



CHAPTER xi.

An Act to transfer to the Nottinghamshire and Derbyshire Tramways Company the tramway undertaking of the mayor aldermen and burgesses of the borough of Ilkeston and for other purposes. [10th July 1917.] A.D. 1917.

WHEREAS the Nottinghamshire and Derbyshire Tramways Company (in this Act called "the Company") were incorporated by the Nottinghamshire and Derbyshire Tramways Act 1903 and under the powers contained in that Act and in the Nottinghamshire and Derbyshire Tramways Acts 1906 1908 and 1911 have constructed and work a system of tramways in the counties of Nottingham and Derby:

And whereas the mayor aldermen and burgesses of the borough of Ilkeston (in this Act called "the corporation") have under the powers contained in the Ilkeston Corporation Tramways Order 1899 (confirmed by the Tramways Orders Confirmation (No. 2) Act 1899) constructed tramways in the borough of Ilkeston:

And whereas by an indenture made the fifteenth day of November one thousand nine hundred and sixteen between the corporation and the Company a copy of which is set forth in the schedule to this Act the corporation subject as therein mentioned sold and the Company purchased the undertaking authorised by the said Order of 1899 and it is expedient that the said indenture and the sale and purchase of the said undertaking in accordance with the terms and provisions thereof should be confirmed:

And whereas it has been agreed between the corporation and the Company and it is expedient that the provisions of

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A.D. 1917. section 43 of the Tramways Act 1870 should in relation to the said undertaking be modified as by this Act provided:

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes of this Act:

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 King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short and collective titles.

1. This Act may be cited as the Nottinghamshire and Derbyshire Tramways Act 1917 and the Nottinghamshire and Derbyshire Tramways Acts 1903 1906 1908 and 1911 and this Act may be cited together as the Nottinghamshire and Derbyshire Tramways Acts 1903 to 1917.

Interpretation.

2. In this Act unless the subject or context otherwise requires the following expressions shall have the meanings assigned to them in this section (that is to say):—

“The Company” means the Nottinghamshire and Derbyshire Tramways Company;

“The undertaking of the Company” means the tramways and undertaking of the Company under the Nottinghamshire and Derbyshire Tramways Acts 1903 to 1917;

“The corporation” means the mayor aldermen and burgesses of the borough of Ilkeston;

“The Order of 1899” means the Ilkeston Corporation Tramways Order 1899 (confirmed by the Tramways Orders Confirmation (No. 2) Act 1899);

“The scheduled agreement” means the indenture made the fifteenth day of November one thousand nine hundred and sixteen between the corporation and the Company set forth in the schedule to this Act;

“The undertaking of the corporation” means the tramways and undertaking of the corporation under the Order of 1899 and includes the one equal and undivided moiety in the piece or parcel of land with the buildings thereon

and the plant machinery and works therein conveyed to the Company by the scheduled agreement;

A.D. 1917.

“The date of transfer” means the thirtieth day of September one thousand nine hundred and sixteen.

3.—(1) The scheduled agreement and the sale and purchase of the undertaking of the corporation in accordance with the provisions thereof is hereby confirmed and made binding upon the corporation and the Company respectively.

Purchase of undertaking of corporation.

(2) As on and from the date of transfer the undertaking of the corporation with the powers rights authorities and privileges in relation to such undertaking conferred or imposed upon the corporation by the Order of 1899 so far as the same are applicable shall by virtue of this Act be transferred to and be vested in and may be exercised by the Company free from all obligations and liabilities (other than as provided by the scheduled agreement as to the payment of the purchase price and the interest from time to time payable by the corporation in respect of the outstanding loans on such undertaking) in like manner as if the Company had been named as the promoters in the Order of 1899 instead of the corporation. Provided that the following provisions of the Order of 1899 shall not apply to the Company (that is to say):—

Section 5 (Lands by agreement);

Section 24 (For protection of Postmaster-General);

Section 38 (Mortgages to include rents and rates);

Section 40 (Audit of accounts);

Section 41 (Protection of local authority); and

Section 42 (Form and delivery of notices).

4. All moneys received and to be received by the corporation from the Company under the scheduled agreement by way of repayment to the corporation of interest paid by them shall be carried to the credit of the fund or rate out of which such interest is payable and all moneys received and to be received by the corporation from the Company under the scheduled agreement by way of payment of the purchase price shall be carried to the credit of the borough fund and applied in the following manner that is to say (first) in meeting the instalments of sinking fund payable by the corporation in respect of the outstanding loans raised for the purposes of the undertaking

Application of moneys by corporation.

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A.D. 1917. of the corporation and (secondly) in repaying the said outstanding loans The balance if any shall be applied to the purposes to which the borough fund is applicable.

Receipt of corporation to be discharge to Company.

5. The receipt of the corporation shall be a sufficient discharge to the Company for any moneys paid by the Company to the corporation under or in pursuance of the provisions of the scheduled agreement and the Company shall not be concerned with the application nor shall they be liable in respect of any non-application or misapplication of any money so paid.

Undertaking of corporation to form part of Company's undertaking.

6. As on and from the date of transfer the undertaking of the corporation shall for all purposes be and be deemed to be part of the undertaking of the Company and all the provisions of the Nottinghamshire and Derbyshire Tramways Acts 1903 1906 1908 and 1911 so far as the same are applicable shall (subject to the provisions of the Order of 1899 and this Act) apply to the undertaking of the corporation.

Future purchase by local authority.

7. Notwithstanding anything contained in the Order of 1899 or in the Tramways Act 1870 incorporated therewith or in this Act the powers of purchase given by section 43 of that Act shall not be exercisable by the corporation until the expiration of a period of forty-two years from the date of the payment by the Company to the corporation of the balance of the purchase price of the undertaking of the corporation as provided by the scheduled agreement The period of twenty-one years in the said section mentioned shall in respect of the said undertaking be deemed to be the period of forty-two years from the said date and the periods of seven years in the said section mentioned shall be deemed to be periods of seven years subsequent to such period of forty-two years.

Company may apply funds.

8. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they have already raised or are authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised Provided that the powers conferred by this section shall not (except for the payment of the costs charges and expenses referred to in the section of this Act whereof the marginal note is "Costs of Act") be exercised by the Company during the continuance of the present war and twelve months thereafter unless the consent of the Treasury has been previously obtained.

9. Nothing in this Act contained shall exempt the Company or the tramways of the Company from the provisions of any general Act relating to tramways passed before or after the passing of this Act or from any future revision or alteration under the authority of Parliament of the maximum fares rates or charges authorised to be taken by the Company.

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Provision
as to general
Tramway
Acts.

10. 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.

Costs of Act.

The SCHEDULE referred to in the foregoing Act.

THIS INDENTURE made the fifteenth day of November one thousand nine hundred and sixteen between the mayor aldermen and burgesses of the borough of Ilkeston (hereinafter referred to as "the corporation") of the one part and the Nottinghamshire and Derbyshire Tramways Company incorporated under the Nottinghamshire and Derbyshire Tramways Act 1903 and having its principal office at No. 66 Queen Street London E.C. (hereinafter referred to as "the Tramways Company") of the other part.

WHEREAS the corporation being the local authority for the purposes of the Tramways Act 1870 applied for and obtained from the Board of Trade the Ilkeston Corporation Tramways Order 1899 for the construction and maintenance of certain tramways as therein defined within the borough of Ilkeston which said order (hereinafter referred to as "the order") was confirmed by the Tramways Orders Confirmation (No. 2) Act 1899 and the corporation are the promoters for the purposes of the order:

And whereas by section 44 of the said Tramways Act 1870 it is provided (inter alia) that where any tramway in any district has been opened for traffic for a period of six months the promoters may with the consent of the Board of Trade sell their undertaking to any person persons corporation or company:

And whereas in consideration of the payment by the Tramways Company to the corporation in the manner hereinafter mentioned of the sum of twenty-eight thousand one hundred and fifty pounds (£28,150) (hereinafter referred to as "the purchase price") the corporation have subject to the consent of the Board of Trade agreed to

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A.D. 1917. sell to the Tramways Company the undertaking authorised by the order (hereinafter referred to as "the undertaking") and all the property powers rights authorities and privileges of the corporation under the order upon the terms and conditions hereinafter appearing and the Tramways Company have agreed to purchase the undertaking:

Now this indenture witnesseth and it is hereby agreed as follows:—

1. Subject to the provisions hereinafter contained and for the considerations herein mentioned the corporation subject to the consent of the Board of Trade (a) hereby transfer the undertaking and all their property powers rights authorities and privileges as promoters under the order to the Tramways Company to the intent that the Tramways Company shall as from the date of transfer hereinafter mentioned become the promoters for the purposes of the order and (b) as beneficial owners hereby convey to the Tramways Company one equal and undivided moiety in the piece or parcel of land with the buildings thereon described in the First Schedule hereto and now used by the corporation for the purposes of the undertaking to hold the same unto and to the use of the Tramways Company in fee simple subject as mentioned in the said schedule but free from all obligations and liabilities other than as hereinafter provided as to the payment of the purchase price and the interest from time to time payable by the corporation in respect of the outstanding loans on the undertaking.

2. The Tramways Company shall as soon as conveniently may be apply to Parliament or to the Board of Trade for confirmation of the transfer of the undertaking together with any statutory modifications necessary in consequence of such transfer and use their utmost endeavours to obtain such confirmation and statutory modifications Such application shall contain (inter alia) provisions to the following effect (viz.):—

(1) A provision rendering inapplicable to the Tramways Company the sections of the order hereunder set out (viz.):—

- (a) Section 5 as to lands;
- (b) Section 38 as to mortgages;
- (c) Section 40 as to audit of accounts;
- (d) Section 41 as to protection of local authority;
- (e) Section 42 so far as relates to the form and delivery of notices by the corporation:

(2) A provision that the provisions of section 43 of the Tramways Act 1870 shall apply and have effect to enable the corporation to purchase the undertaking hereby transferred as if for the words therein "twenty-one years from the time when" such promoters were empowered to construct such tramway there were substituted the words "forty-two years

“ from the date of the payment by the Tramways Company
“ to the corporation of the balance of the purchase price
“ of the undertaking.”

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3. The transfer of the undertaking shall take effect as on and from the thirtieth day of September one thousand nine hundred and sixteen (hereinafter referred to as “the date of transfer”).

4. The Tramways Company shall pay the purchase price to the corporation in the following manner:—

(1) On the first day of March in each year during the period between the date of transfer and the expiration of two years after the date of the declaration of peace on the conclusion of the present war or of such extended period as may be necessary in consequence of restrictions of His Majesty's Government respecting the issue or raising of capital or in consequence of any other reasonable cause (hereinafter referred to as “the period pending completion”) there shall be paid by the Tramways Company to the corporation on account of the purchase price the instalments shown in the Second Schedule hereto after deducting therefrom the amounts respectively received in the said year by the corporation by way of interest or dividend (less tax) from investments for the time being belonging to the corporation and made out of moneys paid into the sinking funds by the corporation in respect of the loan or loans respectively in connection with or for which the sinking funds in question are established which investments shall be deemed to be the amount of nine thousand and twenty-seven pounds two shillings and ninepence (£9,027 2s. 9d.) invested at the date of transfer and every investment thereafter made in respect of any sums paid in pursuance of this clause or of interest or dividend (less tax) to be received as aforesaid. Provided that in the event of any money for the time being standing to the credit of any of such sinking funds being utilised for the repayment of any loan or loans in respect of which such sinking funds are established the moneys so utilised shall not be deemed to be an investment of the moneys in any of such sinking funds under the provisions of this clause:

(2) The balance of the purchase price (that is to say so much of the purchase price as shall remain unpaid after deducting therefrom the total amount of the payments made by the Tramways Company as last aforesaid) shall be paid to the corporation on the expiration of the period pending completion.

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5. During the period pending completion the Tramways Company shall within seven days prior to the same falling due pay in lieu and in exoneration of the corporation the amount of interest from time to time accruing due in respect of the period pending completion and payable by the corporation in respect of so much of the said loans as shall be from time to time outstanding. Provided that in the event of any person who has advanced money on loan to the corporation in respect of the undertaking giving notice to the corporation requiring them either to repay the said loan or to pay in respect thereof an increased rate of interest the corporation shall forthwith intimate such request to the Tramways Company and thereupon the Tramways Company upon giving notice to the corporation within one month after receipt of such intimation of the desire of the Tramways Company so to do shall be at liberty to and shall repay the said loan in which case the amount of the balance of the purchase price payable under clause 4 (2) hereof shall be reduced by the amount of any loan so repaid.

6. The Tramways Company shall until the whole of the purchase price shall have been paid keep all buildings machinery and works on the said land insured against loss or damage by fire in the sum of nine thousand five hundred pounds (£9,500) at least (without any average clause) in the Royal Insurance Company or some other insurance company approved by the corporation and will on demand produce to the corporation the policy of such insurance and the receipt for every premium payable in respect thereof. If the Tramways Company shall fail to effect such insurance or to keep the same on foot the corporation may insure the said buildings machinery and works in the amount aforesaid and the Tramways Company shall on demand pay to the corporation every premium payable or paid by the corporation in respect of such insurance.

7. The Tramways Company shall at all reasonable times grant to the officials of the corporation and to any engineer appointed by them for the purpose access to all buildings and works for the time being in existence in connection with the undertaking and all other reasonable facilities for the purpose of enabling such officials and engineer from time to time to inspect and examine the said buildings and works or any part or parts thereof.

8. The Tramways Company shall take over from the corporation and pay for the same at the date of transfer all consumable stores then in stock for the purpose of the undertaking at the prices shown by the stock books of the corporation.

9. The Tramways Company during the period pending completion shall maintain the undertaking in a not less good working state and condition than at the date of transfer.

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10. If during the period pending completion any of the payments to be made or of the conditions to be observed by the Tramways Company under the provisions of this indenture shall not be punctually made or observed as herein provided the corporation may re-enter upon the undertaking or any part thereof in the name of the whole and thereupon the transfer hereby made shall be void and of none effect and the Tramways Company shall forfeit any payment theretofore made by them under the provisions of this indenture and shall pay and discharge all liabilities incurred by them in respect of the undertaking up to the date of such re-entry and also a proportion of the instalments payable under clause 4 (1) hereof calculated either on and from the date of transfer or on and from the 31st day of March last preceding the date of such re-entry as the case may be. In the event of the corporation exercising their powers of re-entry under this clause the Tramways Company shall at their own cost execute and do every document deed act and thing which shall be necessary proper and convenient to vest the property powers rights authorities and privileges of the undertakers and the land hereby conveyed in the corporation.

11. Nothing in this indenture shall prevent the Tramways Company from borrowing money on the security of mortgages of the undertaking subject however during the period pending completion to any loans raised by the corporation and charged on the undertaking.

12. The corporation shall on payment of the balance of the purchase price of the undertaking satisfy the Tramways Company that all loans and other liabilities of the corporation relating to the undertaking have been fully paid and discharged or will be so paid and discharged immediately thereafter. Provided that in the event of the corporation not being able to immediately pay and discharge any loan or any other liability as aforesaid they shall grant a suitable indemnity to the Tramways Company in respect thereof.

13. In case any difference or dispute shall arise between the corporation and the Tramways Company touching these presents or the construction thereof or the rights duties or liabilities of either party hereunder the question in dispute shall be referred to a single arbitrator to be nominated in default of agreement by the Board of Trade.

In witness whereof the corporation and the Tramways Company have caused their respective seals to be hereunto affixed the day and year first before written.

A.D. 1917.

FIRST SCHEDULE before referred to.

All that piece or parcel of land with the buildings thereon situate in Park Road in the said borough of Ilkeston containing by recent admeasurement four thousand three hundred and seventy-nine square yards or thereabouts formerly forming part of a large close piece or parcel of land containing two acres two roods and five perches or thereabouts which formerly formed part of a close called the Nether Hays containing two acres three roods and ten perches or thereabouts Which said piece or parcel of land is bounded on or towards the north by the remaining part of the said larger piece of land containing two acres two roods and five perches or thereabouts the property of the corporation and not intended to be hereby conveyed on or towards the south by Park Road aforesaid on or towards the east by hereditaments formerly of Isaac Attenborough but now or late of Alice Ann Wheatley and on or towards the west by hereditaments now or late of Walter Lally and Miss Goddard respectively And is with the boundaries and abuttals thereof more particularly delineated and described in the plan annexed hereto and thereon edged pink Subject to such right or interest as the lord of the manor of Ilkeston for the time being may have in and to the mines and minerals under the said hereditaments intended to be hereby conveyed and to the rights easements powers franchises royalties and privileges reserved in and by section 48 of the Copyhold Enfranchisement Act 1852.

SECOND SCHEDULE before referred to.

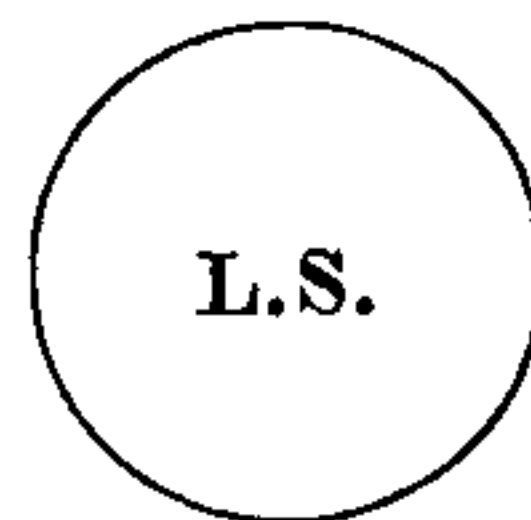
The instalments of sinking fund payable by the corporation from 30th September 1916 for loans raised for the purposes of the undertaking are as follows:—

Date when Instalment due.	Amount of each Instalment.		
	£	s.	d.
31st March 1917	-	-	965 12 0
„ 1918	-	-	1,989 2 9
„ 1919	-	-	2,048 16 0
„ 1920	-	-	1,473 13 0
„ 1921	-	-	1,517 17 2
„ 1922	-	-	1,563 7 10
„ 1923	-	-	1,610 5 10
„ 1924	-	-	1,658 12 2
„ 1925	-	-	1,251 6 2

Date when Instalment due.	Amount of each Instalment.			A.D. 1917.
	£	s.	d.	
31st March 1926	-	-	-	1,288 16 7
„ 1927	-	-	-	1,327 9 11
„ 1928	-	-	-	1,367 6 6
„ 1929	-	-	-	1,408 6 9
„ 1930	-	-	-	1,450 11 11
„ 1931	-	-	-	1,494 2 5
„ 1932	-	-	-	1,538 18 8
„ 1933	-	-	-	1,585 2 1
„ 1934	-	-	-	1,632 12 11
„ 1935	-	-	-	18 8 3
„ 1936	-	-	-	6 10 8

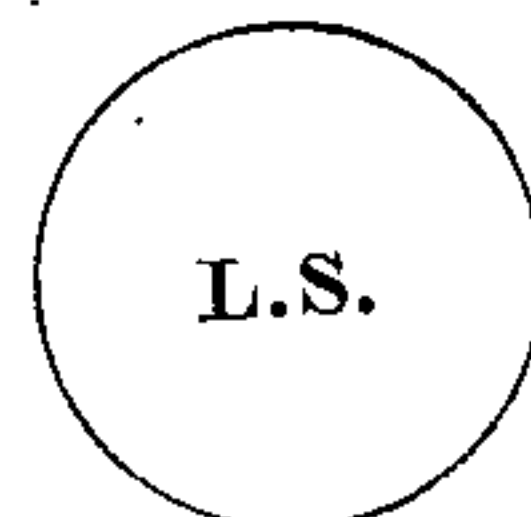
The common seal of the mayor aldermen and
burgesses of the borough of Ilkeston was
hereunto affixed in the presence of

J. WOOLLEY Mayor.
SIDNEY F. JAMES Town Clerk.



The seal of the Nottinghamshire and Derby-
shire Tramways Company was hereunto
affixed in the presence of

ALFRED R. HOLLAND }
A. H. BEATTY } Directors.
WM. C. BRYDEN Secretary.



The Board of Trade hereby consent to a sale by the within-mentioned Ilkeston Corporation to the within-mentioned Nottinghamshire and Derbyshire Tramways Company of the undertaking of the corporation which is expressed to be conveyed by the within-written conveyance.

Signed by order of the Board of Trade this 11th day of January 1917.

ERNEST G. MOGGRIDGE
An Assistant Secretary.

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