CHAPTER cxcvii.

An Act for enabling the city and burgh of Dundee to borrow additional money for their gas undertaking and to extend their electric lighting area and for amending and extending the improvement and other Acts applicable to the city and burgh and for other purposes. [6th August 1897.] A.D. 1897.

WHEREAS an Act was passed in the forty-fifth and forty-sixth years of the reign of Her present Majesty intituled "An Act "to amend and consolidate the Dundee Police and other Acts to "enable the Dundee Police Commissioners to create and issue "debenture stock and for other purposes" (herein-after called "the Act of 1882") and the Act of 1882 repealed various Acts and parts of Acts then in force within the royal burgh of Dundee now the city and royal burgh of Dundee (herein-after called sometimes "the city" and sometimes "the burgh") and also saved from repeal various Acts and portions of Acts and consolidated the provisions of Acts and portions of Acts thereby repealed with alterations amendments and additions: 45 & 46 Vict. c. clxxxv.

And whereas the Lord Provost magistrates and council of the burgh for the time being (herein-after called "the Town Council") were by the Act of 1882 constituted the commissioners (herein-after called "the police commissioners") for carrying the same into effect as regards the burgh and as such were also constituted and became the local authority in the burgh under the Public Health Acts and the Explosives Acts and the Contagious Diseases (Animals) Acts specified in the Act of 1882 and all amendments thereof:

And whereas the Act of 1882 and the Dundee Police and Improvement Act 1871 and the Dundee Tramways Act 1872 and the Dundee Street Tramways Turnpike Roads and Police Act 1878 so far as unrepealed by the Act of 1882 and the Dundee Street Tramways Recreation Grounds Police and Improvement Act 1887 and the Dundee Extension and Improvement Act 1892 (herein-after 34 & 35 Vict. c. cliii. 35 & 36 Vict. c. cxci. 41 Vict. c. xciv. 50 & 51 Vict. c. lxxii.

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55 & 56 Vict. c. ccxxxv. 57 & 58 Vict. c. lxxiv.

called "the Act of 1892") apply to the burgh and by the Dundee Corporation Act 1894 (herein-after called "the Act of 1894") the powers of the police commissioners as such and as the local authorities aforesaid were transferred to and vested in the Town Council as in that Act defined and the statutory provisions applicable thereto and to the administration of the affairs of the burgh were otherwise amended and extended:

And whereas by the Act of 1894 the Town Council were also constituted the commissioners for carrying the Dundee Gas Acts therein recited into execution and as such they are likewise the local authority for electric lighting purposes under the Electric Lighting Acts 1882 and 1888 and the Electric Lighting (Scotland)

53 & 54 Vict. c. cxcix.

Act 1890 and power was obtained by the Dundee Electric Lighting Order 1890 confirmed by the Electric Lighting Orders Confirmation (No. 14) Act 1890 to supply electrical energy within a portion of the burgh described in the First Schedule annexed to the said Order and their jurisdiction as local authority both as regards electric lighting and streets and roads extends over the whole burgh:

And whereas the burgh has greatly increased and is yearly increasing in population:

And whereas the gasworks of the burgh are to some extent defective and insufficient and it is expedient that parts of the same should be discontinued and other parts improved and that additional plant and apparatus should be provided so as to increase the power and capacity of the gasworks undertaking of the city:

And whereas the powers of borrowing and raising money given by the Dundee Gas Acts are now inadequate and it is expedient that power should be given to raise further money for the purposes of the said Acts and this Act and it is also expedient that the area of supply under the said the Dundee Electric Lighting Order 1890 should be extended so as to include the whole city:

And whereas it is expedient that the Act of 1882 and other Acts relating to the burgh should be amended:

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:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited for all purposes as the Dundee Corporation Act 1897.

2. This Act is divided into parts as follows :— Division of Act into parts.

Part I.—Preliminary.
Part II.—Additional powers of borrowing money for gas undertaking.
Part III.—Electric lighting.
Part IV.—New street and other provisions.
Part V.—Additional powers of making byelaws.
Part VI.—Miscellaneous.

3. The following words and expressions shall have the respective meanings by this section assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation.

"The burgh" shall mean the city and royal burgh of Dundee as defined in and by the Act of 1892;

"The Town Council" shall mean the Lord Provost magistrates and town council of the burgh;

"The commissioners" shall mean the Dundee Gas Commissioners as fixed and defined by the Act of 1894;

"The gas undertaking" shall mean the undertaking of the Dundee Gas Commissioners exclusive of electric lighting and electric stations and electric plant and apparatus;

"The Dundee Gas Acts" and "the Gas Acts" shall mean the Dundee Gas Act 1868 the Dundee Gas Amendment Act 1872 the Dundee Gas (Additional Powers) Act 1877 the Dundee Gas (Debenture Stock) Act 1882 and Part IV. of the Act of 1894;

"Public buildings" shall mean and include halls let out or used for meetings on any week day or Sunday theatres music halls churches chapels gymnasiums schools or other buildings open to the public gratuitously or on payment for admission;

"Places of public resort or public amusement or recreation" shall include all public buildings and all public parks and public esplanades:

Provided further that the expression "the commissioners" and the word "commissioners" occurring in the Act of 1882 the Act of 1892 and any Acts specified in those Acts shall mean the Town Council as defined in the Act of 1894.

Part II.—Additional Powers of borrowing Money for Gas Undertaking.

4. In addition to any money which the commissioners have borrowed or raised or are authorised to borrow or raise under the Power to borrow on mortgage.

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Gas Acts the commissioners may from time to time under the authority of this Act borrow or raise such further sums as they think requisite for the purposes of the Gas Acts and this Act and of their gas undertaking not exceeding the sum of one hundred and fifty thousand pounds on the security of the several rates and charges leviable by them under the provisions of the Gas Acts and this Act and if after having borrowed or raised the said sums or any part thereof the commissioners pay off the same except by means of the sinking fund after-mentioned it shall be lawful for them again to borrow or raise the amount so paid off and so from time to time.

Security for borrowed money.

5. The money authorised to be borrowed or raised by this Act may be secured by mortgages in terms of and as provided for in the Gas Acts with regard to the money thereby authorised to be borrowed or by debenture stock of the commissioners in terms of and in manner provided by the Dundee Gas (Debenture Stock) Act 1882 as altered and amended by section 37 of the Act of 1894 and subject to the provisions of this Act all the powers forms and provisions of the Dundee Gas Act 1868 and the Dundee Gas (Debenture Stock) Act 1882 as altered and amended by section 37 of the Act of 1894 with regard to the borrowing or raising of money and with regard to the mortgages or debenture stock or certificates of debenture stock to be granted or issued therefor shall mutatis mutandis apply to the money by this Act authorised to be borrowed or raised and to all mortgages or debenture stock or certificates of debenture stock granted or created and issued for the same or any part thereof and to the transfer transmission redemption and discharge of such mortgages and such debenture stock Provided that the mortgages to be granted and certificates of the debenture stock to be created and issued for the moneys hereby authorised to be borrowed or raised shall declare that they are so granted by virtue or by and under the powers of this Act Provided also that all mortgages granted and debenture stock created and issued before the passing of this Act by the commissioners in pursuance of the Gas Acts shall have priority over any mortgages to be granted and debenture stock to be created and issued in virtue of this Act and all such last-mentioned mortgages and debenture stock shall rank together pari passu and without any preference or priority the one over the other Provided further that nothing contained in or done or suffered under this Act shall prejudice or affect the preference and priority of the perpetual annuities mentioned in the Dundee Gas Act 1868 and conferred by that Act.

Estimates and charges and contingent guarantee rate.

6. The estimate to be made up and the charges to be fixed by the commissioners under the Gas Acts shall include the objects and purposes of this Act and shall not only include and be sufficient with the other revenues of the commissioners to defray the annual sums and expenditure specified in the Gas Acts but likewise the interest of any money borrowed or raised under the provisions of this Act and the payment to the sinking fund applicable thereto and the expense of maintaining and managing the gasworks and other annual charges and the gas contingent guarantee rate leviable by the commissioners under the Gas Acts shall be sufficient to meet any deficiency in the moneys required to pay not only the aforesaid annual sums and expenditure but also the said interest payment to sinking fund expense and other annual charges.

Application of rates and charges.

7. The rates and charges levied or leviable under the authority of the Gas Acts and this Act or any of them and the other revenues of the commissioners whether arising under the Gas Acts or this Act shall be applied in the following order of priority that is to say (first) in defraying the expenses of the management and maintenance of the gas undertaking of the commissioners under the Gas Acts and this Act including the annual costs charges and expenses of providing and supplying gas and the payment of any feu duties or ground annuals exigible in respect of any lands or property forming part of the gas undertaking (secondly) in payment of the perpetual annuities by the Dundee Gas Act 1868 required to be paid so far as not from time to time redeemed and discharged and of the interest on any moneys borrowed under the authority of that Act (thirdly) in payment of the interest of money borrowed or raised under the authority of the Dundee Gas Amendment Act 1872 and the Dundee Gas (Additional Powers) Act 1877 and the Dundee Gas (Debenture Stock) Act 1882 respectively according to their order and priority (fourthly) in payment of the interest of money borrowed or raised under the authority of this Act (fifthly) in payment of the sums by the Gas Acts and this Act directed to be set apart as a sinking fund or allowed to be set apart as a contingent fund and (lastly) in payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes and of extending the works mains and pipes from time to time as the commissioners shall think it reasonable to charge against the revenue for the year and of any other necessary annual expenditure.

Application of borrowed money.

8. The several sums borrowed or raised by the commissioners under the authority of this Act shall be applied in terms and for the purposes of the Gas Acts and this Act only Provided always

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that no part thereof shall be applied to purposes for which the annual revenue of the commissioners is applicable.

Protection of lenders from inquiry.

9. Any person lending or paying money under the Gas Acts or this Act to the commissioners shall not be bound to inquire as to the observance by the commissioners of any provisions of the Gas Acts or this Act or be bound to see to the application or be answerable for any loss or non-application of such money or any part thereof.

Sinking fund.

10. The commissioners shall in addition to the sums specified to be set apart annually as a sinking fund by the Gas Acts set apart or pay over annually to the sinking fund thereby created a sum equal to one pound ten shillings per centum of the money from time to time borrowed or raised under the authority of this Act Provided always that such sum by accumulation with compound interest at the rate of three per centum per annum shall be sufficient to pay off the whole of the moneys that may be borrowed under the powers of this Act within fifty years from the respective times of borrowing such moneys and the said sinking fund shall be from time to time applicable to the redemption of mortgages and debenture stock granted and created and issued under the powers conferred by this Act as well as by the Gas Acts or to the other purposes specified in section eighty-five of the Dundee Gas Act 1868 as the commissioners think proper and to no other purposes whatever.

Part III.—Electric Lighting.

Extension of area of supply.

11. Subject to the provisions of the Dundee Electric Lighting Order 1890 the area of supply within which the commissioners as the undertakers for the purposes of that Order are thereby authorised to supply electrical energy within the meaning of "electricity" as defined in the Electric Lighting Act 1882 and within the meaning of "energy" as defined in the said Order shall be and is hereby extended so as to embrace and include those portions of the burgh not included in the said area and the powers and provisions of the said Order shall mutatis mutandis apply to such extended area in the same way as the same would have applied thereto had such extended area been included in the said Order as part of the area of supply Provided that it shall not be lawful to supply electrical energy to any part of the extended area of supply within the boundaries of the harbour of Dundee without the sanction of the trustees of the harbour of Dundee first had and obtained.

Streets not repairable by local authority railways or tramways not to be broken up without consent.

12. Nothing in this Act shall authorise or empower the commissioners to break up or interfere with any street or part of a street not repairable by the local authority or any railway or tramway within the extended area of supply without the consent of the authority company or person by whom such street railway or tramway is repairable or of the Board of Trade under section 13 of the Electric Lighting Act 1882 and where the Board of Trade give such consent the provisions of the said Order shall apply to the street railway or tramway to which the consent relates.

Part IV.—New Street and other Provisions.

Width of streets and height of houses.

13. From and after the passing of this Act it shall not be lawful (except in the case of any proposed street or court or such part of any proposed street or court for and with respect to which plans shall have been submitted to and approved of by the Town Council prior to the passing of this Act) to form or lay cut any new street or part thereof within the burgh unless the same shall be at least fifty feet wide for the carriageway and foot-pavements or any court unless the same shall be at least twenty feet wide and no dwelling-house shall be built in any such street or court which shall exceed in height from the level thereof to the eaves or square of the building the width of such street or court Provided always that where the buildings to abut on any street shall consist of villas or self-contained dwelling-houses not exceeding two storeys in height and having areas in front of not less than ten feet in breadth the width of the street may be reduced to forty feet Provided also that where a house or building shall be situated so as to abut on two streets or courts of different levels the height shall be measured from the street or court which lies on the higher level.

Through ventilation.

14. Wherever new streets are designed in the form of a parallelogram or in any form which contemplates the erection of buildings facing outwards and so placed as to enclose a space of back ground the Town Council before sanctioning such streets shall require the owner or owners to provide spaces or openings fifteen feet wide through such parallelogram or other enclosed space from street to street for the purpose of through ventilation and failing such owner or owners laying down upon the plans a suitable line for such spaces or openings the Town Council shall fix the same and such spaces or openings when so fixed shall remain open in all time from the height of fifteen feet upwards The provisions of

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this section shall not apply where provision is made otherwise to the satisfaction of the Town Council for the through ventilation of such parallelogram or other enclosed space nor shall the provisions of this section apply except as regards buildings proposed to be erected to the height of four storeys or upwards.

Deviation of line of new streets.

15. The Town Council may require suitable and convenient accesses to any proposed new street to be provided by cross streets continuation of streets or otherwise and may require the line and position or direction of any proposed new street to be altered for more convenient communication with any other street or streets and the Town Council may acquire by agreement lands and buildings and servitudes and rights of way for the purpose of providing through or cross communication from one street to another.

Provision for preventing culs de sacs in formation of streets.

16. The Town Council shall have power if in the circumstances of the case they think it expedient so to do to make it a condition of approving of any new street that such street shall be so laid out and formed that the same shall not terminate in a cul de sac and such condition shall be enforceable and carried into effect by the city engineer.

Signature to plans.

17. All plans of proposed new streets or proposed new buildings shall be signed by the party preparing them and shall bear the name of the proprietor or his agent.

Exemption of Government property from building regulations.

18. Without prejudice to any existing right of the Crown there shall be exempted from so much of the provisions of this Act as relates to buildings and structures every building structure or work vested in or in the occupation of Her Majesty either beneficially or as part of the hereditary revenues of the Crown or in trust for the public service or for public services also any building structure or work vested in or in the occupation of any department of Her Majesty's Government for public purposes or for the public service.

Part V.—Additional Powers of making Byelaws.

Power to make additional byelaws.

19. In addition to the byelaws authorised to be made by the Act of 1882 and other Acts the Town Council shall have power to make and enforce byelaws not being inconsistent with the provisions of this Act for or with respect to all or any of the following matters (that is to say) :—

For the regulation and use of public washhouses;

For the regulation and use of the public bleaching green of Dundee ;

For the safety and comfort of the public and for maintaining order in places of public resort or public amusement or recreation within the burgh :

Provided always that the said byelaws instead of being submitted to and confirmed by the sheriff shall be submitted to and confirmed by the Secretary for Scotland.

Part VI.—Miscellaneous.

Amending section 27 of Act of 1882.

20. Section 27 of the Act of 1882 shall be read as if the words "first Thursday of the months of February May August and "November of each year at two o'clock afternoon" were substituted for the words "second Monday of the months of February May "August and November of each year at one o'clock afternoon" occurring in the said section.

As to laying of pipes.

21. As regards pipes beyond the thirty feet mentioned in section 13 of the Dundee Gas Amendment Act 1872 and as regards pipes and apparatus required to be laid on private property as mentioned in the said section all such pipes and pipes and apparatus shall be provided and laid at the sight and to the reasonable satisfaction of the engineer and manager of the gas commissioners and should the same or any of them be provided or laid by the commissioners the expense thereby occasioned may be recovered by the commissioners from the person requiring the supply of gas in the same way and by the same procedure as any rates or charges for gas supplied Provided also that in any and every case both within and beyond the thirty feet the pipes and fittings up to the meter shall likewise be laid at the sight and to the reasonable satisfaction of the said engineer and manager.

Interest on deposits in security.

22. The rate of interest to be allowed on deposits made with the commissioners in security of rates for gas or energy to be supplied by the commissioners shall be three per cent.

Insurance fund may be created.

23. The Town Council may set apart annually such sum or sums as they think right from the rates and assessments levied by them under the Act of 1882 by way of an insurance fund against loss or damage by fire of houses and buildings belonging to the Town Council in any capacity or against loss or damage through the default or embezzlement of treasurers collectors clerks or other officers of the Town Council and may from time to time apply

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any money at the credit of such fund towards any such loss or damage.

Provisions as to Fairmuir.

24. Sections 198 to 202 both inclusive of the Act of 1882 shall apply to the public recreation ground of the Town Council called and known as the Fairmuir of Dundee and the Town Council may carry into effect and exercise as regards the said Fairmuir all the powers mentioned or referred to in the said sections Provided that no regulation or byelaw which shall restrict the military user of the said Fairmuir of Dundee in any case of national emergency or of local excitement or riot shall take effect until approved by the Secretary of State for War.

Appeal.

25. Section 329 of the Act of 1882 is hereby added to and amended as follows Provided further that if the judgment pronounced by the sheriff within the meaning of the said Act of 1882 is in point of fact pronounced by any sheriff substitute the judgment of such sheriff substitute shall not be final but shall be appealable and may be appealed by the Town Council or by the original appellant within fourteen days after it has been issued to the sheriff principal of the county of Forfar and upon any such appeal being made the sheriff principal shall hear parties and determine the matter of appeal and shall make such order thereon and on the original order resolution or deliverance or act appealed against either confirming quashing or varying the same as may be right and also awarding such costs to either of the parties as the said sheriff principal shall think fit.

Saving provisions.

26. Nothing contained in this Act shall alter prejudice or affect the saving provisions contained in sections 330 331 and 333 of the Act of 1882 but such saving provisions shall apply to this Act and the purposes thereof.

Saving rights of Dundee Harbour Trustees.

27. Nothing contained in this Act or in any Act incorporated in whole or in part with this Act shall extend or be construed to extend to take away impeach diminish or affect any rights interests titles dues powers jurisdictions privileges or authorities of the trustees of the harbour of Dundee under the statutes incorporating the said trustees or under which they now act or under the agreements contained in the Second Schedule to the Dundee Street Tramways Recreation Grounds Police and Improvement Act 1887 or the award referred to in the said agreements so far as remaining unaffected or unaltered by such agreements.

Costs of Act.

28. The 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 to the extent of one half out of the funds of the gas undertaking and to the extent of the other half out of the funds administered by the Town Council as in place and stead of the commissioners of police for the burgh of Dundee Provided always that any money borrowed for paying any such costs charges and expenses shall be repaid within five years from the date of such borrowing. A.D. 1897.

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