to in the foregoing Act.

SCHEDULE (A.)

Break power
of engines.

Every engine used on the tramways shall be fitted with such mechanical appliances for preventing the motive power of such engine from operating, and for bringing such engine and any carriage drawn or propelled by such engine to a stand, as the Board of Trade may from time to time think sufficient.

As to fittings
of engines, &c.

Every engine used on the tramways shall have its number shown in some conspicuous part thereof, and shall be fitted—

With an indicator by means of which the speed shall be shown ;

With a suitable fender to push aside obstructions ;

With a special bell, whistle, or other apparatus to be sounded as a warning when necessary ; and

With a seat for the driver of such engine, so placed in front of such engine as to command the fullest possible view of the road before him.

Every such engine shall be free from noise produced by blast or clatter of machinery, and the machinery shall be concealed from view at all points above four inches from the level of the rails, and all fire used on such engine shall be concealed from view.

As to carriages.

Every carriage used on the tramways shall be so constructed as to provide for the safety of passengers, and for their safe entrance to, exit from, and accommodation in such carriage, and for the cleanliness and ventilation thereof, and the protection of passengers from the machinery of any engine used for drawing or propelling such carriage.

Inspection of
engines and
carriages.

The Board of Trade shall on the application of the local authority, and may on complaint made by any person, from time to time inspect any engine or carriage used on the tramways, and the machinery therein, and may, whenever they think fit, prohibit the use on the tramways of any such engine or carriage which in their opinion may not be safe for use on the tramways.

As to speed.

The speed at which engines and carriages may be driven or propelled along the tramways shall not exceed the rate of eight miles an hour.

The speed at which engines and carriages may pass through moveable facing points shall not exceed the rate of four miles an hour.