CHAPTER xci.

An Act to enable the Edinburgh Street Tramways Company to make and maintain additional tramways and to confer other powers upon the said Company. [3rd July 1882.] A.D. 1882.

WHEREAS by the Edinburgh Tramways Act 1871 (in this Act called "the Act of 1871") the Edinburgh Street Tramways Company (in this Act called "the Company") were incorporated and were authorised to make and maintain various tramways in Edinburgh Leith and Portobello and with power to raise three hundred thousand pounds by shares and seventy-five thousand pounds by borrowing: 34 & 35 Vict. c. lxxxix.

And whereas the following Acts have also been passed relating to the Company that is to say:

The Edinburgh Street Tramways Act 1873: 36 & 37 Vict. c. ccxxxvi.

The Edinburgh Tramways Act 1874 (in this Act called "the Act of 1874"): 37 & 38 Vict. c. lxviii.

The Edinburgh Tramways Act 1875: and 38 & 39 Vict. c. cxxviii.

The Edinburgh Street Tramways Act 1881 (in this Act called "the Act of 1881"): 44 & 45 Vict. c. clxxvi.

And whereas the Company have completed and are now working for public traffic their systems of tramways (with the exception of the tramways authorised by the Act 1881):

And whereas it is expedient that the Company should be empowered to extend their tramways:

And whereas plans and sections showing the lines and levels of the tramways authorised by this Act and also books of reference to those plans have been deposited with the principal sheriff clerks of the county of the city of Edinburgh and of the county of Edinburgh and are herein-after respectively referred to as the deposited plans sections and books of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

A.D. 1882.

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 for all purposes as the Edinburgh Street Tramways Act 1882.

Incorporation of part of 33 & 34 Vict. c. 78.

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

Interpretation 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.

Power to make tramways.

4. Subject to the provisions of this Act and to the provisions of the Act of 1881 and the fourth article of the agreement first scheduled thereto as to the power of purchase by the local authority the Company may 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 will be situate in the county of the city of Edinburgh and the county of Edinburgh and are:

A tramway No. 1 (a single line) four furlongs and three chains or thereabouts in length commencing by a junction with the Company's existing tramway in Boroughmuirhead at a point half a chain or thereabouts northward from the junction of Churchill with Boroughmuirhead passing thence southward along Morningside main road and terminating in that road at a point twelve and a half chains or thereabouts measuring along the centre of said road southward from Morningside toll-bar.

A tramway or passing place No. 1A (a single line) three and a half chains or thereabouts in length commencing and terminating by junctions with tramway No. 1 at points respectively half a chain and four chains southward from Morningside toll-bar.

Provided that at the part of the road to be crossed by the Edinburgh Suburban and Southside Junction Railway the tramways shall be laid in accordance with the levels of the road as altered by the construction of that railway.

Penalty imposed unless tramways opened within the time limited.

5. If the Company fail within the period limited by this Act to complete the tramways authorised to be made by this Act the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said tramways are completed and opened for public traffic or until the sum received in respect of such penalty shall amount to five per centum on the estimated cost of the works and the said penalty may be applied for by any landowner or other person or road authority claiming to be compensated in accordance with the provisions of the next following section of this Act or by the Solicitor of Her Majesty's Treasury and in the same manner as the penalty provided in the 3rd section of the Act 17 and 18 Victoria chapter 31 known as the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland in the bank named in such order and shall not be paid thereout except as herein-after provided but no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company were prevented from completing or opening such line by unforeseen accident or circumstances beyond their control provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

Application of penalty.

6. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the Edinburgh Gazette shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the said tramways or any portion thereof and for which injury or loss no compensation or inadequate compensation shall have been paid and in compensating all road authorities for the expenses incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively and in making good all damage caused to such roads by the construction or abandonment of such tramway and shall be distributed in satisfaction of such compensation as aforesaid in such

A.D. 1882.

manner and in such proportions as to the Court of Exchequer in Scotland 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 in Scotland 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.

Extension of provisions of Act of 1881.

7. The provisions of sections 10 to 14 (both inclusive) sections 16 to 22 (both inclusive) and sections 28 and 29 of the Act of 1881 shall so far as the same are applicable extend and apply to the tramways by this Act authorised and to the Company in respect thereto in as full and complete a manner as if the said sections were re-enacted in this Act with reference thereto.

Penalty for not maintaining rails and roads.

8. The Company shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramways and the substructure upon which the same rest and if the Company at any time fail to comply with this provision or with the provisions of section twenty-eight of the Tramways Act 1870 they shall be subject to a penalty not exceeding five pounds for every day on which such non-compliance continues and such penalty shall be a penalty within the meaning of section fifty-six of the said Act.

In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of such district that the Company have made default in complying with the provisions in this section contained or with any of the requirements of section twenty-eight of the Tramways Act 1870 the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such

report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed.

Period for completion of works.

9. The tramways by this Act authorised shall be completed within three years from the passing of this Act and on the expiration of that period the powers by this Act granted to the Company for constructing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Tolls.

10. The Company may from time to time demand and take in respect of the tramways authorised by this Act tolls and charges not exceeding those which they are authorised to take and for the time being may lawfully take in respect of their authorised tramways under or by virtue of the Act of 1871 and the agreements scheduled thereto and by the subsequent Acts relating to the Company in like manner in every respect as if the tramways hereby authorised were part of the tramways in the recited Acts mentioned. Provided always that for the purpose of such tolls and charges the tramways by this Act authorised and the tramways authorised by the recited Acts shall be deemed to form continuous lines of tramway.

Agreements between Company and road authorities &c.

11. The Company and the Corporation of Edinburgh and any trustees or other bodies corporate or persons respectively having the duty of directing the repairs or the control or management of any streets roads or places along which the tramways by this Act authorised are laid may from time to time enter into and carry into effect contracts or agreements with respect to the laying down maintaining renewing and repairing of the tramways by this Act authorised and the rails plates sleepers and works connected therewith.

Applying agreements of 1871 with Corporation of Edinburgh.

12. All the terms and provisions contained in the agreements set forth in the first and second schedules to and confirmed by the Act of 1871 shall mutatis mutandis and so far as the same are applicable apply to and in the case of such of the tramways or parts of tramways by this Act authorised as are to be laid in roads or streets in respect of which the Corporation of Edinburgh are the local or road authorities and if there be any inconsistency between the terms and provisions of the said agreements and any provisions of this Act relating to the same subject matter the terms and provisions of the said agreements shall exclusively apply in the case of the tramways and parts of tramways referred to in this section.

A.D. 1882.

Power to apply existing funds.

13. The Company may from time to time apply towards any of the purposes of this Act any moneys which they have raised or may hereafter raise under the Act of 1871 or under any other Act or Acts and which may not be required for the purposes (if any) to which by the respective Acts such moneys are made specially applicable.

Provisions as to general Tramway Acts.

14. 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 this Act.

Costs of Act.

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

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