CHAPTER lxxviii.

An Act to authorise cable power to be used on the tramways acquired by the Lord Provost magistrates and town council of the city and royal burgh of Edinburgh and for other purposes. [29th June 1893.] A.D. 1893.

WHEREAS the municipal and police administration of the city and royal burgh of Edinburgh and other matters connected therewith are vested in and managed by the Lord Provost magistrates and town council of the said city (herein-after called "the Corporation") under among others the Edinburgh Municipal and Police Acts 1879 to 1891:

And whereas the Corporation are the local authority within the said city under the Tramways Act 1870 and they are also the road authority therein:

And whereas the period of twenty-one years within which the Corporation as local authority aforesaid are by section forty-three of the Tramways Act 1870 and in accordance with the provisions of that Act and of certain agreements between the Corporation and the Edinburgh Street Tramways Company (herein-after referred to as "the Company") scheduled to and confirmed by the Acts of the Company entitled to purchase the tramways works and undertaking of the Company within the city of Edinburgh except the section of tramway from Waterloo Place to Jock's Lodge expired at the end of six months after the twenty-ninth day of June one thousand eight hundred and ninety-two:

And whereas the Corporation have in accordance with the provisions of section forty-three of the Tramways Act 1870 and with the approval of the Board of Trade by notice in writing dated twelfth August one thousand eight hundred and ninety-two and duly served on the Company required the Company to sell to the Corporation as local authority aforesaid so much of the tramways and works and undertaking of the Company as are within the royal

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burgh city and county of the city of Edinburgh other than the section of tramway from Waterloo Place to Jock's Lodge and that on the terms and conditions and in the manner provided by the said section :

And whereas the Board of Trade have in terms of the said section forty-three of the Tramways Act 1870 appointed a referee to determine the value and on payment thereof to the Company the Corporation will enter upon the possession of so much of the undertaking of the Company so sold as aforesaid together with all the rights powers and authorities of the Company in respect to the same all in terms of the said Act :

And whereas it is expedient that provision should be made for enabling the tramways of the Corporation within the city to be worked by cable power and to authorise the Corporation to exercise the powers in that behalf by this Act conferred upon them :

And whereas it is expedient that the Corporation and the Company or other person owner or owners for the time of any tramways in connection with the tramways of the Corporation should be authorised to enter into arrangements for the regulation and interchange of traffic and other matters incidental thereto :

And whereas it is expedient that the Corporation should be authorised to borrow money for the payment of the purchase price of the tramways works and undertaking acquired or to be acquired by them and for the purposes of this Act and that further provisions should be made in regard to the borrowing of money for the purposes of the Tramways Act 1870 and of this Act :

And whereas it is expedient that the further powers in this Act mentioned should be conferred on the Corporation in respect to their tramways and works and tramway undertaking :

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 (that is to say) :—

Short title.

1. This Act may be cited as the Edinburgh Corporation Tramways Act 1893.

Incorporation of Acts.

2. Section three (Interpretation of terms) section nineteen (Local authority may lease or take tolls) and Parts II. and III. of the Tramways Act 1870 are so far as the same are applicable to the purposes and not varied by or inconsistent with the provisions of

this Act incorporated with and shall form part of this Act and shall extend and apply to the tramways works and undertaking vested or to be vested in the Corporation by or under the provisions of the Tramways Act 1870 And in this Act the several words and expressions to which meanings are assigned by the Acts wholly or in part incorporated herewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction or unless herein otherwise expressly provided and the expression "the promoters" shall with respect to the tramways owned by the Corporation mean the Corporation and for the purposes of sections thirty-three and fifty-eight of the said Act the same shall have effect as if the sheriff of the Lothians and Peebles was therein mentioned in place of the Board of Trade and whenever the consent of the local or road authority is required under the Tramways Act 1870 to any act or thing proposed to be done by the promoters such consent shall not be required with respect to any tramways within the city belonging to the Corporation.

Interpretation of terms.

3. In this Act and for the purposes of this Act and so far as the same are applicable and unless there be something in the subject or context inconsistent with or repugnant to such construction the several words and expressions to which meanings are assigned by the Edinburgh Municipal and Police Acts 1879 to 1891 have the same respective meanings:

"The Edinburgh Municipal and Police Acts" mean the Edinburgh Municipal and Police Acts 1879 to 1891 and any Act or Acts amending or extending the same;

"The Corporation" means the Lord Provost magistrates and town council of the city and royal burgh of Edinburgh;

"The city" means the city and royal burgh of Edinburgh;

"The tramways" mean the tramways already constructed within the city as and when the same belong to or become vested in the Corporation;

"The tramway undertaking" means the tramway undertaking of the Corporation;

"The lessees" mean any company or person to whom the Corporation may for the time have leased the right of user of the tramways or any of them or any part thereof;

"Cable power" means and includes haulage by means of wire ropes cables chains or appliances placed underground and worked by stationary engine power;

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"The Company" means the Edinburgh Street Tramways Company;

"The Acts of the Company" mean the following Acts relating to the Company and any one or more of them (that is to say):—

The Edinburgh Tramways Act 1871;
The Edinburgh Street Tramways Act 1873;
The Edinburgh Tramways Act 1874;
The Edinburgh Tramways Act 1875;
The Edinburgh Street Tramways Act 1881;
The Edinburgh Street Tramways Act 1882;
The Edinburgh Street Tramways (Mechanical Power) Act 1882; and
The Edinburgh Street Tramways Act 1892.

Power to use cable power.

4. Subject to the provisions of this Act the Corporation may from time to time with the consent in writing of the Board of Trade under the hand of a secretary or assistant secretary of that Board (which consent the Board of Trade are hereby on the application of the Corporation empowered from time to time to grant) adopt and by the lessees may use during a period of seven years from the date of such consent and with the like consent during such further successive periods of seven years as that Board may from time to time specify therein on the tramways or upon any part or parts of the tramways as may from time to time be specified in any such consent cable power for the purpose of moving the carriages upon the tramways or part or parts of the tramways as the case may be Provided always that the provisions of the Edinburgh Street Tramways (Mechanical Power) Act 1882 shall not apply to the powers conferred by this Act for the use of cable power Provided also that the exercise of the powers by this Act conferred for the adoption and use of cable power as aforesaid upon the tramways shall be subject to the regulations set forth in the schedule 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 adoption and use of cable power on the tramways.

Regulations by Board of Trade.

Penalty for using cable power contrary to Act or regulations.

5. The Corporation or any company or person using cable power on any of the tramways contrary to the provisions of this Act or to any of the regulations set forth in the schedule to this Act or to any regulations 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 to 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 any person using cable power on the tramways under the authority of this Act has made default in complying with the provisions of this Act or with any of the regulations set forth in the schedule to this Act or with any regulations which may have been added thereto or substituted therefor as aforesaid may by order direct such person to cease to exercise the powers aforesaid and thereupon such 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 every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

Bye-laws.

6. 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 the tramways upon which cable 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 carriages;

For providing that 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 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 person 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.

7. The provisions of the Tramways Act 1870 with respect to the recovery of penalties and of section thirty-seven of the Edinburgh Street Tramways Act 1881 so far as the last-mentioned provisions may be applicable shall apply to any penalty for non-observance of

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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.

8. 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-laws 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 carriages 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.

Authentication of bye-laws.

9. 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 the Board.

Corporation may lay down and maintain works necessary for using cable power.

10. If and whenever the Corporation shall have authority under the provisions of this Act to adopt on the tramways or any of them or any part or parts thereof cable power as aforesaid the Corporation may erect and maintain all such engines engine-houses works machinery and appliances and may construct erect lay down and maintain renew and repair either above or under ground all such wires tubes hatches pits manholes grooves rails works and apparatus as may be requisite for the purpose of so working the tramways and may for that purpose subject to the restrictions and provisions contained in Part II. of the Tramways Act 1870 so far as applicable open and break up any street or road in which the tramways or part or parts of the tramways on which the Corporation have from time to time authority to adopt cable power as aforesaid may be situate Provided further that nothing in this section shall exempt the Corporation or the lessees from any action or other proceeding for nuisance in the event of any nuisance being caused by the erection use and maintenance on any lands belonging to the Corporation or which they may acquire for the purposes of this Act of any such engines works or machinery under the powers of this section.

Power to take licenses.

11. The Corporation may subject to the provisions of this Act (but only for the purposes of the tramways and not so as to acquire any exclusive right therein) contract for take and use any leave license or authority to work use exercise and put in practice any invention under letters patent heretofore made or herein-after to be made granting any right or privilege of working any invention in

relation to the use of the powers of traction authorised by this Act as a means of moving carriages and vehicles on tramways.

Power to lease &c. buildings &c.

12. The Corporation may from time to time contract and agree with the lessees for the lease or supply to them during the continuance of the lease of the tramways of such buildings works stables depôts plant cable apparatus engines and appliances as may be necessary to enable them to exercise the powers by the Tramways Act 1870 or this Act conferred.

For the protection of water mains and pipes.

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

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For the protection of gas mains and pipes.

14. Notwithstanding anything contained in the Tramways Act 1870 the Corporation shall not in converting the tramways into cable tramways themselves alter or interfere with the existing lines or levels of the mains or lines of pipes and apparatus connected therewith or any of them belonging to the Edinburgh and Leith Corporations Gas Commissioners (hereinafter called "the Gas Commissioners") including consumers' pipes nor injuriously affect or interrupt the supply of gas conveyed by the same but all such alterations on or interference with the mains or pipes and apparatus connected therewith of the Gas Commissioners including consumers' pipes as in the opinion of the engineer of the Gas Commissioners are necessary in consequence of the conversion of the tramways into cable tramways shall be executed by the Gas Commissioners at the expense of the Corporation and the Gas Commissioners shall at all times have a right of access to such mains and pipes and apparatus connected therewith including consumers' pipes for the renewal repair enlargement alteration and maintenance of the same and for making new connections and laying additional pipes when and wherever they shall see fit and any additional cost of such alterations or repairs caused by the works of the Corporation in any road or street where any such mains and pipes and apparatus connected therewith including consumers' pipes shall have been laid before the conversion of such tramways into cable tramways shall be borne by the Corporation And in all cases where works are to be executed by the Gas Commissioners to be paid for by the Corporation the Gas Commissioners shall use every means in their power to have the works executed as economically as possible but should any dispute arise between the parties as to the cost thereof the same shall be decided by arbitration in the manner herein-after provided and all payments for work executed by the Gas Commissioners shall be made by the Corporation within three months after the cost of the work has been certified by the engineer of the Gas Commissioners with interest till paid.

Arbitration.

15. If any difference shall at any time arise between the Corporation and the Water Trustees or the Gas Commissioners or their respective engineers with respect to any of the matters referred to in the two next preceding sections or in the Tramways Act 1870 or with respect to the time taken or required for executing any of the works or operations therein mentioned such difference shall be referred to an engineer to be mutually agreed on or failing agreement to an engineer to be appointed by the sheriff of the Lothians and Peebles on the application of either the Corporation or the Water Trustees or the Gas Commissioners as the case may be.

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For the protection of the Caledonian Railway Company.

16. The following provisions shall unless otherwise agreed between the Corporation and the Caledonian Railway Company (herein-after called "the Caledonian Company") have effect for the protection of the Caledonian Company (that is to say):—

(1.) In converting the tramways into cable tramways and maintaining the same under the authority of this Act the Corporation shall not in any way injure alter or interfere with the permanent structure of the bridge by which the road from Ardmillan Terrace to Polwarth Terrace is carried over the railway of the Caledonian Company or interfere with the traffic on such railway The Corporation shall before commencing any works affecting such bridge submit plans and sections of such intended works to the engineer of the Caledonian Company for his approval and such works shall be constructed and carried out according to plans and sections previously approved by and at the sight and to the reasonable satisfaction of such engineer;

(2.) In the event of any damage or injury to such bridge or any interference with the traffic of the railway of the Caledonian Company by reason of any such works or operations of the Corporation on the said bridge under this Act the Corporation shall forthwith make good such damage or injury or failing the Corporation so doing the Caledonian Company may themselves make good the same at the expense of the Corporation and the Corporation shall repay to the Caledonian Company on demand all costs and expenses reasonably incurred by them in so doing and all loss and damage sustained by the Caledonian Company in consequence of such damage injury or interference

(3.) If any difference shall arise between the Corporation and the Caledonian Company or their engineer under this section such difference shall be referred to and determined by an engineer to be appointed by the sheriff of the Lothians and Peebles on the application of either party and the cost of any such reference shall be borne and paid as the referee shall direct.

Corporation may work tramways.

17.—(1.) If at any time the Corporation are unable to lease the tramways or any of them upon such terms as in the opinion of the Board of Trade will yield to the Corporation an adequate rent therefore the Board of Trade may grant a license to the Corporation to work such tramways and the Corporation may thereupon work the same and may provide such plant materials and things as may be requisite or convenient for the purpose and in such case all enactments relating to the working of the tramways and the taking

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of tolls and charges therefor shall extend and apply mutatis mutandis to and in relation to the Corporation.

(2.) Provided that if at any time during such working by the Corporation any company or person make to the Corporation a tender in writing to take a lease of and to work the tramways for such period (not being less than seven years unless the Corporation shall otherwise agree) at such rent and upon such terms and conditions as shall in the opinion of the Board of Trade be adequate and proper and such company or person at the same time offer to purchase the horses cars engines machines and fixed and movable tramway plant of the Corporation not included in such lease at a price to be fixed unless otherwise agreed on between such company or person and the Corporation by a competent valuer to be appointed by the Board of Trade then upon payment of such price the Corporation shall lease the tramways to such company or person at such rent and upon such terms and conditions and during the continuance of that lease the powers of the Corporation to work the said tramways shall cease.

Power to agree for interchange &c. of traffic.

18. The Corporation may from time to time enter into and carry into effect contracts or arrangements with any company or person for the following purposes or any of them (that is to say):—

For the interchange accommodation conveyance and delivery of traffic coming from or destined for the tramways and the tramways of the other party and the fixing and division between the parties of the receipts arising therefrom and generally all matters incident to or consequent on the making or carrying into effect of any such contract or arrangement as aforesaid.

Power to acquire land by agreement.

19. The Corporation may by agreement from time to time acquire lands not exceeding ten acres for the purposes of this Act but nothing in this Act shall exempt the Corporation from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands so acquired.

Restriction on taking houses of labouring class.

20. The Corporation shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means and includes mechanics artizans labourers and others working

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

Local rate.

21. The Corporation as the local authority under the Tramways Act 1870 may impose assess levy and recover the rate authorised by that Act for all or any of the purposes thereof and for the purposes of this Act in conformity with the provisions applicable to burgh assessments of the Edinburgh Municipal and Police Acts under the second head of estimate of section sixty-six of the Edinburgh Municipal and Police Act 1879 as amended by the Edinburgh Municipal and Police (Amendment) Act 1891 and with and under the powers provisions and exemptions as are provided with respect to such burgh assessments under the said two last-mentioned Acts Provided always that the expression "local rate" or "rate" where used in the Tramways Act 1870 shall so far as relates to the city mean the burgh assessments under the aforesaid second head of estimate.

Power to borrow for purposes of the Tramways Act 1870 and this Act.

22. The Corporation as the local authority aforesaid under the Tramways Act 1870 may notwithstanding anything therein contained borrow and re-borrow money for and in connection with the purposes of that Act and for paying the purchase money and all expenses incurred by them in the purchase of the tramways works and undertaking of the Company under the said Act and for the purposes of this Act and for all or any other purposes of the tramway undertaking on the security of the burgh assessments under the foresaid second head of estimate authorised by the Edinburgh Municipal and Police Acts and the powers and provisions of the Edinburgh Municipal and Police Act 1879 as amended by the Edinburgh Municipal and Police (Amendment) Act 1891 and by any Act to be passed in the present session of Parliament with respect to the borrowing of money shall be and are hereby made applicable to the money so to be borrowed and to the mortgages assignations and interest warrants to be granted in security thereof and to the discharges and to the sinking fund for the repayment of money so borrowed in the same way and manner as if the money so to be borrowed for the said purposes was borrowed and the mortgages assignations interest warrants and discharges so to be granted were granted under the authority of the said Act of 1879 as so amended.

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Application of money borrowed.

23. The sums which may be borrowed by the Corporation for the purposes of the Tramways Act 1870 and of this Act shall be applied only to purposes to which capital is properly applicable.

Accounts to be kept &c.

24. The Corporation may cause the accounts of their receipts payments and liabilities with reference to the tramway undertaking to be kept audited authenticated and published in the same way and manner and under the same provisions as are prescribed in the Edinburgh Municipal and Police Acts with reference to the keeping making up and publishing of accounts and also in conformity with the provisions of any public general Act relating to burgh accounts and the sections of the said Edinburgh Municipal and Police Acts with respect to the said accounts shall be held to be incorporated herewith and be applicable in all respects to the objects and purposes of the Tramways Act 1870.

Provision as to general Tramway Acts.

25. Nothing in this Act contained shall exempt the Corporation or any company or person or their tramways respectively 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 on such tramways respectively.

Costs of Act.

26. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act shall be paid by the Corporation out of the common good the burgh assessments and any money to be borrowed for the purposes of this Act or one or other of them.

The SCHEDULE.

Break power.

The cable power used on the tramways shall be fitted with such appliances for preventing the same from operating and for bringing such cable power and any carriage drawn or propelled by such cable power to a stand as the Board of Trade may from time to time think sufficient.

As to fittings of carriages &c.

Every carriage 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 conductor so placed in front of such carriage as to command the fullest possible view of the road before him.

As to carriages

Every carriage used on the tramways shall be so constructed as to provide for the safety of the passengers and for their safe entrance to exit from and accommodation in such carriage and their protection from the machinery of the cable power used for drawing or propelling such carriage.

Inspection of carriages.

The Board of Trade shall be at liberty from time to time to inspect any carriage used on or in connection with the tramways and the machinery therein and may whenever they think fit prohibit the use of any such carriage which in their opinion may not be safe for use on or in connection with the tramways.

As to speed.

The speed at which carriages may be drawn or propelled along the tramways shall not exceed the rate of eight miles an hour.

The speed at which carriages may pass through movable facing points shall not exceed the rate of four miles an hour.

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