CHAPTER lxxv.

An Act to authorise the Mexborough and Swinton Tramways Company to run omnibuses on their trolley vehicle routes and elsewhere to make further provision in regard to their trolley vehicle undertaking to change the name of the Company to reduce the existing capital of the Company to authorise them to raise additional capital and for other purposes. [10th May 1929.]

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WHEREAS the Mexborough and Swinton Tramways Company (in this Act referred to as "the Company") were incorporated by the Mexborough and Swinton Tramways Act 1902 and by the said Act the Rawmarsh Urban District Council (Tramways) Act 1900 and the Mexborough and Swinton Tramways Act 1905 were authorised to construct a system of tramways in the urban districts of Mexborough Swinton Rawmarsh and Greasbrough in the west riding of the county of York:

And whereas under the powers conferred by the Mexborough and Swinton (Railless Traction) Act 1913 the Mexborough and Swinton Tramways Act 1926 and the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order 1927 (which was scheduled to and confirmed by the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order Confirmation Act 1927) the Company have completed the conversion of the said system of tramways into trolley vehicle routes and have constructed and are authorised to construct other systems

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of trolley vehicles in the said urban districts and also in the urban districts of Conisbrough and Bolton upon Dearne and the parish of Adwick upon Dearne in the rural district of Doncaster:

And whereas the Company have already expended over forty-five thousand pounds on and in connection with the substitution of trolley vehicle equipment for the tramways originally constructed by them and it is estimated that the total cost of such substitution when completed will amount to over fifty-six thousand pounds in addition to which the Company have expended over forty-three thousand pounds in the provision and equipment of trolley vehicle services on routes other than those on which the tramways of the Company were originally constructed:

And whereas it is expedient to enact provisions for the protection of the Company against unreasonable competition on the routes of their trolley vehicle systems including a route in the county borough of Rotherham on which a service is provided jointly by the Company and the mayor aldermen and burgesses of that borough:

And whereas it is expedient that the Company be authorised to provide and run omnibuses and that the provisions contained in this Act with respect thereto be enacted:

And whereas by the Acts of 1902 and 1905 the Company were authorised to raise share capital to the total amount of one hundred and eighty thousand pounds and they have issued capital to the total amount of one hundred and seventy-five thousand eight hundred pounds in thirty-five thousand one hundred and sixty ordinary shares of five pounds each the whole of which are fully paid:

And whereas the Company have no outstanding mortgages or other loan capital but have raised certain sums by overdraft at their bankers:

And whereas it is expedient that the existing share capital be reduced and that the Company be authorised to raise additional capital as by this Act provided:

And whereas it is expedient to change the name of the Company and to enact the other provisions of this Act:

And whereas the purposes aforesaid cannot be effected without the authority of Parliament: A.D. 1929.

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

PRELIMINARY.

1. This Act may be cited as the Mexborough and Swinton Traction Act 1929 and the Mexborough and Swinton Tramways Act 1902 the Rawmarsh Urban District (Tramways) Act 1900 the Mexborough and Swinton Tramways Act 1905 the Mexborough and Swinton (Railless Traction) Act 1913 the Mexborough and Swinton Tramways Act 1926 the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order 1927 and this Act may be cited together as the Mexborough and Swinton Traction Acts and Order 1902 to 1929. Short and collective titles.

2. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act are subject to the provisions of this Act hereby incorporated with this Act (that is to say):— Incorporation of Acts.

The Companies Clauses Consolidation Act 1845;

The Companies Clauses Act 1863 as amended by subsequent Acts except the provisions thereof relating to the rate of dividend on preference capital and except sections 22 32 and 34 thereof; and

The Lands Clauses Acts except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement.

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 Interpretation.

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context repugnant to such construction And unless the context otherwise requires—

"The Company" means the Mexborough and Swinton Traction Company;

"The Act of 1900" "the Act of 1902" "the Act of 1905" "the Act of 1913" "the Act of 1926" and "the Order of 1927" mean respectively the Rawmarsh Urban District Council (Tramways) Act 1900 the Mexborough and Swinton Tramways Act 1902 the Mexborough and Swinton Tramways Act 1905 the Mexborough and Swinton Tramways (Railless Traction) Act 1913 the Mexborough and Swinton Tramways Act 1926 and the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order 1927 which was scheduled to and confirmed by the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order Confirmation Act 1927;

"The existing Acts and Order" means the Acts of 1900 1902 1905 1913 and 1926 and the Order of 1927;

"The specified routes" means the routes of the trolley vehicle systems constructed by the Company under the powers of the existing Acts and Order such routes being—

(*a*) trolley vehicle routes Nos. 4 and 5 authorised by the Act of 1913;

(*b*) trolley vehicle route No. 1 authorised by the Act of 1926;

(*c*) so much of trolley vehicle route No. 2 authorised by the Act of 1926 as lies between the termination of trolley vehicle route No. 4 authorised by the Act of 1913 and the commencement of route No. 6 authorised by the Order of 1927;

(*d*) trolley vehicle routes Nos. 1 2 5 and 6 authorised by the Order of 1927;

"The authorised trolley vehicle routes" means—

(*a*) so much of trolley vehicle route No. 2 authorised by the Act of 1926 as lies between the commencement of route No. 6 authorised

by the Order of 1927 and a point opposite the southern corner of the enclosure numbered 536 on the $\frac{1}{2500}$ Ordnance map Yorkshire (West Riding) sheet CCLXXXIV 14 (second edition 1902);

(*b*) trolley vehicle route No. 3 authorised by the Act of 1926;

(*c*) trolley vehicle route No. 4 authorised by the Order of 1927;

"The Rotherham route" means the trolley vehicle route in the county borough of Rotherham from a point in Rawmarsh Road on the boundary of the said county borough along Rawmarsh Road Effingham Street and College Street to the junction of College Street with Church Street thence along Bridgegate to its junction with Frederick Street and along Frederick Street to its junction with Effingham Street;

"Omnibus routes" means any routes upon which the Company work and run omnibuses under the powers of the section of this Act of which the marginal note is "Power to run omnibuses";

"The undertaking" means the undertaking of the Company under the existing Acts and Order as amended by this Act and under this Act;

"Road authority" means with reference to any road or part of a road the authority company or person charged with or liable to contribute to the maintenance of such road or part of a road;

"The appointed day" means the first day of January one thousand nine hundred and thirty;

"The Minister" means the Minister of Transport;

"The directors" and "the secretary" mean respectively the directors and the secretary of the Company.

Change of Name and Objects.

Change of name.

4. After the passing of this Act the name of the Company shall be the Mexborough and Swinton Traction Company.

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Objects of Company.

5.—(1) After the passing of this Act the Company shall be deemed to be incorporated for the purpose of providing road transport services and for other the purposes of the existing Acts and Order as amended by this Act and of this Act and of any other Act or Order from time to time relating to the Company and their undertaking shall be called "the Mexborough and Swinton Traction Undertaking."

(2) So much of section 4 (Company incorporated) of the Act of 1902 as is inconsistent with subsection (1) of this section is hereby repealed.

Omnibuses.

Power to run omnibuses.

6.—(1) Subject to the provisions of this Act the Company may provide maintain work and run omnibuses along—

(*a*) the specified routes;

(*b*) the authorised trolley vehicle routes;

(*c*) the Rotherham route;

(*d*) any route (other than the specified routes and the authorised trolley vehicle routes) in the urban districts of Mexborough Swinton Rawmarsh Greasbrough or Conisbrough or the parish of Adwick upon Dearne with the consent of the local and road authority; and

(*e*) any other route with the consent of the Minister and of the local and road authority:

Provided that the consent of a local or road authority shall not be unreasonably withheld and any question whether or not such consent has been unreasonably withheld shall be determined by the Minister.

(2) In the case of any application under the provisions of this section for the consent of the Minister the Company shall give notice in writing of their proposals to the local authority of every district in which the service of omnibuses is to be run and to the road authority and shall publish notice of such proposals in the London Gazette and in such other manner as the Minister shall direct stating the manner in which and the time within which any persons affected by such proposals may object thereto.

(3) The Company may provide such plant appliances and conveniences as may be requisite or expedient for the establishment running maintenance and equipment of the omnibuses provided by the Company under this Act.

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

(5) The powers of this section shall only be exercise-able by the Company subject to such byelaws as the local and road authorities within whose districts such omnibuses may be run are now or may hereafter be empowered to make and enforce with reference to omnibuses.

(6) Any omnibus moved by electrical power shall be so equipped and worked as to prevent any interference with telegraphic communication by means of any telegraphic line (as defined by the Telegraph Act 1878) of the Postmaster-General.

(7) The Town Police Clauses Acts 1847 and 1889 shall subject to the provisions of this Act apply to any omnibus supplied or used under this section.

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

(9) (*a*) If the local authorities of the districts in which the undertaking (other than the omnibus undertaking) of the Company is situate decide to purchase the undertaking in manner provided by the section of this Act of which the marginal note is "Power to local authorities to purchase undertaking" such authorities may and shall also purchase so much of the omnibus undertaking as is carried on in their respective districts and the provisions of the said section of this Act shall extend and apply to the purchase by such local authorities of the said portion of the omnibus undertaking and any question arising as to the portion of the omnibus undertaking so purchasable by such local authorities shall be determined by the referee referred to in the last-mentioned section of this Act.

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(*b*) After the completion of the purchase of the said portion of the omnibus undertaking by such local authorities the powers of the Company under this Act to provide maintain work or run omnibuses in the districts of such local authorities shall cease to such extent as the Minister may after inquiry by order determine and the provisions of the section of this Act whereof the marginal note is "Restricting running of omnibuses in competition" shall enure for the protection of such local authorities in respect of the portion of the undertaking of the Company purchased by them.

Restrictions on exercise of powers as to omnibuses.

7. Notwithstanding anything contained in this Act the Company shall not under the powers of this Act run omnibuses or enter into any agreement for the running of omnibuses in the urban districts of Wombwell Wath upon Dearne Bolton upon Dearne and Thurnscoe nor shall they run omnibuses upon any route (other than the Rotherham route) in the county borough of Rotherham as constituted at the date of the passing of this Act without the consent of the mayor aldermen and burgesses of the county borough of Rotherham.

Fares on omnibuses.

8. The Company may demand and take for every passenger conveyed on the omnibuses including every expense incidental to such conveyance a fare or charge not exceeding one penny half-penny per mile and in computing the said fare or charge any fraction of a mile shall be deemed a mile Provided that the Company may appoint stages each of not less than half a mile in length and may demand and take for every passenger travelling on the omnibuses including every expense incidental to the conveyance of such passenger any fares or charges not exceeding one penny half-penny for each two stages (or portion of that distance) travelled and for this purpose any fraction of a stage shall be deemed to be a stage.

Periodical revision of fares and charges.

9. If at any time after two years from the opening for public traffic of any omnibus route or after two years from the date of any order made in pursuance of this section in respect of the omnibus routes or any portion thereof it is represented in writing to the Minister by the local authority of the district in which the omnibus routes or such portion is wholly or partly situate or by twenty inhabitant ratepayers of that district or by the

Company that all or any of the fares or other charges demanded and taken in respect of the traffic on the omnibus routes or on such portion should be revised the Minister may (if he thinks fit) direct an inquiry and if the person holding the inquiry reports that it has been proved to his satisfaction that all or any of the fares or charges should be revised the Minister may by order in writing alter modify reduce or increase all or any of the fares or charges to be taken in respect of the omnibus routes or on any portion thereof and thenceforth such order shall be observed until the same is revoked or modified by an order of the Minister made in pursuance of this section. A.D. 1929.

Service for labouring classes.

10.—(1) The Company after the opening of any omnibus route shall and they are hereby required to run a proper and sufficient service of omnibuses thereon for artisans mechanics and daily labourers each way every morning and every evening (Sundays Christmas Day and Good Friday always excepted) at such hours not being later than eight in the morning or earlier than five in the evening respectively as may be most convenient for such workmen going to and returning from their work at fares not exceeding one penny for every mile or fraction of that distance On Saturdays the Company in lieu of running such omnibuses after five o'clock in the evening shall run the same at such hours between noon and two o'clock in the afternoon as may be most convenient for the said purposes.

(2) If complaint is made to the Minister that such proper and sufficient service is not provided the Minister after considering the circumstances of the locality may by order direct the Company to provide such service as may appear to him to be reasonable.

(3) The Company shall be liable to a penalty not exceeding five pounds for every day during which they fail to comply with any order under this section.

Power to purchase lands.

11. The Company may purchase by agreement take on lease and hold lands and buildings and may erect on any such lands depôts buildings and sheds for the purposes of their omnibuses Provided that the Company shall not create or permit any nuisance on any such lands.

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Application to omnibuses of certain provisions of existing Acts.

12. The following sections of the existing Acts shall so far as the same are applicable extend and apply to the omnibuses of the Company and to the omnibus routes and to the Company in respect of the purposes of this Act in as full and complete a manner as if the said sections (with all necessary alterations and with the substitution of "the Minister" for "the Board of Trade") were re-enacted in this Act (that is to say):—

The Act of 1902—

Section 24 (Shelters or waiting rooms);
Section 32 (Passengers' luggage);
Section 36 (As to fares on Sundays and holidays);
Section 80 (Orders and regulations).

The Act of 1913—

Section 9 (Rates for parcels);
Section 10 (List of fares &c. to be exhibited);
Section 11 (Payment of fares rates and charges);
Section 12 (Company not to carry animals and goods other than small parcels);
Section 20 (Conveyance of mails);
Section 24 (Company may appoint stopping and starting places);
Section 26 (Trees or shrubs overhanging streets and footpaths);
Section 27 (As to removal of snow &c.);
Section 41 (Power to hold patent rights);
Section 45 (Consents of local and road authorities).

The Act of 1926—

Section 14 (Attachment of signs indicating stopping places);
Section 15 (Lost property);
Section 16 (Power to reserve cars for special purposes);
Section 17 (Through cars);
Section 18 (Removal of obstructions);
Section 19 (Power to require intending passengers to wait in lines or queues);

Section 24 (Accounts to be furnished to Minister of Transport);

Section 25 (Inquiries by Minister of Transport):

Provided that for the purposes of their extension and application to the omnibuses of the Company and to the omnibus routes and to the Company in respect of the purposes of this Act—

(*a*) Section 24 of the Act of 1902 shall be read and have effect as if the words "and local authority" were therein inserted after the words "road authority" wherever they appear;

(*b*) Section 45 of the Act of 1913 shall be read and have effect as if provision had therein been made for the determination by the Minister instead of by arbitration of any question whether the consent or approval of a local or road authority is unreasonably withheld:

Provided also that the Company shall not erect any shed shelter or waiting-room or appoint any stopping or starting place for the omnibuses of the Company under the powers of section 24 of the Act of 1902 or of section 24 of the Act of 1913 as applied by this section to omnibuses so as to obstruct or render less convenient the access to or exit from any railway station depôt or property of any railway company without the consent of such company nor without the like consent shall any such shed shelter or waiting-room be erected or maintained on any bridge carrying any street or road over the railway of a railway company.

GENERALLY AS TO TROLLEY VEHICLES AND OMNIBUSES.

Working and other agreements.

13.—(1) The Company on the one hand and any local authority company body or person owning or working or having powers to own or work any trolley vehicles or omnibuses which may now or hereafter be connected with any trolley vehicle or omnibus routes of the Company on the other hand may enter into and carry into effect agreements with respect to the following purposes or any of them (that is to say):—

(*a*) The formation of junctions between the trolley vehicle systems of the contracting parties;

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(*b*) The leasing working running over using maintaining and managing by any or all of the contracting parties or by a joint committee of the contracting parties of the trolley vehicle or omnibus systems or any of the trolley vehicle or omnibus systems of any or all of the contracting parties and the fixing collecting apportionment and distribution of the rates and profits arising therefrom;

(*c*) The supply and maintenance by the working party under and during the continuance of any such agreement as aforesaid for the working of the trolley vehicle or omnibus systems of the contracting parties of rolling stock and vehicles necessary for the purposes of such agreement and the employment of officers and servants;

(*d*) The supply of motive power;

(*e*) The payments to be made and the conditions to be observed with respect to the matters aforesaid;

(*f*) The management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the trolley vehicle or omnibus systems of the contracting parties.

(2) During the continuance of any agreement under this section for the working running over or user by one of the contracting parties of the trolley vehicle or omnibus systems of the other the trolley vehicle or omnibus systems of the parties so contracting shall for the purposes of calculating maximum fares and charges in respect of conveyance partly over the trolley vehicle or omnibus systems of the one party and partly over those of the other be considered as one trolley vehicle or omnibus system as the case may be and the maximum charge for each portion of the entire distance shall be calculated at the maximum rate which according to the scale applicable to such portion would be chargeable for the entire distance.

(3) Nothing in this section or in any agreement made in pursuance of this section shall authorise any local authority to run omnibuses except—

(*a*) upon routes along which the local authority have powers under or in pursuance of an Act or Order to provide omnibus services; and

(*b*) subject to any statutory limitations restrictions or obligations imposed on the local authority in respect of the exercise of such powers.

(4) Nothing in this section shall authorise any local authority company body or person to supply electricity outside or for use outside the authorised area of supply of such local authority company body or person and within or for use within any part of the existing area of supply of the Yorkshire Electric Power Company without the consent of that company in writing or within or for use within any part of any area in which Electrical Distribution of Yorkshire Limited are at the date of the passing of this Act authorised to distribute electricity for all public and private purposes without the consent of that company in writing but nothing in this subsection shall affect the operation of section 72 (Agreements with Mexborough and Swinton Tramways Company) of the Rotherham Corporation Act 1928 or of any agreement made in pursuance of that section.

Agreements with Rotherham Corporation.

14. Section 72 (Agreements with Mexborough and Swinton Tramways Company) of the Rotherham Corporation Act 1928 shall with the necessary modifications extend and apply to and in respect of any omnibus service which the Company are authorised to provide maintain work and run under the provisions of this Act as if such omnibus service were referred to in that section in addition to the whole or any part of the trolley vehicle system of the Company :

Provided that the Company shall not under the provisions of this section enter into or carry into effect any agreement with the mayor aldermen and burgesses of the county borough of Rotherham in re ation to any omnibus service beyond the said county borough otherwise than with the consent of the local authority of the district within which such omnibus service is situate and (where any road for the time being maintained by

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or at the expense of the county council of an administrative county is comprised in any omnibus route to which any proposed agreement relates) of such county council but on complaint being made to the Minister that any such consent is unreasonably withheld the Minister may if he thinks fit by order dispense with such consent.

Company to provide a reasonable service of trolley vehicles.

15. The Company shall at all times provide such service of trolley vehicles on the specified routes (including through services) as may be reasonably required in the public interests and the Company shall be liable to a penalty not exceeding five pounds for every day on which they shall fail (unless for reasons beyond their control) to comply with the provisions of this section Any question which may arise as to the service of trolley vehicles required in the public interests shall be determined on the application of the Company or of the local authority by the Minister whose decision shall be final.

Restricting running of omnibuses in competition.

16.—(1) If and so long as the Company provide a service of trolley vehicles along any specified route or along the Rotherham route and such service in conjunction with—

(*a*) any service of omnibuses operated by the Company; or

(*b*) any service of trolley vehicles or omnibuses (as the case may be) operated by the mayor aldermen and burgesses of the county borough of Rotherham (in this section referred to as "the corporation") under a working or other agreement entered into under the section of this Act of which the marginal note is "Working and other agreements" or under the section of this Act of which the marginal note is "Agreements with Rotherham Corporation" or under any other statutory power in that behalf;

adequately meets the requirements of such route it shall not be lawful except as hereinafter in this section provided for any other local authority company body or person (other than a railway company in pursuance of their statutory powers) to run omnibuses along such

route or along any other route in competition with such service or services. A.D. 1929.

(2) Any failure on the part of the Company or the corporation to afford an adequate service along any such route which is due to strikes or unforeseen accidents or circumstances beyond the control of the Company or the corporation shall not operate so as to deprive the Company of the protection afforded by subsection (1) of this section.

(3) The licensing authority of the borough district or area in which any such route or part thereof is situate may and shall in order to give effect to the foregoing provisions of this section when licensing an omnibus to ply for hire grant such licence subject to conditions as to the routes upon which such omnibus shall or shall not ply for hire and such other conditions as may be necessary or desirable to protect the services referred to in subsection (1) of this section:

Provided that if any question arises—

(*a*) between the Company and any company authority body or person as to whether any route in respect of which a licence may be granted to any such company authority body or person is competitive; or

(*b*) between the Company and any licensing authority as to whether the conditions subject to which any licence is granted are necessary or desirable to protect the services referred to in subsection (1) of this section;

such question shall on the application of either of the parties be determined as hereinafter in this section provided:

Provided also that the right of the applicant for the licence to appeal to the Minister from the decision of the licensing authority under section 14 (3) of the Roads Act 1920 shall not be affected but the Minister in making any order under that section shall have regard to the provisions of this section.

(4) Any question at any time arising as to whether or not an adequate service is being provided along any route and any question arising under subsection (3) of this section shall be determined by the Minister and the Minister shall have power to make such order thereon as

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he thinks fit Any order made by the Minister under this section shall be final and binding and not subject to appeal to any court and shall on the application of the Minister be enforceable by writ of mandamus.

(5) Nothing in this section shall be deemed—

(*a*) to restrict the running of any omnibus by any such company authority body or person along any specified route or the Rotherham route or any other route in competition therewith if (i) such omnibus serves a district or districts beyond the districts in which the specified routes and the Rotherham route are situate and (ii) no passenger conveyed by such omnibus is both taken up and set down on any one journey on any specified route or the Rotherham route or any route in competition therewith; or

(*b*) to prevent the renewal by a licensing authority of any licence to ply for hire with an omnibus if the licence was on the nineteenth day of November one thousand nine hundred and twenty-eight in force and applicable to and used for a service of omnibuses which was on that date being operated on and has since that date been regularly in operation on a specified route or a particular part of a specified route or the Rotherham route or a route in competition therewith or to prevent the grant of a licence to ply for hire with an omnibus substituted by the licensee for any omnibus to which the protection of this paragraph applies or to restrict the running of any such last-mentioned omnibus or substituted omnibus along any such route Provided that no omnibus proprietor shall be entitled under the provisions of this paragraph of this subsection to operate on any specified route or on the Rotherham route or any part thereof or on any route in competition therewith a greater number of omnibuses than were operated by that proprietor on that route on the nineteenth day of November one thousand nine hundred and twenty-eight and have

been regularly in operation on that route since that date; or

(c) to prevent the grant or renewal by a licensing authority of any licence to ply for hire with an omnibus on the condition that no passenger conveyed by the omnibus to which the licence relates shall be both taken up and set down on any one journey on any specified route or the Rotherham route or any route in competition therewith.

Power to local authorities to purchase undertaking.

17. Notwithstanding anything in the existing Acts and Order or this Act or any provisions of the Tramways Act 1870 incorporated with those Acts or any of them the following provisions shall (unless otherwise agreed between the Company and the local authority of any district in which any of the trolley vehicles of the Company are situate) have effect with reference to the purchase by the local authorities of the undertaking of the Company (other than the omnibus undertaking) authorised by the existing Acts and Order and this Act (in this section referred to as "the trolley vehicle undertaking"):—

(1) Subject as hereinafter provided it shall be lawful for the local authorities if by resolution passed at a special meeting of each local authority they so decide to purchase on the thirty-first day of December one thousand nine hundred and forty-nine or the thirty-first day of December in every subsequent tenth year (but at no other date) so much of the trolley vehicle undertaking as is situate within their respective districts upon terms of paying the fair market value of such portion of the trolley vehicle undertaking as a going concern but without any addition in respect of compulsory purchase which value shall be determined in case of difference by arbitration in manner provided by section 43 of the Tramways Act 1870:

(2) The powers of compulsory purchase conferred on the local authorities by this section shall be exerciseable only upon and subject to the

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following terms and conditions (that is to say):—

(*a*) The Company shall not be required to sell any part of the trolley vehicle undertaking unless each of the local authorities in whose districts the trolley vehicle undertaking is situate purchase at one and the same time the portion of the trolley vehicle undertaking in their district;

(*b*) if the local authorities decide to purchase the trolley vehicle undertaking they shall give to the Company notice in writing of such their decision not later than the thirty-first day of December in the year preceding the date of purchase;

(*c*) the sum to be paid to the Company in respect of such purchase shall if not agreed be determined by one and the same referee nominated under the said section 43 of the Tramways Act 1870 and in one and the same proceeding but the said referee shall by his award determine separately as respects each of the local authorities the value of the trolley vehicle undertaking situate in the district of that local authority including all lands buildings works materials and plant of the Company suitable to and used by them for the purposes of the trolley vehicle undertaking within such district;

(*d*) the respective sums to be paid to the Company by each of the local authorities shall together be equal to the fair market value of the trolley vehicle undertaking as a going concern:

(3) Subject to the foregoing provisions of this section the said section 43 of the Tramways Act 1870 shall apply to the purchase of the trolley vehicle undertaking by the local authorities under this section as if the said section 43 with any necessary modifications were re-enacted in this Act;

(4) On any sale to the local authorities such arrangements as may be approved by the Minister shall be made for vesting in each local authority the portion of the trolley vehicle undertaking situate in their district and for a scheme or schemes for the future maintenance management and working of the trolley vehicle undertaking and the sale shall not take effect until an instrument has been properly executed in a form approved by the Minister for carrying into effect such arrangements.

Cloak-rooms &c.

18. The Company may provide cloak-rooms and rooms or sheds for the storage of bicycles tricycles and other vehicles at any depôt or building used by them in connection with their trolley vehicle undertaking and omnibus undertaking and at suitable places on any of the trolley vehicle routes or omnibus routes and the Company may make charges for the use of such cloak-rooms rooms and sheds and for the deposit of articles and things and bicycles tricycles and other vehicles therein but shall not use for the purpose any part of the highway without the consent of the local authority and the road authority.

Power to provide vehicles and equipment.

19. The Company may manufacture purchase provide and hire trolley vehicles omnibuses repairing cars and all apparatus and things which may be necessary for or incidental to the working of trolley vehicles and omnibuses and the exercise of the powers conferred on the Company by the existing Acts and Order and this Act but nothing in this section shall entitle the Company to manufacture chassis.

Financial Provisions.

Power to apply existing funds.

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

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Conversion and reduction of shares.

21.—(1) On the appointed day the existing ordinary shares shall become and be converted into fifty-two thousand seven hundred and forty shares of one pound each.

(2) The substituted shares into which the existing shares shall be so converted shall be deemed to be fully paid up and shall by virtue of this Act be vested in the holders on the appointed day of the existing shares in the proportion of three substituted shares for each two existing shares.

(3) The substituted shares which become vested in the holders of the existing shares under the foregoing provisions of this section shall be registered in the respective names of those holders in the books of the Company forthwith after the appointed day and shall rank for dividend as from the appointed day As from the same date the existing shares shall cease to bear any dividend.

As to fractional parts of shares.

22.—(1) In every case where under the foregoing provisions of this Act a holder of existing ordinary shares would be entitled to be registered as the holder of any number of shares including a fractional part of a share the Company may in lieu of registering such holder and issuing to him a certificate as holder of a number of shares including such fractional part of a share at the same time as they register such holder in their books pay to him a sum in cash equal to the nominal value of such fractional part of a share and the Company shall register such holder and issue to him a certificate as holder of the number of shares of the Company to which he shall be entitled as aforesaid excluding such fractional part and the receipt of such holder for the sum in cash so to be paid as aforesaid shall be a sufficient discharge to the Company in respect of such fractional part.

(2) The Company may either cancel all or any of the shares in respect of which such payment has been made or issue the same to any willing purchaser thereof in shares of one pound each but not otherwise and any loss or expense which may be incurred in connection with such issue shall be borne by the Company.

Company's books to be evidence as to holders of shares.

23.—(1) The several persons who immediately before the appointed day appear in the registers of the Company to be holders of existing shares or the respective executors administrators or assigns of such persons shall for the

purposes of this Act and subject to the provisions of the section of this Act of which the marginal note is "Transfers &c. of existing shares although by present name to be valid" be deemed to be the holders of existing shares of the number stated in the registers and on and after the appointed day the registers of transfers of the existing shares shall be permanently closed and (except as provided by the last-mentioned section of this Act) no transfer of any existing shares made on or after the appointed day shall as between the Company and the party claiming thereunder be of any effect.

(2) The issue by the Company of certificates for substituted ordinary shares together with the payment of the sum in cash representing the nominal value of any fractional part of a share in accordance with the foregoing provisions of this Act to the persons whose names appear by the said registers to be registered holders of existing shares or to the respective executors administrators or assigns of such persons or to the persons entitled thereto pursuant to the section of this Act of which the marginal note is "Transfers &c. of existing shares although by present name to be valid" shall be sufficient discharge to the Company for all purposes.

Substituted shares to be held on same trusts &c. as existing shares.

24. All substituted shares vested in the holders of existing shares under the foregoing provisions of this Act and the sums of cash to be paid by the Company under this Act in respect of any fractional part of a share as aforesaid shall be held in the same rights upon the same trusts and subject to the same powers provisions charges and liabilities as those in upon or subject to which the existing shares were held immediately before the appointed day and shall be dealt with applied and disposed of accordingly and so as to give effect to and not to revoke any deed will or other instrument disposing of or affecting any such existing shares and trustees executors or administrators and all other holders in any representative or fiduciary capacity and persons under disability may and shall accept the substituted shares which under the foregoing provisions of this Act are vested in them respectively and any sums of cash paid to them under the provisions of this Act in substitution for the existing shares held by them and may subject to the provisions of this Act retain dispose of or otherwise deal with the substituted shares and sums of cash as

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fully and freely in all respects as they might have retained disposed of or otherwise dealt with such existing shares.

Certificates of existing shares to be called in and others issued.

25.—(1) The Company shall call in the certificates of the existing shares and shall issue in exchange for those certificates to the respective holders thereof free of charge certificates of substituted ordinary shares of the respective number to which those holders are by this Act respectively entitled but no holder shall be entitled to a new certificate until he shall have delivered up to the Company to be cancelled the existing certificate for which such certificate is to be substituted or shall have proved to the reasonable satisfaction of the directors the loss or destruction thereof and shall have given such guarantee or indemnity in respect thereof as the directors may require.

(2) Until the issue of new certificates the holders of the existing certificates shall (according to the number of substituted ordinary shares to be issued by virtue of this Act in substitution for the existing shares which such certificates respectively represent) have and possess the same rights and privileges as if the existing certificates were certificates for those respective numbers of substituted shares but if any holder of existing shares fails to send or deliver to the Company his existing certificate or certificates within the period of six months after notice in writing sent to such holder by post to the address appearing in the shareholders' address books the Company may suspend the payment of any dividend declared or made payable on or in respect of the substituted ordinary shares so vested in him until such existing certificate or certificates is or are sent or delivered to the Company or is or are proved to the reasonable satisfaction of the directors to have been lost or destroyed and such guarantee or indemnity is given in respect of such lost or destroyed certificate or certificates as the directors may require.

Transfers &c. of existing shares although by present name to be valid.

26. All transfers or other dispositions of any existing shares made but not registered prior to the issue to the holder of the shares of the certificate for substituted ordinary shares to which the holder is entitled under the foregoing provisions of this Act shall notwithstanding this Act be valid and have due effect given to them respectively as transfers or dispositions of the number of substituted shares which are substituted under the provisions of this Act for the existing shares thereby expressed to be transferred or disposed of together with

a sum in cash equal to the nominal value of any fractional part of a share although the instrument transferring or disposing thereof shall describe the same by the name or denomination which the shares transferred or disposed of had before conversion under this Act and any bequest of or any covenant or provision of any deed or agreement relating to any specific number of existing shares shall be held to apply to the number of substituted shares which under the provisions of this Act are substituted for such specific number of existing shares and any sum in cash payable under the provisions of this Act in respect of any fractional part of a share.

Power to raise additional capital.

27. The Company may from time to time raise additional capital not exceeding in the whole one hundred and eighteen thousand and sixty pounds by the creation and issue at their option of new ordinary shares or preference shares or wholly or partially by either of those methods Provided that the Company shall not issue any share of less nominal value than one pound nor shall any share vest in the person accepting it unless and until a sum not being less than one-fifth of the amount of the share shall have been paid in respect thereof Provided also that except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

As to ranking of ordinary shares.

28. The substituted ordinary shares into which the existing ordinary shares shall become and be converted under this Act all new ordinary shares to be issued by the Company under the unexercised powers of the Acts of 1902 and 1905 and all new ordinary shares to be created and issued by the Company under the section of this Act of which the marginal note is "Power to raise additional capital" shall be deemed for all purposes to form one and the same class of capital.

As to issue of authorised capital.

29. Notwithstanding anything contained in the Acts of 1902 and 1905 the Company may raise by the issue of new ordinary shares or new preference shares of a nominal value of not less than one pound the sum of four thousand two hundred pounds being the amount of the unexercised powers of raising capital conferred by the said Acts.

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Borrowing powers.

30.—(1) The Company may at any time after the passing of this Act and without obtaining the certificate of a justice under the fortieth section of the Companies Clauses Consolidation Act 1845 raise on mortgage of the undertaking in respect of the existing shares and of the substituted shares into which the existing shares shall become converted under the foregoing provisions of this Act any sum or sums not exceeding in the whole fifty-eight thousand six hundred pounds The powers of borrowing conferred by this subsection shall be in substitution for and not in addition to any powers conferred by the existing Acts and Order of borrowing in respect of the existing shares.

(2) After the Company have raised additional capital to the amount of fifty-eight thousand six hundred pounds they may also borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one-half of the amount of the additional capital (over and above the said amount of fifty-eight thousand six hundred pounds) which at the time of borrowing has been so raised but no part of any such sum or sums shall be borrowed until the Company have proved to the justice before he gives his certificate under the fortieth section of the Companies Clauses Consolidation Act 1845 that shares for the whole of the portion of capital in respect of which the borrowing powers are to be exercised have been issued and accepted and that one-half of such portion of capital has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares were issued and accepted and to the extent aforesaid paid up bona fide and are held by the persons to whom the same were issued or their executors administrators or assigns and also that such persons or their executors administrators 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 certificate shall be sufficient evidence thereof.

Debenture stock.

31. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 but notwithstanding anything

therein contained the interest of all debenture stock and of all mortgages (if any) existing at the passing of this Act or at any time created and issued or granted by the Company under this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal money secured by such stock or mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Issue of redeemable preference shares and debenture stock.

32.—(1) The Company may create and issue all or any preference shares or debenture stock which they are by this Act authorised to create and issue so as to be redeemable on such terms and conditions as may be specified in a resolution of the Company passed at an extraordinary meeting convened for the purpose.

(2) If it is so provided in the resolution the Company may—

(i) call in and pay off such preference shares or debenture stock or any part thereof at any time before the date fixed for redemption; or

(ii) redeem such shares or stock or any part thereof either by paying off the shares or stock or by issuing to any shareholder or stockholder (subject to his consent) other shares (whether ordinary or preference) or stock in substitution therefor.

(3) For the purpose of providing money for paying off such shares or stock or providing other shares or stock in substitution therefor the Company may create and issue new shares or stock (redeemable or irredeemable) or re-issue shares or stock originally created and issued as aforesaid so however that the creation and issue for that purpose of any particular class of capital does not make the total nominal amount of such capital exceed the amount of that class of capital which the Company are for the time being authorised to create except during the necessary interval between the creation and issue of the new shares or stock and the redemption of the old shares or stock.

(4) The Company shall not redeem out of revenue any redeemable shares or stock so created and issued as

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aforesaid except to the extent of any discount allowed on the issue or any premium payable on the redemption of any such shares.

Application of financial provisions of Act of 1902.

33. The following provisions of the Act of 1902 shall so far as the same are applicable extend and apply to and for the purposes of this Act as if the same with any necessary modifications were re-enacted in this Act (that is to say) :—

Section 50 (Receipt in case of persons not sui juris);

Section 52 (For appointment of a receiver);

Section 54 (Application of moneys);

Section 55 (Money borrowed on mortgage to have priority);

and the said section 55 of the Act of 1902 shall be read and have effect as if the words "or to be raised by the issue of debenture stock" were inserted therein after the words "under this Act.".

Meetings Directors &c.

Quorum of directors.

34. The quorum of a meeting of directors shall be two when the total number of directors does not exceed five and three when the total number of directors exceeds five.

Continuing directors.

35. The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of the directors shall be less than the minimum number prescribed by section 57 (Number of directors) of the Act of 1902 the directors shall not act as such except for the purpose of filling vacancies among the directors and allotting shares to any proposed director or directors.

Managing directors.

36.—(1) The directors may appoint one or more of their body to be managing director or managing directors of the Company either for a fixed term or without any limitation as to time and may remove or dismiss him or them from office and appoint another or others in his or their place or places.

(2) A managing director while holding that office shall not be subject to retirement by rotation nor be

taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto immediately cease to be a managing director. A.D. 1929.

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

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

As to shareholders' register.

37. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be necessary to authenticate the register of the shareholders of the Company by affixing the common seal of the Company to such register.

As to contracts.

38. Notwithstanding anything in any Act relating to the Company any contract or agreement required to be in writing and not under seal may be signed on behalf of the Company by the secretary or other person appointed in that behalf by the directors.

Remuneration of secretary and auditors.

39. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary and auditors of the Company.

Auditors.

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

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

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MISCELLANEOUS.

As to making of byelaws.

41. Any byelaws and regulations made by the Company under this Act shall be made subject and according to the provisions of the Tramways Act 1870 with respect to the making of byelaws.

Recovery of demands.

42. Proceedings for the recovery of any demand made under the authority of this Act or the existing Acts and Order or any subsequent Act or Order relating to the Company or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Recovery of penalties &c.

43. Save as otherwise by the existing Acts and Order or this Act expressly provided all offences against the existing Acts and Order and this Act or any incorporated enactment and all penalties forfeitures costs and expenses imposed or recoverable under the existing Acts and Order or this Act or any incorporated enactment or under any byelaw made thereunder respectively may be prosecuted and recovered in a summary manner Provided that costs or expenses (except such as are recoverable along with a penalty) shall not be recovered as penalties but may be recovered summarily as civil debts.

Repeal.

44. The following provisions of the existing Acts and Order are hereby repealed (that is to say) :—

The Act of 1902—

Section 53 (Company not to create debenture stock);

So much of section 59 (Quorum of meetings) as relates to the quorum of a meeting of directors;

Section 61 (Auditors not required to hold shares);

Section 73 (As to purchase of undertaking);

Section 79 (Recovery of penalties).

The Act of 1913—

Section 19 (Speed of trolley vehicles over Pasture Bridge);

Section 48 (Purchase of undertaking).

The Act of 1926—

So much of section 9 (Application of provisions of Act of 1913 relating to trolley vehicles) as applies section 48 of the Act of 1913 to the trolley vehicle systems authorised by that Act.

Costs of Act.

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

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