



## CHAPTER lvi.

An Act to authorise the Edinburgh Street Tramways Company to make and maintain additional Tramways and to confer further powers upon that Company. A.D. 1893.

[9th June 1893.]

**W**HEREAS by the Edinburgh Tramways Act 1871 (in this Act called "the Act of 1871") the Edinburgh Street Tramways Company (in this Act called "the Company") were incorporated and were authorised to make and maintain various tramways in Edinburgh Leith and Portobello :

And whereas various Acts have since been from time to time passed conferring further powers on the Company :

And whereas it is expedient that the Company be empowered to extend their tramways in Leith by means of the additional tramways by this Act authorised :

And whereas it is expedient that the Company be authorised to acquire additional lands for the purposes of their undertaking as herein-after provided :

And whereas the period of twenty-one years within six months after the expiration of which the Lord Provost Magistrates and Town Council of the City of Edinburgh as a local authority within that city under the Tramways Act 1870 are by section 43 of that Act entitled to purchase the undertaking of the Company within that city expired on the twenty-ninth day of June one thousand eight hundred and ninety-two as to all the tramways of the Company within that city other than the section of tramway from Waterloo Place to Jock's Lodge :

And whereas the said Lord Provost Magistrates and Town Council have given notice to the Company requiring them to sell such portion of their undertaking as aforesaid and it is expedient that provision be made with respect to the application of any moneys which may be paid to the Company in respect of such purchase or of any future purchase by any local authority and for the reduction

A.D. 1893. of the nominal amount of the share capital of the Company as herein-after provided :

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 :—

Short title. 1. This Act may be cited as the Edinburgh Street Tramways Act 1893.

Incorporation of general Acts. 2. The Lands Clauses Acts and section 3 (interpretation of terms) section 19 (local authority may lease or take tolls) and Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act 1870 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation. 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 word "contingencies" in the Companies Clauses Consolidation (Scotland) Act 1845 section 125 shall with reference to the Company be construed to include the contingency of their undertaking being sold to the local authority or authorities under the Tramways Act 1870 section 43 at a sum or sums less in the whole than the aggregate amount of the capital and debts of the Company.

Power to make tramways. 4. 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 tubes and apparatus ropes cables and wires engines works and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act will be situate in the county of Edinburgh and are—

Tramway No. 1 (double line) 3 furlongs 2·06 chains or thereabouts in length commencing by a junction or junctions with the Company's existing tramway in North Junction Street Leith and terminating in Commercial Street at a point in line with the eastern elevation of Leith Custom House :

Tramway No. 1A (single line) 1·15 chains or thereabouts in length commencing and terminating by junctions with Tramway No. 1 in Commercial Street :

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Tramway No. 1b (single line) 1.20 chains or thereabouts in length commencing and terminating by junctions with Tramway No. 1 in Commercial Street:

Tramway No. 2, 3 furlongs 2.06 chains or thereabouts in length of which 2 furlongs 4.66 chains are single and 7.40 chains are double line commencing by a junction with the Company's existing tramway in the street known as Hermitage Place Leith and terminating at the northern end of Seafield Place:

Tramway No 3 (double line) 1.40 chains or thereabouts in length commencing by a junction with the Company's existing tramway in Ferry Road Leith and terminating by a junction with the Company's existing tramway in North Junction Street:

Tramway No. 4, 3.20 chains or thereabouts in length of which 1.65 chains are single and 1.55 chains double line commencing by a junction or junctions with the Company's existing tramways in Great Junction Street Leith and terminating by a junction with the Company's existing tramway in Constitution Street.

5. The provisions of section 23 of the Edinburgh Street Tramways Act 1892 shall extend and apply to the tramways by this Act authorised in the event of their being worked by electricity otherwise than by electrical power carried along with the carriages. For protec- tion of the National Telephone Company.;

6. The provisions of section 24 of the Edinburgh Street Tramways Act 1892 shall extend and apply to the tramways by this Act authorised in the event of any of such tramways being worked by electricity other than by electrical power carried along with the carriages. For the protection of the Postmaster General.

7. Notwithstanding anything in this Act or shown on the deposited plans the portion of Tramway No. 1 which lies between a straight line across Commercial Street from the corner of the west side of Sandport Street at its junction with Commercial Street and the termination of the said Tramway No. 1 as shown on the deposited plans shall not be constructed without the previous consent in writing of the Commissioners for the Harbour and Docks of Leith. For protec- tion of the Leith Dock Commis- sioners.

8. In laying down working using and maintaining Tramway No. 1 (in this section called "the Tramway") by this Act authorised along Commercial Street Leith the following provisions for the protection of the North British Railway Company (herein called "the North British Company") shall apply and have effect (that is to say):— For protec- tion of the North British Railway Company.

(1.) At the point where the tramway is authorised to be made upon or across the crossing on the level of Commercial Street Leith by the goods line of the North British Company leading from North Leith Station to the docks the tramway shall be laid down and constructed across the lines of the North British

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Company under the superintendence and to the reasonable satisfaction of the engineer of that company unless such superintendence is refused and shall be so constructed as not to interfere with the free uninterrupted and safe use by that company of the said level crossing or the working conduct or passage of traffic thereover.

- (2.) If by reason of the execution of any of the works of the Company or the failure of any such works or any act or omission of the Company or of their contractors or of any person in the employ of the Company or their contractors or otherwise any rails or other work of the North British Company be injured or damaged such injury or damage shall forthwith be made good by the Company at their own expense or in the event of their failing so to do then the North British Company may make good the same and recover the expenses thereof with full costs against the Company in the Court of the Sheriff of the Lothians and Peebles at Edinburgh.
- (3.) The Company shall not stop any cars on the said level crossing and shall so work use and maintain their tramways as not to interfere with or obstruct the traffic on the said goods line to a greater extent than is reasonably necessary for the proper working of their tramway. If any such obstruction or interruption shall be occasioned to the traffic of the North British Company upon or across the said level crossing the Company shall pay to the North British Company all damage that may be sustained by them in consequence thereof and the North British Company may sue for and recover such damages with costs in the said court.
- (4.) If any difference shall arise between the Company and the North British Company or their respective engineers as to the true intent and meaning of this section the same shall be from time to time determined by some person to be agreed on or failing agreement to be appointed by the Sheriff of the Lothians and Peebles on the application of either the Company or the North British Company.

For protection of the Corporation of Leith.

9. In constructing Tramway No. 4 the Company shall not interfere with the weighing machine and office and public urinal numbered respectively on the deposited plans of that tramway 4 and 6 in the parish of South Leith and if the Company interfere with the lamp-post and fountain in that parish numbered 3 on these plans they shall re-erect the same at their expense in such a position as the Corporation of Leith shall require and the Company shall not without the consent of the said corporation construct the westernmost line of the Tramway No. 3.

10. In the event of the Company constructing the tramways authorised by this Act to be worked by cable power the following provisions shall have effect (that is to say) :—

- (1) Notwithstanding anything contained in the Tramways Act 1870 the Company shall not themselves alter or interfere with the existing lines or levels of the mains aqueducts conduits or lines of pipes and apparatus connected therewith or any of them belonging to the Edinburgh and District Water Trustees (herein-after called "the water trustees") including consumers' pipes nor injuriously affect or interrupt the supply of water conveyed by the same but any duplication of alterations on or interference with the mains aqueducts conduits or lines of pipes and apparatus connected therewith of the water trustees including consumers' pipes as may be necessary in consequence of the construction of the tramways authorised by this Act as cable tramways shall on the requisition of the Company and unless decided by an arbitrator to be unnecessary be executed by the water trustees at the expense of the Company and the water trustees shall at all times have a right of access to such mains aqueducts conduits or lines of pipes and apparatus connected therewith including consumers' pipes for the renewal repair enlargement alteration and maintenance of the same and for making new connections and laying additional pipes when and where they shall see fit and any additional cost of such alterations or repairs caused by the works of the Company of any such mains aqueducts conduits or lines of pipes and apparatus connected therewith including consumers' pipes laid before the construction of such tramways shall be borne by the Company And in all cases where works are to be executed by the water trustees to be paid for by the Company the water trustees shall use every means in their power to have the works executed as economically as possible and with all reasonable despatch but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner herein-after provided and all payments for work executed by the water trustees shall be made by the Company within three months after the cost of the work has been certified by the water trustees' engineer with interest till paid.

- (2) Notwithstanding anything contained in the Tramways Act 1870 the Company shall not themselves alter or interfere with the existing lines or levels of the mains or lines of pipes and apparatus connected therewith or any of them belonging to the Edinburgh and Leith Corporations Gas Commissioners (herein-

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For the protection of water and gas pipes.

For the protection of water mains and pipes.

For the protection of gas mains or pipes.

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after called "the gas commissioners") including consumers' pipes nor injuriously affect or interrupt the supply of gas conveyed by the same but any duplication of alterations on or interference with the mains or pipes and apparatus connected therewith of the gas commissioners including consumers' pipes as may be necessary in consequence of the construction of the tramways authorised by this Act as cable tramways shall be executed by the gas commissioners at the expense of the Company and the gas commissioners shall at all times have a right of access to such mains and pipes and apparatus connected therewith including consumers' pipes for the renewal repair enlargement alteration and maintenance of the same and for making new connections and laying additional pipes when and wherever they shall see fit and any additional cost of such alterations or repairs caused by the works of the Company of any such mains and pipes and apparatus connected therewith including consumers' pipes laid before the construction of such tramways shall be borne by the Company And in all cases where works are to be executed by the gas commissioners to be paid for by the Company the gas commissioners shall use every means in their power to have the works executed as economically as possible and with all reasonable despatch but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner herein-after provided and all payments for work executed by the gas commissioners shall be made by the Company within three months after the cost of the work has been certified by the engineer of the gas commissioners with interest till paid.

Arbitration.

(3) If any difference shall at any time arise between the Company and the water trustees or the gas commissioners or their respective engineers with respect to any of the matters referred to in the two next preceding sub-sections or in the Tramways Act 1870 such difference shall be referred to an engineer to be mutually agreed on or failing agreement to an engineer to be appointed by the Sheriff of the Lothians and Peebles on the application of either the Company or the water trustees or the gas commissioners as the case may be.

Penalty imposed unless the line opened within the time limited.

11. If the Company fail within the period limited by this Act to complete the tramways authorised to be made by this Act and open the same for public conveyance of passengers the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said tramways are completed and opened for public conveyance of passengers or until the sum received in respect of such penalty shall amount to five

per centum on the estimated cost of the tramways so uncompleted and the said penalty may be applied for by any landowner or other person or road authority claiming to be compensated in accordance with the provisions of the next following section of this Act and in the same manner as the penalty provided in the 3rd section of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of the Queen's and Lord Treasurer's Remembrancer for and on behalf of the Court of Exchequer in Scotland in the bank and to the credit named in such warrant or order and shall not be paid thereout except as herein-after provided but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company were prevented from completing or opening such line by unforeseen accident or circumstances beyond their control provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

12. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the "Edinburgh Gazette" shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the said tramways or any portion thereof and for which injury or loss no compensation or inadequate compensation shall have been paid and in compensating all road authorities for the expenses 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 said court may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Company is insolvent or has been ordered to be wound up be paid to such judicial factor or to the liquidator or liquidators of the Company or be otherwise applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors

Application  
of penalties.

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Extension of provisions of former Acts.

**13.** The provisions of section 7 of the Act of 1871 sections 11 to 18 and 20 to 22 of the Edinburgh Street Tramways Act 1881 shall so far as the same are applicable extend and apply to the tramways by this Act authorised and to the Company in respect thereto in as full and complete a manner as if the said sections were re-enacted in this Act with reference thereto.

Penalty for not maintaining rails and roads.

**14.** 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 the tramways and the substructure upon which the same rest and if the Company at any time fail to comply with this provision or with the provisions of section twenty-eight of the Tramways Act 1870 they shall be subject to a penalty not exceeding 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.

In case 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 this 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 inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed.

Power to purchase lands by agreement.

**15.** The Company may from time to time purchase by agreement any lands not exceeding in the whole four acres which they may require for any of the purposes of their undertaking in addition to any land they are authorised to acquire by any other Act relating to their undertaking. But nothing in this section shall exempt the Company from any action or other proceeding for nuisance in the event of any nuisance being caused by them on any land acquired under the powers of this section.

Power to take easements by agreement.

**16.** Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any



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easement right or privilege not being an easement of water required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable on this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

17. Subject to the provisions of this Act the Company may enter upon take hold and use for the erection of engine-houses stables carriage-houses depôts and other buildings works and conveniences and for the general purposes of their undertaking all or any of the lands and houses in the parish of South Leith on the east side of Leith Walk near and northward of the junction of Leith Walk and Smith's Place shown upon the deposited plans and described in the deposited books of reference and therein numbered continuously 1 to 16.

Power to take lands for stables &c.

18. The powers of the Company under this Act for the compulsory purchase of lands shall cease after the expiration of two years from the passing of this Act.

Period for compulsory purchase of lands.

19. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff acting for the county of Edinburgh for the correction thereof and if it appear to such sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and shall in his certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited at the office of the principal sheriff clerk for the county of Edinburgh and such certificate shall be kept by such sheriff clerk with the other documents to which the same relates and thereupon the deposited plan and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

Correction of errors in deposited plan and book of reference.

20. The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or without the consent of the Secretary for Scotland ten or more such houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

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The expression "labouring class" in this section includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Period for completion of works.

21. The tramways by this Act authorised 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 constructing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Tolls.

22. The Company may from time to time demand and take in respect of the tramways authorised by this Act tolls and charges not exceeding those which they are authorised to take and for the time being may lawfully take in respect of their authorised tramways under or by virtue of the Act of 1871 and the agreement set forth in the third schedule thereto as amended by the agreement scheduled to the Edinburgh Street Tramways Act 1892.

Power to apply existing funds.

23. The Company may from time to time apply towards any of the purposes of this Act being in all cases purposes to which capital is properly applicable any moneys which they have raised or are authorised to raise and which may not be required for the purposes (if any) to which such moneys are by any Act relating to the Company made specially applicable.

Application of purchase moneys of tramways &c.

24.—(A) The Company may after setting aside a sum sufficient to pay off all mortgages granted by the Company and then subsisting apply any moneys which may from time to time be received by them from any local authority as the price or value of any portion of their undertaking purchased by such local authority to any purposes of the Company to which capital is properly applicable or may in their discretion pay and distribute such moneys or any part thereof amongst the shareholders rateably in proportion to the amounts for the time being paid up on their shares.

(B) The Company after setting aside a sum sufficient to pay off all mortgages granted by the Company and then subsisting may from time to time pay and distribute out of any sums set aside in pursuance of section 125 of the Companies Clauses Consolidation (Scotland) Act 1845 any sum or sums amongst the shareholders in manner provided in sub-section (A) of this section.

(C) In addition to the sums which the directors are authorised to set aside out of profits by section 125 of the Companies Clauses Consolidation (Scotland) Act 1845 the directors may from time to

time set aside out of profits such other sums as they may think proper to form a fund to be called "the capital redemption fund" and may invest the sums so set aside and the resulting income thereof in any investments in which trustees are by law entitled to invest trust moneys or in any other investments which may be from time to time authorised by a general meeting of the shareholders of the Company with power from time to time to vary such investments and the directors may from time to time realise all or any part of the investments standing to the credit of the capital redemption fund and pay and distribute all or any part of the moneys realised thereby and any other moneys standing to the credit of the said fund amongst the shareholders in manner provided in sub-section (A) of this section.

(D) Such payments to the shareholders shall be in reduction of the amounts paid up on the shares and the shares shall thereupon be treated as if the capital of the Company had originally been divided into shares of the nominal amount to which by such payment as aforesaid they are reduced.

(E) When any such payment to the shareholders is made the certificates of the shares so reduced shall be delivered up to the Company and endorsed with notice of the amount to which the nominal amount of such shares has been reduced under the provisions of this section and no shareholder shall be entitled to payment of any money under this section until he shall have delivered up to the Company to be endorsed the certificate or certificates of the share or shares held by him.

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

Provision as to general tramway Acts.

**26.** All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act shall be paid by the Company.

Costs of Act.

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