CHAPTER ccxxxiv.

An Act to authorise the Aberdeen District Tramways Company to construct additional Tramways; and for other purposes. [16th August 1878.]

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WHEREAS by the Aberdeen District Tramways Act, 1872, (in this Act called "the Act of 1872,") the Aberdeen District Tramways Company (in this Act called "the Company") were empowered to make, maintain, work, and use the several tramways by that Act authorised: 35 & 36 Vict. c. cxciv.

And whereas the Company were by the Act of 1872 authorised to raise seventy-five thousand pounds by shares and eighteen thousand seven hundred and fifty pounds by borrowing, but the whole of such capital has not been raised:

And whereas it is expedient that the Company should be empowered to lay down and maintain the several tramways in this Act described, being tramways or parts of tramways formerly authorised by the Act of 1872, but the powers to construct which have expired:

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 herein-after 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,

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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 Extension Act, 1878.

Incorporation of general Acts.
33 & 34 Vict. c. 78.
8 & 9 Vict. c. 19.
23 & 24 Vict. c. 106.

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 of terms.

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 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 Act 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,) as incorporated with this Act, shall be construed to include the contingency 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.

8 & 9 Vict. c. 17.

33 & 34 Vict. c. 78.

Power to make tramways.
33 & 34 Vict. c. 78.

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 herein-after described in the lines and according to the levels shown on the deposited plans and sections, and in all respects in accordance with those plans and sections, with all proper rails, plates, works, and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act are,—

Tramway (No. 2), one mile two furlongs three chains and nine yards or thereabouts in length, wholly in the parish of

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Oldmachar and county of Aberdeen, commencing on the North Deeside or Aboyne Road at a point about four and a half chains, measured in a straight line in a south-westerly direction, from the northern end of the house called Upper Newlands, thence passing along the said North Deeside or Aboyne Road into and along Cuparstone Road, Ashley Place, Cuparstone Place, Holburn Street, Wellington Place, and Union Place, and terminating in Union Place by a junction with the existing tramway at a point about three chains south-west from the junction of Rose Street with Union Place, and will consist of a single line of rails, except at the following places, at which the tramway will consist of a double line of rails; that is to say,

(*a.*) Between two points respectively half a chain and four chains from the commencement of the said tramway:

(*b.*) Between two points respectively about four chains and half a chain south-west from the south-east entrance gate to Forbesfield Nursery:

(*c.*) Between two points respectively about nine and a half chains and thirteen chains south-west from the junction of Nellfield Road with North Deeside or Aboyne Road:

(*d.*) Between a point in Cuparstone Place two and a half chains eastward from the northern entrance gate of Nellfield Cemetery and a point in Holburn Street three chains south from the bridge over Holburn:

Tramway (No. 2) will be laid so that less than nine feet six inches will intervene between the outside of the footpath and the nearest rail of the tramway on the south-east side of the Cuparstone Road, between two points respectively sixteen yards and ninety yards south-west from the south-east entrance gate to Forbesfield Nursery:

Tramway (No. 3), seven furlongs one chain and thirteen yards or thereabouts in length, wholly situated in the parishes of Oldmachar and Saint Nicholas, and the divisions thereof 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 to University Road, thence passing along King Street Road and King Street, and terminating in that street by a junction with the existing line of tramway at its termination opposite the North Church, and will consist of a single line of rails, except at the following

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places, at which the tramway will consist of a double line of rails; that is to say,

(*a.*) Between two points respectively one chain and four and a half chains from its commencement:

(*b.*) Between two points respectively half a chain north and three chains south from Love Lane:

(*c.*) Between two points respectively one chain and four and a half chains south from Roslin Terrace:

Tramway (No. 4), four furlongs one chain and seven yards or thereabouts in length, wholly in the parish of Oldmachar and county of Aberdeen, commencing in the Inverurie Road, otherwise Barron Street, Woodside, at a point opposite or nearly opposite Bridge Street, thence passing along the said Barron Street, Woodside, and Hadden Street, and terminating in the last-mentioned street at a point opposite or nearly opposite Wellington Place, and will consist of a single line of rails, except at the following places, at which the tramway will consist of a double line of rails; that is to say,

(*a.*) Between two points respectively about half a chain and four chains from its commencement:

(*b.*) Between a point opposite High Street and a point three and a half chains south-west from that street:

Tramway (No. 5), six furlongs two chains and eleven yards or thereabouts in length, wholly in the parish of Oldmachar and county of Aberdeen, commencing by a junction with tramway (No. 4) at its termination as above described, thence passing along Hadden Street, Wellington Street, and Inverurie Road, and terminating in that road by a junction with the existing tramway at its termination at or near the Kittybrewster Station of the Great North of Scotland Railway, and will consist of a single line of rails, except at the following places at which the tramway will consist of a double line of rails; (that is to say,)

(*a.*) Between two points respectively half a chain and four chains from its commencement:

(*b.*) Between two points respectively eight chains and eleven and a half chains south-west from Pirie's Lane:

(*c.*) Between two points respectively fourteen chains and seventeen and a half chains south of the stone indicating two miles from Aberdeen.

Deposit money not

5. Whereas pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her

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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, has been deposited with the Court of Exchequer in Scotland, in respect of the application to Parliament for this Act, which sum is referred to in this Act as the deposit fund: Be it enacted, that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them, which persons, survivors, or survivor are or is in this Act referred to as the depositors, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways, open the same for the public conveyance of passengers: Provided that, if within such period as aforesaid the Company open any portion of the tramways for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade, specifying the length of the portion of the tramways opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramways so opened bears to the entire length of the tramways, the court shall, on the application of the depositors, order the portion of the deposit fund specified in the certificate to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the above-mentioned Act to the contrary notwithstanding.

to be paid except so far as line is opened.

6. If the Company do not, previously to the expiration of the period limited for the completion of the tramways, complete the same and open them for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, shall be applicable, and after due notice in the "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, and for which injury or loss no compensation or inadequate compensation has been paid, and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads

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by the construction or abandonment of such tramways, 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 may seem fit; and if no such compensation is payable, or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty, and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court of Exchequer thinks fit to order, on the application of the solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof; provided that until the deposit fund has been repaid to the depositors, or has become otherwise applicable as herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

Power to Company to construct double line of tramway in Union Street, &c.

7. The Company may, with the consent of the road authority and of the local authority, convert from a single into a double line of tramway so much of the following tramways; viz.,

So much of tramway No. 2 authorised by and constructed under the powers of the Act of 1872 as is situate in Union Place and in Union Street West between Holburn Street and the western end of Union Bridge, and in Union Street between the eastern end of Union Bridge and the termination of said tramway No. 2, at a point at or near the western side of the Duke of Gordon's statue in Castle Street; and so much of tramway No. 7 authorised by and constructed under the powers of that Act as is situated between the aforesaid termination of tramway No. 2 and a point in King Street, at or near to the west end of East North Street, such double line being six furlongs and four chains or thereabouts in length: Provided always, that a less space than nine feet six inches shall not intervene between the outside of the footpath on either side of the said streets or places and the nearest rail of the said double line of tramway: And provided further, that the said double line of tramway shall not be opened for public traffic until the same has been inspected

and certified to be fit for such traffic in the manner (if any) which may be prescribed by the Sheriff of Aberdeen and Kincardine.

Gauge of tramways.

8. 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.

Tramways to be inspected before being opened.

9. 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 and Kincardine.

Tramways to be kept level with surface of roads.

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

Penalty for not maintaining tramways.

33 & 34 Vict. c. 78.

11. 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 on 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.

Sewer authority to have access to sewers.

33 & 34 Vict. c. 78.

12. Every sewer authority shall at all times have free access to and communication with all their sewers and drains, and power to lay lateral and private drains to communicate therewith, without the consent or concurrence of the Company; and the provisions contained in the 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 sewer authority as if the same were a pipe for the supply of gas or water.

Company may be required to use improved rail.

13. 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 tramway, 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

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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 crossing places, &c.

14. 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 foot-path 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.

Power for Company to use tramways with flange-wheeled carriages, &c.

15. The Company may use on the tramways carriages or other vehicles with flange wheels, or wheels specially adapted to run on a grooved rail, and the Company shall have the exclusive use of their tramways for carriages or other vehicles with flange wheels or other wheels specially adapted to run on a grooved rail. No part of any carriage or other vehicle used on any tramway, or of the loading thereon, shall extend beyond the outer edges of the wheels of such carriage more than eleven inches on each side: Provided nevertheless, if the Company see fit, vehicles in ordinary use upon railways which extend not more than sixteen inches beyond the outer edges of the wheels on each side may pass along the tramways; but the loading thereof shall in no case extend beyond the sides of such vehicles.

Period for completion of works.

16. 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 Company's undertaking.

17. 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 acquire, make, and maintain the same.

Certain provisions of Act of 1872, to apply to tramways.

18. The provisions of section 11 of the Act of 1872, and also the provisions contained in the agreement scheduled to and confirmed by that Act, shall apply to the tramways by this Act authorised.

Power to apply corporate funds to purposes of this Act.

19. The Company may apply to the purposes of this Act any moneys 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.

Provisions of general Acts as to tolls &c. to apply to this Act.

20. 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 by the recited Act and this Act.

Expenses of Act.

21. 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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