CHAPTER xcix.

A.D. 1888.

An Act to authorise the Aberdeen District Tramways Company to construct additional Tramways; to amend the Aberdeen District Tramways Act, 1872, and the Aberdeen District Tramways Extension Act, 1878; and for other purposes. [24th July 1888.]

WHEREAS by the Aberdeen District Tramways Act, 1872, the Aberdeen District Tramways Company (in this Act called "the Company"), were incorporated and empowered to make, maintain, work and use the several tramways by that Act authorised; and were also authorised to raise seventy-five thousand pounds by shares, and eighteen thousand seven hundred and fifty pounds by borrowing, but thirty-nine thousand two hundred and forty pounds of such share capital has not been raised, and the borrowing powers have not been exercised:

And whereas by the Aberdeen District Tramways Extension Act, 1878, the Company were empowered to make, maintain, work and use the several tramways in that Act described:

And whereas it is expedient that the Company should be authorised to lay down and maintain the several tramways in this Act described:

And whereas the Company have, with the consent of the lord provost, magistrates and town council of the royal burgh and city of Aberdeen (hereinafter called the "town council") constructed a short line of tramway, hereinafter described, and it is expedient that such tramway should be sanctioned by Parliament:

And whereas it is expedient that the Company, with the consent of the town council or the local or road authorities, should be authorised to work and use their existing tramways and the proposed tramways by means of steam, electrical, or mechanical power, as hereinafter provided:

And whereas it is expedient that the deposit made with the Court of Exchequer in Scotland in respect of the application to Parliament for the Aberdeen District Tramways Extension Act, 1878, should be released, as hereinafter provided:

A.D. 1888.

And whereas it is expedient that the Company and the local authorities and road authorities should be authorised to make and carry into effect the agreements hereinafter mentioned:

And whereas plans and sections showing the lines and levels and indicating the position in the streets along which they are to be laid down of the tramways and works by this Act authorised, and books of reference to those plans have been deposited with the principal sheriff clerk for the county of Aberdeen, and those plans, sections and books of reference are in this Act respectively referred to as the deposited plans, sections and books of reference:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

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

Short title.

1. This Act may be cited as the Aberdeen District Tramways Act 1888.

Incorporation of general Acts.

2. Parts II. and III. of the Tramways Act, 1870, the Lands Clauses Consolidation (Scotland) Act, 1845 (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking), and the Lands Clauses Consolidation Acts Amendment Act, 1860, 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 or unless herein otherwise expressly provided: the expression "the Act of 1872" means the Aberdeen District Tramways Act, 1872; the expression "the Act of 1878" means the Aberdeen District Tramways Extension Act, 1878; the expression "the tramway," or "the tramways," means the tramways and works by this Act authorised; the expression "the undertaking" means the undertaking of the Company as authorised by the recited Acts and this Act; the expression "local authority" or "road authority" means the lord provost, magistrates and town council of the royal burgh and city of Aberdeen, or the road trustees or other body having the control of the streets or roads along which the tramways are intended to be laid; and the word "contingencies" in the Companies Clauses Consolidation (Scotland) Act, 1845 (section one hundred and twenty-five), shall be construed to include the con-

tingency of the undertaking being sold to the local authority, under section 43 of the Tramways Act, 1870, at a sum less than the aggregate amount of the capital and debts of the Company.

Power to make tramways.

4. Subject to the provisions of this Act and Parts II. and III. of the Tramways Act, 1870, the Company may make, form, lay down, work, use and maintain the tramways hereinafter 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 hereinbefore referred to and authorised by this Act are :—

1. Tramway No. (1), one mile four furlongs 2·20 chains in length, of which one mile two furlongs 7·20 chains will be single and one furlong five chains will be double, wholly in the parish of Oldmachar, royal burgh and city of Aberdeen, and county of Aberdeen, commencing in Fountainhall Road, at a point 2·50 chains or thereabouts from the south end of that road by a junction with the existing tramway in that road authorised by the Act of 1872, thence proceeding in a northerly direction along Fountainhall Road to the north end thereof, and thence proceeding in an easterly direction along Beechgrove Terrace, Belvidere Place, and Rosemount Place to the north end of South Mount Street, and thence proceeding in a south-easterly direction along South Mount Street, Rosemount Viaduct, and Union Terrace into Union Street, and terminating in Union Street by a junction with the existing tramway there at a point 1·10 chain or thereabouts east or thereby of the south end of the centre line of Union Terrace aforesaid ;
2. Tramway No. (2), three furlongs three chains in length (a double line), wholly in the parish of Oldmachar, royal burgh and city of Aberdeen, and county of Aberdeen, commencing by a junction with the existing line of tramway at Union Place at a point opposite the north or north-east end of Wellington Place, thence proceeding in a north-easterly direction or thereby along Union Place and Union Street West, and terminating in Union Street West by a junction with the existing single line of tramway there, at a point 1·00 chain or thereabouts west of the south-west end of Union Bridge, which double line shall be substituted for the existing single line of tramway between Union Place aforesaid and the point of junction last mentioned constructed under the powers of the Act of 1872, and forming part of the Tramway No. 2 thereby authorised ;

A.D. 1888.

3. Tramway No. (3), two furlongs 5·75 chains in length (a double line), wholly in the parish of St. Nicholas, royal burgh and city of Aberdeen, and county of Aberdeen, commencing by a junction with the north-east end of the existing single line of tramway across Union Bridge, proceeding thence in a north-easterly direction or thereby along Union Street, Union Buildings and Castle Street, and terminating at a point in Castle Street fourteen yards or thereby west of the Duke of Gordon's statue there, which double line shall be substituted for the existing single line of tramway between the north-east end of Union Bridge and a point at or near the west side of the Duke of Gordon's statue in Castle Street, constructed under the powers of the Act of 1872, and forming part of the Tramway No. 2 by that Act authorised.

Company may relay as a double line the tramway on Union Bridge.

5. The Company may, with the consent of the town council, take up and relay as a double line the existing single line of tramway across Union Bridge in Union Street, beginning at a point opposite or nearly opposite the north-east end of the said bridge, by a junction with Tramway No. 3 authorised by this Act, and terminating at a point 1·00 chain, or thereabouts, west of the south-west end of the said bridge, by a junction with Tramway No. 2 authorised by this Act, but subject in all respects as if the Company had by this Act been authorised to make and maintain such double line.

Provision as to construction of tramway in Union Terrace.

6. Notwithstanding anything shown on the deposited plans, the Company may, if so required by the town council, lay and maintain that portion of Tramway No. 1, authorised by this Act, which will be situated in Union Terrace, so that a uniform distance of sixteen feet shall be left between the outside of the footpath on the west side of the said terrace and the nearest rail of the tramway.

Sanctioning short tramway already constructed.

7. The single line of tramway laid along the centre of the road along which it passes, two furlongs 9·40 chains in length, already constructed with the consent of the town council, situated wholly in the parish of Oldmachar, royal burgh and city of Aberdeen, and county of Aberdeen, commencing in Holburn Street, at a point opposite the junction of Great Western Road with Holburn Street, and forming a junction with the tramway in Holburn Street, constructed under the powers of the Act of 1878, and forming part of the Tramway No. 2 authorised by that Act, and thence proceeding in a south-westerly direction along Holburn Street to a point 8·75 chains or thereabouts south-west of the junction of Holburn Road with Holburn Street, shall form part of the undertaking, tramways, works and property of the Company, as if the Company had by the Act of 1872 been authorised to make and maintain the same.

Extending to this Act certain provisions of the Act of 1872.

8. The provisions of section eleven of the Act of 1872 shall, so far as applicable, extend and apply to the tramways by this Act authorised, but subject always to the terms of the agreement between the town council and the Company hereinafter referred to.

Penalty imposed unless tramways be opened within the time limited.

9. If the Company fail within the period limited by this Act to complete the tramways, 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 tramways are completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the uncompleted tramway, and the said penalty may be applied for by any road authority, landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor to Her Majesty's Treasury, and in the same manner as the penalty provided in the third section of the Railway and Canal Traffic Act, 1854. 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 Remembrancer of the Court of Exchequer in Scotland, in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as hereinafter 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 was prevented from completing or opening any tramway 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.

Application of penalty.

10. 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 has been interfered with or otherwise rendered less valuable by the commencement, construction or abandonment of the tramways, or any portion thereof, in respect of the non-completion of which the same was recovered, and for which injury or loss no compensation or inadequate compensation shall have been paid, and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Court of Exchequer in Scotland

A.D. 1888.

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 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 Court of Exchequer thinks fit to order on the application of the Solicitor to 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 said court, if the Company is insolvent, and has been ordered to be wound up, or a judicial factor has been appointed, shall wholly or in part be paid or transferred to such judicial factor 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.

Providing for release of deposit in relation to tramways authorised in 1878.

11. 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 five hundred pounds, being five per cent. upon the amount of the estimate in respect of the tramways proposed to be authorised by the bill for the Act of 1878, as originally introduced into Parliament, was deposited in the Court of Exchequer in Scotland: And whereas certain of the tramways were struck out of the bill during its progress through Parliament: And whereas the tramways authorised by the Act of 1878 were constructed, excepting the portion of the tramway No. 3, which consists of 36·10 chains or thereabouts in length, which portion is wholly situate in the parishes of Oldmachar and St. Nicholas, and the divisions of St. Nicholas parish known as the Greyfriars and North Parishes, or some of them, in the county of Aberdeen, commencing in the King Street Road, at a point opposite or nearly opposite University Road, thence passing along King Street Road and King Street, and terminating at a point in King Street, opposite or nearly opposite the east end of the north dyke of the Cattle Market: And whereas the said tramways authorised and constructed as aforesaid, excepting as aforesaid, were not opened for public traffic until ten days or thereby after the expiry of the period prescribed by the Act of 1878 for the completion of the tramways thereby authorised: And whereas the said sum of one thousand five hundred pounds deposited as aforesaid has not been repaid to the depositors, and still remains with the Court of Exchequer in Scotland: Therefore, subject to the provisions of section six of the Act of 1878, relating to compensation to landowners and other persons injured and for

protection of creditors, on the application of the depositors at any time after the passing of this Act, the Court of Exchequer in Scotland may and shall order that the said sum of one thousand five hundred pounds, and the interest and dividends thereon, shall be paid to the depositors, or as they shall direct.

Gauge of tramways.

12. Every tramway to be made, formed or laid down under this Act shall be constructed of two rails, on the gauge of four feet eight inches and half an inch.

Carriages constructed for use on railways not to be used.

13. The Company shall not use upon the tramways by this Act authorised carriages or trucks constructed for use upon railways.

Tramways to be inspected before being opened.

14. The tramways shall not be opened for public traffic until the same have been inspected and certified to be fit for such traffic in the manner (if any) which may be prescribed by the Sheriff of Aberdeen, Kincardine and Banff:

Provided always that, during the construction of the double lines of tramways No. 2 and No. 3 by this Act authorised, the Company may, for the purposes of this Act and for carrying on the traffic of their undertaking without interruption, use such portions of the said double lines as are from time to time completed; and may also, for the like purposes, make and use such other works as may be necessary, if constructed to the reasonable satisfaction of the surveyor of the town council.

Tramways to be kept level with surface of roads.

15. If and whenever after the passing of this Act any road authority alters the level of any road along or across which any tramway of the Company is laid or authorised to be laid, the Company may and shall, from time to time, at their own expense, alter or, as the case may be, lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Penalty for not maintaining tramways.

16. 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 by this Act authorised, and of all other tramways of the Company and the substructure upon which the same rest, and if the Company at any time fail to comply with this provision or with 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.

Town council to have access to sewers,

17. The town council shall at all times have free access to and communication with all their sewers, drains, mains and pipes, and power to lay down or authorise to be laid down lateral and private

A.D. 1888.

&c., and may lay down drains and pipes.

drains and pipes to communicate therewith respectively, without the consent or concurrence of the Company; and the provisions contained in the 32nd and 33rd 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 town council as if the same were a pipe for the supply of gas or water.

Town council may execute alterations of sewers, &c., where necessary at expense of the Company.

18. In any case where by reason of the construction of the tramways or works connected therewith it may, in the opinion of the town council, be necessary or expedient to alter the position of any sewers or drains, or to take up and relay or alter any mains, pipes, tubes or apparatus for the supply of water or gas belonging to the town council, such alterations and works may be executed by the town council, and the cost thereof, as certified by the engineer or surveyor of the town council, shall be paid by the Company to the town council. If any difference arises between the Company and the town council with respect to the propriety of or necessity for any such alterations, the same shall be settled in the manner prescribed in section thirty-three of the Tramways Act, 1870, for the settlement of the differences in that section mentioned.

Plans of buildings to be approved by town council.

19. The plans and elevations of all buildings to be erected by the Company within the jurisdiction of the town council as local or road authority shall be submitted to the town council for approval before the buildings are commenced.

Company may be required to use improved rails.

20. 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, 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.

Power to make additional crossings, &c.

21. The Company may, subject to the provisions of this Act, with 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 tramways, or for providing access to any warehouses, stables or carriage-houses or works of the Company: Provided, that in the construction of any such works, no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the footpath on either side of the road, if the owner or owners, or occupier or occupiers of the

premises abutting on the place where such rail is proposed to be laid shall, by writing, under their hand, addressed to the Company, express their objection thereto.

Temporary tramways may be made when necessary.

22. Where by reason of the execution of any work affecting the surface or soil of any road, or by reason of the alteration, widening or diversion of any road, or any part of any road along which any of the tramways is laid, it shall, in the opinion of the local or road authority, be necessary or expedient temporarily to discontinue the use of such tramway or any part thereof, the Company shall within fourteen days after receiving an order in writing from the local or road authority, under the hand of their clerk or surveyor, discontinue or take up such tramway for such period as may be necessary for the execution of the said work: Provided that the Company may, with the consent of the local or road authority, under the hand of their clerk or surveyor, and subject to such conditions and in accordance with such regulations as the local or road authority may from time to time make, construct on the same or any adjacent road, or on or along any part of the road as altered, widened or diverted, and with the like consent, subject to the like conditions, and in accordance with the like regulations maintain, so long as occasion may require, a temporary tramway or temporary tramways in lieu of the tramway or part of the tramway so discontinued. If any difference arises between the Company and any local or road authority with respect to the reasonableness of or necessity for any such discontinuance, or the reasonableness of any regulations, or with respect to the mode of constructing any such tramway or tramways under the authority of this section, the same shall be settled in the manner specified in section thirty-three of the Tramways Act, 1870, for the settlement of differences in the said section mentioned.

Period for completion of works.

23. The tramways 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.

New lines of tramway to be part of the Company's undertaking.

24. Subject to the provisions herein contained, the property from time to time acquired by the Company by virtue of this Act, and the tramways and works connected therewith by this Act authorised to be constructed, shall for all purposes of tolls, rates and charges, and for all other purposes whatsoever, be part of the undertaking, tramways, works and property of the Company, as if the Company had, by the Act of 1872, been authorised to make, and maintain the same.

A.D. 1888.

Power to apply corporate funds to purposes of this Act.

25. The Company may apply to the purposes of this Act any monies which they now have in their hands, or which they have power to raise by shares or mortgage by virtue of the Act of 1872, and which may not be required for the purposes to which they are by that Act made specially applicable.

Agreements between the Company and road authorities.

26. The Company may, subject to the provisions of this Act, from time to time enter into any agreement with any road authority with respect to the mode of construction, and the maintaining, removing, renewing, repairing and using of the tramways, situate within the district of such road authority, and the rails, paving, plates, chairs, sleepers and works connected therewith, and the facilitating of the traffic over the same.

Confirming agreement with town council.

27. The agreement between the town council and the Company, set forth in the schedule A to this Act annexed, is hereby confirmed and made binding on the parties thereto, and full effect shall be given by them to the same accordingly.

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

28. The carriages used on the tramways may, subject to the provisions of this Act, be moved by animal power, and, with the consent of the Board of Trade in writing under the hand of a Secretary or Assistant Secretary of that board, given upon an application by the Company, during the period of seven years from and after the passing of this Act, and after the expiration of that period with the like consent during such further periods of seven years as the said board may from time to time specify in any such order, the carriages used on the tramways already constructed and authorised by this Act may, subject to the provisions of this Act, be moved by electricity or steam power, or by mechanical power:

Provided always, that the exercise of the powers hereby conferred with respect to the use of electricity, steam or any mechanical power, shall be subject to the regulations set forth in the schedule B to this Act, 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 electricity, steam or any mechanical power on the tramways: Provided further, that the Company shall, before applying for the consent as aforesaid of the Board of Trade, obtain the consent in writing of the town council, and that the town council may without prejudice to their other powers by such consent:—

(1) Specify the tramways or portions of tramways within their district upon which such electric, steam or other mechanical power may be so used;

(2) Limit the number of carriages to be drawn or moved by any one engine on the tramways or parts of the tramways within their district: Provided that no more than two carriages shall be attached to one engine.

As to consent of town council for the use of electric, steam or mechanical power on the tramways.

29. No consent of the town council under this Act shall be given authorising the use of electric, steam or any mechanical power on any tramway or portion of tramway of the Company, otherwise than by resolution of the town council, by a majority of two-thirds of the members present at a special meeting to be called, with four weeks' notice, specifying the object of the meeting; and the town council, notwithstanding the concession of a right to use other than animal power on any tramway or portion of tramway may, by a resolution of a like majority of two-thirds at a special meeting to be called with like notice, prohibit wholly or partially the continuance of the use of such mechanical power if and so far as in their opinion the same is dangerous or inconvenient to the public, or if the Company fail to comply with any condition or conditions of the consent of the town council, and such order of prohibition may be enforced by the Sheriff of Aberdeen, Kincardine and Banff, or any of his substitutes: Provided that the town council, having refused or withdrawn their consent as aforesaid, may at any time, and from time to time, again grant and revoke their consent in manner aforesaid.

Penalty for using electric steam or mechanical power contrary to Act or regulations.

30. The Company or any other company or person using electric, steam, or any mechanical power on any of the tramways of the Company, contrary to the provisions of this Act, or to any of the regulations set forth in the schedule B to this Act, 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 during which such offence continues after conviction thereof: 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 other company or person using electricity, 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 B to this Act, or with any regulation which may have been added thereto or substituted therefor as aforesaid, may by order direct the Company, or such other company or person to cease to exercise the powers aforesaid, and thereupon the Company or such other company or 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

A.D. 1888.

every such case the Board of Trade shall make a special report to Parliament, notifying the making of such order.

Bye-laws.

31. 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 bye-laws with regard to any of the tramways upon which electric, 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:—

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 bye-laws in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere;

Any persons offending against or committing a breach of any of the bye-laws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings.

As to recovery of penalties.

32. 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 bye-law made by the Board of Trade under the authority of this Act.

Amendment of the Tramways Act, 1870, as to bye-laws by local authority.

33. The provisions of the Tramways Act, 1870, relating to the making of bye-laws by the local authority with respect to the rate of speed to be observed in travelling on the tramways, shall not authorise the local authority to make any bye-law sanctioning a higher rate of speed than that authorised by this Act, or by any regulation or bye-law 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 bye-laws under the provisions of the Tramways Act, 1870, for restricting the rate of speed to a lower rate than that so prescribed.

Orders and bye-laws.

34. All orders and bye-laws made by the Board of Trade under the authority of this Act shall be signed by a Secretary or an Assistant Secretary of that board.

Cheap fares for labouring classes.

35. The Company, at all times after the opening of the tramways for public traffic, shall, and they are hereby required to run at 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 artisans, mechanics, and daily labourers, at fares not exceeding one halfpenny per mile (the Company, nevertheless, not being required to take any fare less than one penny):

Provided that, in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages, the said board shall have power to fix and regulate the same from time to time.

Periodical revision of tolls.

36. 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 any 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 town council, or by twenty inhabitant ratepayers, 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 portion of the tramways, should be revised, the Board of Trade may (if they think fit) direct an enquiry 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 order shall not exceed in amount the tolls and charges authorised to be taken by the Company: Provided also that a copy of this section shall be annexed to every table or list of tolls published or exhibited by the Company.

Carrying of mails by Company.

37. The Company, if required by the Postmaster-General, shall perform with respect to any tramway owned or worked by them, all

A.D. 1888.

such reasonable services in regard to the conveyance of mails as Her Majesty's Postmaster-General from time to time requires, provided as follows:—

(A) Nothing in this section shall authorise the Postmaster-General to require mails in excess of the following weights to be carried by the Company in or upon any carriage, that is to say:—

(1.) If the carriage is conveying or intended to convey passengers, and not goods or parcels, then in excess of the maximum weight for the time being fixed for the luggage of ordinary passengers; and

(2.) If the carriage is conveying or intended to convey parcels only, then in excess of such maximum weight as is for the time being fixed for ordinary parcels, or if that maximum appears to the Postmaster-General to be so low as to exclude him from availing himself of the use of any such carriage, then as is for the time being fixed by agreement, or, in default of agreement, by a referee to be appointed at the request of either party by the Lord President of the Court of Session in Scotland; and

(3.) If the carriage is conveying, or intended to convey both parcels and passengers, but not goods, then in excess of the maximum weight for the time being fixed for ordinary parcels, or for the luggage of ordinary passengers, whichever is the greater;

(B) Mails when carried in or upon a carriage conveying passengers shall be so carried as not to inconvenience the passengers, but so, nevertheless, that the custody of the mails by any officer of the Post Office in charge thereof shall not be interfered with;

(C) Nothing in this section shall authorise the Postmaster-General to require any mails to be carried by the Company, in or upon a carriage conveying or intended to convey passengers, but not goods or parcels, except in charge of an officer of the Post Office travelling as a passenger;

(D) If the Company carry goods as well as passengers and parcels, the enactments relating to the conveyance of mails by railway shall, subject to the provisions of this section, apply in like manner as if the Company were a railway company and the tramway were a railway.

The remuneration for any services which have been performed by the Company in pursuance of this section shall be such as may be from time to time determined by agreement between Her Majesty's Postmaster-General and the Company, or in default of agreement, by a referee to be appointed by the Lord President of the Court of Session in Scotland, at the request of either party, and this provision

shall have effect in lieu of any provisions respecting remuneration contained in the enactments relating to the conveyance of mails by railway which are applied by this section.

For the purposes of this section the expression "mails" has the same meaning as in the Regulation of Railways Act, 1873, and includes parcels within the meaning of the Post Office (Parcels) Act, 1882.

For the purposes of this section a requisition by Her Majesty's Postmaster-General may be signified by writing under the hand of any person who is at the time either such Postmaster-General, or a Secretary or Assistant Secretary of the Post Office, or the Inspector-General of Mails, and any document purporting to be signed by any such person as aforesaid shall, until the contrary is proved, be deemed, without proof of the official character of such person, to have been duly signed as required by this section.

Provision for protection of the Post-master-General.

38. In the event of the tramways of the Company being worked by electricity, the following provisions shall have effect :—

1. It shall not be lawful for the Company to lay down any line or rail, or to do any act or work for working the tramways by electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected; and before any such line or rail is laid down, or any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance, and so continuing for a distance of six feet on each side of such point), the Company or their agents, not more than twenty-eight nor less than fourteen days before commencing such work, shall give written notice to the Postmaster-General specifying the course of the line or rail, and the nature of the work, including the gauge of any wire, and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work.
2. Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by the Board of Trade, whose decision shall be final, and sections thirty to thirty-two, both inclusive, of the Regulation of Railways Act, 1868, shall apply in like manner as if the Company or their agents were a company within the meaning of that Act.

A.D. 1888.

3. In the event of any contravention of or wilful non-compliance with this section by the Company or their agents, the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues, or if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues.

4. Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done, a notice of the execution thereof, stating the reason for doing or executing the same without previous notice.

5. For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work, if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such act or work or by any use made of such work.

41 & 42 Vict. c. 76.

6. For the purposes of this section, and subject as therein provided, sections two, eight, nine, ten, eleven and twelve of the Telegraph Act, 1878, shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted.

Provision as to general tramway Acts.

39. Nothing in this Act contained shall exempt the Company or the tramways from the provisions of any general Act relating to tramways now in force, or which may hereafter pass during this or any future session of Parliament, 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.

Costs of Act.

40. 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.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

It is agreed between the parties following, namely, the lord provost, magistrates and town council of the royal burgh and city of Aberdeen (hereinafter called the Town Council) of the first part, and the Aberdeen District Tramways Company (hereinafter called the Company), incorporated by the Aberdeen District Tramways Act, 1872, the promoters of the Bill in the present session of Parliament, intituled "A Bill to authorise "the Aberdeen District Tramways Company to construct additional tram-"ways; to amend the Aberdeen District Tramways Act, 1872, and the "Aberdeen District Tramways Extension Act, 1878; and for other "purposes" (hereinafter called the Bill) of the second part, in manner following, that is to say:—The town council and the Company, considering that by the Bill it is proposed to obtain authority to lay down additional tramways on certain roads and streets within the royal burgh and city of Aberdeen (hereinafter called the City), and that the Company have applied to the town council to give their consent to the Bill, as the local and road authority, under the Tramways Act, 1870, for the City, and that the town council have agreed to give such consent, subject to the provisions of the Bill, or to be inserted therein, and on the conditions hereinafter set forth: Therefore the town council and the Company have agreed and severally bind and oblige themselves as follows:—

First.—The agreement between the town council and the promoters of the Company scheduled to the Aberdeen District Tramways Act, 1872, is and shall be cancelled and annulled at and on the passing of the Bill (being the day on which the same shall receive the royal assent), and this agreement is and shall be substituted therefor, and shall be scheduled to and confirmed by the Bill.

Second.—This agreement shall, unless where the context shall forbid, apply to the whole undertaking of the Company, and to the tramways, lands, buildings, works, materials and plant of the Company suitable to and used by the Company for the purposes of said undertaking, whether already constructed and used, or to be constructed and used, in virtue of the Bill.

Third.—Notwithstanding the provisions of section 11 of the Aberdeen District Tramways Act, 1872, which, so far as applicable, shall extend and apply to the tramways to be authorised by the Bill, it is agreed in reference to the repaving of Union Street and Union Place, that the Company shall, in the case of the tramways Numbers 2 and 3, in Union Street and Union Place, to be authorised by the Bill, be bound to repave the two tracks, using Lindsay's patent chilled iron blocks alternately with granite setts close to each side of the rails, and that the town council shall be bound to repave the remainder of Union Street and Union Place, including the space between the two tracks, and also the space of eighteen inches beyond the outer rail of each track, and that the Company shall at their own expense supply to the town council such quantity of the same description of chilled iron blocks as may be required by the town council in connection with the execution of their portion of the work.

A.D. 1888.

The said repaving in the proportions foresaid of Union Street and Union Place by the town council and the Company, and the construction by the Company of the said tramways Numbers 2 and 3, shall be carried out by the town council and the Company simultaneously and continuously, and with all reasonable expedition after the passing of the Bill.

Fourth.—The Company shall be bound to maintain, in terms of sub-section 2 of section 11 of the Aberdeen District Tramways Act, 1872, the whole paving of the two tracks of the said tramways Numbers 2 and 3, as well as of the space between the two tracks and the space of eighteen inches beyond the outer rail of each track.

Fifth.—The provisions contained in articles third and fourth of this Agreement shall, so far as applicable, extend and apply to the line of tramway across Union Bridge in Union Street connecting the said tramways Numbers 2 and 3.

Sixth.—The Company shall be allowed to use the existing paving materials in Union Street and Union Place (in so far as within the space falling to be repaved by them) for the purpose of paving the tramway track along other streets or roads within or outside the City, as such use may be sanctioned by the town council.

Seventh.—The annual rent to be paid by the Company to the town council, in terms of sub-section 4 of section 11 of the Aberdeen District Tramways Act, 1872, shall be calculated and paid on all roads and streets within the present municipal boundary of the City on which the Company's tramways are or shall be laid, it being declared that where the line is, or shall be double, the rent on such double line shall be charged and paid as on a single line only.

Eighth.—Within six months after the expiration of seven years from the passing of the Bill, and again within six months after the expiration of fourteen years from the said time, the town council may by notice require the Company to sell, and thereupon the Company shall be bound six months after the receipt of such notice to sell to the town council their undertaking on the terms of paying the then value of the said tramways, and all lands, buildings, works, materials and plant of the Company suitable to and used by them for the purposes of their undertaking; such value to be, in case of difference, determined either by an arbiter, nominated by the Board of Trade in the manner prescribed by section 43 of the Tramways Act, 1870, or, in the option of the town council, by arbitration under the provisions of the Lands Clauses Consolidation (Scotland) Act, 1845; and when any such sale has been made, all the rights, powers and authorities of the Company in respect of the undertaking sold, shall be transferred to and vested in, and may be exercised by the town council in like manner as if the said tramways had been constructed by the town council under the powers of a Provisional Order, or Act of Parliament obtained by themselves for that purpose.

Ninth.—The town council shall not purchase the undertaking of the Company under the provisions of this agreement, unless they shall decide to make such purchase by resolution passed at a special meeting of the town council, which resolution shall be made in the same manner, and shall be subject to the same conditions as to validity, as resolutions made in regard to the purchase authorised by section 43 of the Tramways Act, 1870; and in the event of the town council exercising the power of purchase conferred on them by this agreement, the town council may pay the purchase-money and all expenses incurred by them in making such purchase out of the like funds and for the like purposes,

and shall have the same powers and be subject to the same conditions as if such purchase were made under the authority of section 43 of the Tramways Act, 1870.

Tenth.—In the event of the town council exercising the powers of purchase conferred by this agreement previous to the expiration of twenty-one years from the passing of the Bill, or after the expiration of the said period of twenty-one years under the provisions of section 43 of the Tramways Act, 1870, the town council shall be entitled to have free inspection, at all times, of the books and accounts of the Company, in order to ascertain the expenditure in connection with their undertaking and the purposes of such expenditure.

Eleventh.—In the event of the town council exercising the powers of purchase conferred by this agreement within the said period of twenty-one years, the allowance for past and future profits of the undertaking, including compensation for compulsory sale, and every other consideration whatsoever, other than and except the then value of the tramways, and all lands, buildings, works, materials and plant of the Company suitable to and used by them for the purposes of their undertaking, shall not be less than ten per cent., nor more than twelve and a half per cent. per annum on the expended capital of the Company, for the period to elapse between the time at which such purchase shall be made and the expiration of the said period of twenty-one years.

Twelfth.—This agreement is made subject to the sanction of Parliament and to such alterations as Parliament may see fit to make therein.

Thirteenth.—The expenses of this agreement shall be borne and paid by the Company, and both parties consent to the registration hereof for preservation and execution.

In witness whereof these presents, written on this and the three preceding pages of stamped paper, by Robert Hepburn, clerk to Messieurs L. McKinnon, junior, and Son, advocates in Aberdeen, are executed in duplicate as follows, viz.:—are subscribed for and on behalf of the Company, by George Jamieson, of Rosebank, ex-lord provost of Aberdeen, and James Saint, merchant in Aberdeen, two of the directors, and Lauchlan Mckinnon, junior advocate in Aberdeen, the secretary of the Company, and are sealed with the common seal of the Company, all at Aberdeen, the fifth day of March, in the year eighteen hundred and eighty-eight, before these witnesses, namely, Lachlan MacKinnon, youngest, advocate in Aberdeen, and the said Robert Hepburn, writer hereof, and are in terms of the Aberdeen Municipality Extension Act, 1871, subscribed on behalf of the town council, by William Henderson, the lord provost, James Kinghorn, the senior baillie, and William Gordon, the town clerk, all of the said royal burgh and city of Aberdeen, and sealed with the common seal of the town council, all at Aberdeen, the said fifth day of March, in the year eighteen hundred and eighty-eight, before these witnesses, namely, Peter McLeod Cran, city chamberlain of Aberdeen, and George Strachan, writer in the town clerk's office, Aberdeen.

P. M. Cran, Witness.

George Strachan, Witness.

Wm. Henderson, Lord Provost.
James Kinghorn, Senior Baillie.
W. Gordon, Town Clerk.
L. S.

L. Mackinnon, Yost., Witness.

R. Hepburn, Witness.

George Jamieson, Director.
James Saint, Director.
L. McKinnon, Junior, Secretary.
L.S.

A.D. 1888.

SCHEDULE B.

Brake 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 their protection 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 movable facing points shall not exceed the rate of four miles an hour.

London: Printed for Her Majesty's Stationery Office,
By Eyre and Spottiswoode, Printers to the Queen's most Excellent Majesty.

And to be purchased, either directly or through any Bookseller, from
EYRE and SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.