



CHAPTER cii.

An Act to authorise the Town Council of the city and royal burgh of Aberdeen to acquire and the Aberdeen District Tramways Company to sell their undertaking to empower the Town Council to work the undertaking and for other purposes. A.D. 1898.
[25th July 1898.]

WHEREAS the lord provost magistrates and town council of the city and royal burgh of Aberdeen (herein-after called "the Town Council") are the local authority under the Tramways Act 1870 within the said city and royal burgh:

And whereas the Town Council have agreed to purchase from the Aberdeen District Tramways Company (herein-after called "the company") and the company have agreed to sell the tramway undertaking of the company subject to the mortgage debt liabilities and obligations of the company and it is expedient that the agreement should be confirmed and made binding on the Town Council and the company:

And whereas it is expedient that on the completion of the purchase by the Town Council the tramway undertaking should vest in them together with all the rights powers and authorities of the company in respect of the same and that the further powers in this Act contained should be conferred on the Town Council for the working of the tramways:

And whereas it is expedient that after the transfer of the tramway undertaking to the Town Council the company should be dissolved:

And whereas it is expedient that the Town Council should be authorised to borrow money for the purchase of the tramway undertaking and for the other purposes of this Act:

And whereas it is expedient that the further powers in this Act contained should be conferred on the Town Council:

A.D. 1898. — 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 :—

Short title. 1. This Act may be cited as the Aberdeen Corporation (Tramways) Act 1898.

Incorporation of Acts. 2. The Lands Clauses Acts (except the provisions of those Acts with respect to the purchase and taking of lands otherwise than by agreement) and section 3 (Interpretation of terms) section 19 (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 form part of this Act and shall extend and apply to the tramway undertaking when vested in the Town Council under the provisions of this Act And in this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially 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 provided And the expression "the promoters" shall with respect to the tramways acquired by the Town Council mean the Town Council 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 Town Council.

Interpretation. 3. In this Act (unless there be something in the subject or context inconsistent with or repugnant to such construction) the several words and expressions following have the respective meanings assigned to them (that is to say) :—

"The Town Council" means the lord provost magistrates and town council of the city and royal burgh of Aberdeen ;

"The Act of 1891" means the Aberdeen Corporation Act 1891 ;

"The city rate" means the assessment authorised by the Act of 1891 ;

"The company" means the Aberdeen District Tramways Company ;

"The Acts of the company" means the following Acts and Order of and relating to the company (that is to say) :—

The Aberdeen District Tramways Act 1872 ;

The Aberdeen District Tramways Extension Act 1878; A.D. 1898.
The Aberdeen District Tramways Act 1888;
The Aberdeen District Tramways Act 1894;
The Aberdeen District Tramways Order 1896;
and any other Act or Order relating to the company;

“The tramway undertaking” means all the tramways works and undertaking of the company and all the powers rights and authorities held and possessed by the company under the Tramways Act 1870 and under the Acts of the company and all lands buildings works materials plant and property of whatever description belonging to the company for the purposes of their undertaking;

“The tramways” means the tramway undertaking and all the tramways for the time being owned by the Town Council.

4. The agreement between the company on the one part and the Town Council on the other part set forth in the schedule to this Act is hereby confirmed and made binding on the parties thereto. Confirmation of agreement for purchase and sale of tramways.

5. As from the completion of the purchase of the tramway undertaking as provided by the said agreement and by this Act authorised all the powers duties and obligations of the company in relation to the tramway undertaking shall be transferred to and vested in the Town Council subject to the following exceptions and provisions namely:— Powers of company transferred to Town Council.

(1) The provisions of the Companies Clauses Consolidation (Scotland) Act 1845 and of the Acts amending the same incorporated with the Acts of the company shall not apply to the Town Council:

(2) None of the provisions of the Acts of the company or of any Acts incorporated therewith in any manner relating to the share or loan capital or mortgages of the company or the accounts of the company or to the incorporation constitution meetings or directors of the company shall apply to the Town Council and the provisions so excepted shall continue to apply to the company until they are dissolved:

(3) The Acts of the company shall subject to the aforesaid exceptions be read and have effect as if the Town Council had been named therein instead of the company and in construing the provisions of the Acts incorporated with the Acts of the company the expressions “the undertakers” and “the promoters of the undertaking” shall mean the Town Council.

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Debts and liabilities of company to be paid by Town Council.

6. The Town Council shall be liable for and shall pay and discharge all the debts and liabilities of every kind of the company existing at the date of completion of the purchase including liabilities in respect of causes of action then existing and arising in connexion with the carrying on of the tramway undertaking and as from the date aforesaid the company shall not be liable for the same and the Town Council shall be entitled to all debts and sums of money then owing to the company and shall have the same powers for recovering any such debts and sums of money as the company would have had if the transfer had not been made.

Contracts &c. of company to be binding on Town Council.

7. All purchases sales conveyances grants assurances deeds contracts bonds and agreements entered into or made by the company and in force at the date of completion of the purchase shall be as binding and of as full force and effect in every respect against or in favour of the Town Council as the case may be and may be enforced as fully and effectually as if instead of the company the Town Council had been a party thereto.

Actions not to abate.

8. No action suit or other proceeding whatsoever commenced either by or against the company previous to the date of completion of the purchase shall abate or be discontinued or be prejudicially affected by the transfer of the tramway undertaking but all such actions suits and other proceedings shall continue and take effect either in favour of or against the Town Council in such and the like manner as the same would have continued and taken effect in relation to the company if the tramway undertaking had not been transferred and all penalties by reason of any offence against the provisions of the Acts of the company previous to such transfer may be sued for and all offences which may have been committed before such transfer against the provisions of such Acts may be prosecuted by the Town Council in such or in like manner to all intents and purposes as the same might have been sued for and prosecuted respectively by the company if such transfer had not been made.

Town Council not to be answerable for application of purchase money.

9. The Town Council shall not be bound to see to the application or be answerable for the mis-application or non-application of any money paid by them to the company in pursuance of the agreement scheduled to this Act and the receipt in writing of three directors of the company for any money so paid shall be an absolute discharge in respect thereof to the Town Council.

Distribution of purchase money.

10. On the completion of the purchase the directors of the company shall distribute the purchase money among the members of the company rateably in proportion to their respective shares in the capital of the company.

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11. From and after the completion of the purchase the company shall subsist only for the purpose of distributing the purchase money among the members of the company and for such purpose the directors of the company who are in office at the date of completion of the purchase and the survivors and survivor of them shall continue without re-election to hold the office of directors of the company and shall have full power and authority to take all necessary proceedings.

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Purpose for which the company to continue incorporated.

12. If any money is payable to any member of the company being a minor idiot or lunatic the receipt of the curator guardian curator bonis or committee of his estate shall be a sufficient discharge to the company and the directors for the same.

Receipt in cases of persons not sui juris.

13. The several persons who at the date of completion of the purchase appear on the share registers of the company to be proprietors of shares in the capital of the company or their respective executors administrators or assigns shall be deemed to be the members thereof and be entitled to participate in the distribution of the purchase money in manner herein-before provided.

Company's books evidence as to shareholders.

14. Where the directors of the company are for three months after the transfer unable after diligent inquiry to ascertain the person to whom any part of the purchase money to be distributed by them is payable or where any part thereof is payable to a person whose curator guardian curator bonis or committee cannot give an effectual receipt for the same the directors may pay the same into court under any Act for the time being in force for the relief of trustees.

Payment into court by directors when persons entitled to money cannot be found.

15. Upon the purpose specified in the section of this Act of which the marginal note is "Purpose for which the company to continue incorporated" being fulfilled the company shall ipso facto be dissolved.

Dissolution of company.

16. On the transfer of the tramway undertaking to the Town Council the Town Council may exercise the same powers of working the tramways and of demanding and taking tolls and charges in respect of the same as were possessed by the company at and previous to the said transfer and the Town Council may provide place and run carriages thereon and provide such stables buildings horses cars fixed and moveable plant harness apparatus materials and things as may be requisite or convenient for enabling the Town Council to exercise such powers and they may employ such persons as may be necessary for working the tramways for the time being worked by them.

Power to Town Council to work tramways.

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The several provisions relating to the working of the tramways and the taking of tolls and charges in respect of the same contained in the Acts of the company shall extend and apply mutatis mutandis to and in relation to the tramways for the time being worked by the Town Council and to the Town Council instead of the company.

Definition of mechanical power.

17. The expression "mechanical power" when used in the Acts of the company shall include steam electrical cable pneumatic gas oil and any other mechanical power and for the purpose of working any of the tramways the Town Council may erect construct maintain and use dynamos and other electrical apparatus steam engines works and buildings and may construct erect lay down make and maintain on above or below the surface of any street road or public place posts electric conductors wires apparatus subways tunnels cables tubes and openings and may with the consent of the owners and occupiers affix to any house or building and maintain posts electric conductors brackets wires and apparatus All works to be executed by the Town Council in pursuance of the powers of this section shall be deemed to be works of a tramway subject in all respects to the provisions of section 30 of the Tramways Act 1870 as if they had been therein expressly mentioned Provided that nothing in this section shall exempt the Town Council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land used for the purposes of this section.

Temporary use of omnibuses.

18. In the event of blocking of the tramways by snow or otherwise or the interruption of traffic thereon by accident or other casualty the Town Council may provide and run with animal power temporarily omnibuses on any tramway route so blocked or on which any accident or other casualty has taken place and demand and take tolls fares and charges for the use of such omnibuses.

Power to acquire lands by agreement.

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

Restriction on taking houses of labouring class.

20. The Town Council 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 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 of such persons who may be residing with them. A.D. 1898.

21. The Town Council 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 licence or authority to work use exercise and put in practice any invention under letters patent heretofore made or hereafter to be made granting any right or privilege of working any invention in relation to the use of the powers of traction which the Town Council may lawfully use as a means of moving carriages and vehicles on tramways. Power to take licences.

22. The regulations authorised by the Tramways Act 1870 to be made by the promoters of any tramway and their lessees may with respect to any tramways or portions of tramways for the time being belonging to and worked by the Town Council be made by the Town Council alone. Regulations.

23. Notwithstanding any provision in any Act or provisional order relating to the tramways the Conveyance of Mails Act 1893 shall extend and apply to the tramways as if the same had been authorised by an Act of Parliament passed after the first day of January one thousand eight hundred and ninety-three and to the Town Council in relation thereto as the body or person owning or working the tramways. Provisions of conveyance of Mails Act 1893 to apply.

24. The tramways shall be and be deemed to be and be maintained as a city undertaking within the meaning of the Act of 1891 and this Act shall be and be deemed to be a city Act within the meaning of the Act of 1891 and subject to the provisions of this Act the power of borrowing money granted by this Act shall be deemed a borrowing power of the Town Council within the meaning of the Act of 1891. Tramways part of city undertaking.

25. The Town Council may impose assess levy and recover a rate for all or any of the purposes of the Tramways Act 1870 and of this Act and such rate shall be included in the city rate under the fourth head of the estimate authorised by section 39 of the Act Local rate.

A.D. 1898. — of 1891 The expression "local rate" or "rate" where used in the Tramways Act 1870 shall mean the city rate so to be imposed assessed levied and recovered.

Power to borrow.

26.—(1) The Town Council may borrow and from time to time reborrow any sum or sums not exceeding in the whole one hundred and fifty thousand pounds for paying the purchase money and all expenses incurred by them in the purchase of the tramway undertaking and for carrying out and exercising the rights powers and authorities of the company transferred to and vested in the Town Council by this Act and for the other purposes of this Act and for all or any of the purposes of the tramways (including the reconstruction of existing lines of tramway) on the security of the tramways and tramway revenues and any revenues or moneys or securities payable or available to the Town Council under any lease or leases granted or to be granted of the tramways or under any agreements relating thereto or on the security of the city rate under the fourth head of the estimate authorised by the Act of 1891 and this Act And the powers and provisions of the Act of 1891 including the power to borrow on cash account shall be and are hereby subject to the provisions of this Act made applicable to the money to be borrowed under this Act and to the bonds mortgages and assignments to be granted in security thereof and to the discharges and to the repayment of money so borrowed and to the investment of the sinking fund in the same way and manner as if the money so to be borrowed for the said purposes were borrowed and the bonds mortgages and assignments and discharges so to be granted were granted under the authority of the Act of 1891.

(2) The Town Council shall not borrow money under the provisions of subsection (1) of this section on the security of the city rate alone except for the purposes of paying the purchase money and all expenses incurred by them in the purchase of the tramway undertaking and for the reconstruction of the existing lines of tramway and for all other purposes of borrowing authorised by subsection (1) of this section the free annual revenue from the common good of the city after deduction of the usual annual outgoings of the city shall along with the other securities specified in subsection (1) of this section be charged along with the city rate with the money authorised to be borrowed under the provisions of this Act and except as aforesaid the free annual revenue from the common good of the city after such deduction shall be primarily liable for money borrowed under this Act.

27. The Town Council shall make provision for the repayment of the moneys borrowed under this Act within a period not exceeding sixty years from the date or respective dates of borrowing the same by such one or more of the following methods as they may see fit (that is to say) Either by repaying an equal portion of principal every year or by means of equal annual instalments of principal and interest or by means of an accumulating sinking fund.

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Repayment
of moneys
borrowed.

28. The sums which may be borrowed by the Town Council for the purposes of this Act shall be applied only to purposes to which capital is properly applicable.

Application
of money
borrowed.

29. The Town Council shall keep separate and distinct accounts of all sums received and payments made by them under the authority of this Act and of the Tramways Act 1870 and such accounts may be made up and balanced as at the thirty-first day of May annually.

Separate
accounts to
be kept.

30. The Town Council shall once in each year after the first year's working cause the city chamberlain to lay before them a statement and balance sheet of the accounts of the tramways including the reserve and suspense accounts for the preceding year and an estimate of the revenue to be derived for the ensuing year from the working and use of the tramways and carriages and trucks thereon and also an estimate of the sums required to meet for such year the expenses of working management maintenance of lines works machinery and rolling stock repairs renewals materials wages taxes and other outgoings and charges including allowance for depreciation and also the interest on borrowed money and the payment of the sums required to be annually made to the sinking fund and the Town Council shall thereupon fix annually the tolls fares and charges to be levied by them for the use of the tramways and of carriages and trucks used or propelled thereon for the said year then ensuing not exceeding the tolls fares and charges specified in the Acts of the company so that the revenue shall meet the expenditure as before specified for each year Provided that if in any year the revenue exceeds such expenditure the Town Council shall carry such excess to a reserve account to be used in providing for deficiencies and contingencies and that if there should be a deficiency in any year it shall be provided for in the estimate for the following year by drawing from the reserve account or varying the tolls fares and charges or reducing the working expenses or be carried to a suspense account and reduced gradually over a period of years not exceeding five Provided also that in making the said

Annual
estimate for
tramways.

[Ch. cii.] *Aberdeen Corporation (Tramways)* [61 & 62 VICT.]
Act, 1898.

A.D. 1898. estimate and balancing the accounts at the end of each year the
— depreciation on machinery and plant shall be at the rate of not less
than three per centum on the first cost.

Costs of Act. **31.** All costs charges and expenses of and incident to the
preparing for obtaining and passing of this Act shall be paid by the
Town Council out of the city rate or out of any money to be
borrowed for the purposes of this Act.

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Third.—The manager clerks and employés of the company shall continue to be employed by the Town Council for such time and on such conditions as the Town Council may deem expedient. If the services of the present secretary of the company are dispensed with the company shall be entitled to pay him the sum of three hundred and fifty pounds as compensation for loss of employment.

Fourth.—Upon payment of the said price the undertaking shall be transferred to and vest in the Town Council and the company shall grant in favour of the Town Council conveyances of the several heritable subjects held by the company and any other conveyances transfers or deeds that may be necessary for carrying into effect the sale and transfer under this Agreement and after the dissolution of the company all the books and documents of the company shall be handed over to the Town Council.

Fifth.—In order to provide for the carrying on of the undertaking until the payment of the said price the following provisions shall have effect (that is to say) :—

- (1) The company shall as from the thirty-first day of December one thousand eight hundred and ninety-six be deemed to have carried on the undertaking for the benefit and at the risk of the Town Council (subject to the payment of dividend as herein-after provided) and to have been authorised by them to make such expenditure and incur such liabilities as the company may have deemed necessary in the proper conduct of the business of the company :
- (2) Until the payment of the said price the company shall retain their present control and management of the undertaking and shall carry on and manage the same in the ordinary and regular course of business for the benefit and at the risk of the Town Council (subject to the payment of dividend as herein-after provided) and may for such purpose expend such sums and incur such liabilities as may be necessary :
- (3) From the thirty-first day of December one thousand eight hundred and ninety-six to the date of payment of the price the company shall be entitled out of the receipts of the undertaking to declare and pay dividends to their shareholders in respect of the present subscribed share capital of the company at the rates after mentioned (that is to say) At the rate of five pounds per centum per annum for the half-years ending respectively the thirtieth day of June one thousand eight hundred and ninety-seven and the thirtieth day of June one thousand eight hundred and ninety-eight and at the rate of six pounds per centum per annum for the half-year ending the thirty-first day of December one thousand eight hundred and ninety-seven and for the period between the thirtieth day of June one thousand eight hundred and ninety-eight and the date appointed for payment of the said price.

Sixth.—The costs and expenses of the company in respect of the sale and transfer of the undertaking (including the expenses of this Agreement) and all costs and expenses of the company in the winding up of their affairs shall be paid by the Town Council.

Seventh.—This Agreement which is subject to such alterations as Parliament may think fit to make therein shall be scheduled to and confirmed by the said Bill.

A.D. 1898.

IN WITNESS WHEREOF these presents printed on this and the two preceding pages are executed by the parties in duplicate as follows that is to say Are subscribed for and on behalf of the company by John Cook George Collie David Allan and John Cardno Ogston Couper four of the directors of the company and Lachlan Mackinnon Youngest the secretary of the company and sealed with the common seal of the company all at Aberdeen on the first day of April one thousand eight hundred and ninety-seven before these witnesses Samuel Gordon cashier to the company and David Middleton clerk to Messieurs L. McKinnon Junior and Son advocates in Aberdeen and are in terms of the Aberdeen Municipality Extension Act 1871 subscribed on behalf of the Town Council by Daniel Mearns the lord provost John Edwards the senior baillie and William Gordon the town clerk all of the city and royal burgh of Aberdeen and sealed with the common seal of the Town Council all at Aberdeen on the sixth day of April one thousand eight hundred and ninety-seven before these witnesses George Strachan and George Thomson both assistants in the town clerk's office Aberdeen Declaring that this testing clause from and after the words "that is to say" is written by the said George Thomson.

GEORGE STRACHAN Witness.
GEO. THOMSON Witness.



D. MEARNS Lord Provost.
JNO. EDWARDS Senior Baillie.
W. GORDON Town Clerk.

S. GORDON Witness.
DAVID MIDDLETON Witness.



JOHN COOK Director.
GEORGE COLLIE Director.
DAVID ALLAN Director.
J. C. OGSTON COUPER Director.
L. MACKINNON Yost. Secretary.

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