CHAPTER xciv.

An Act to authorise the construction of Tramways in the Burgh of Dundee, and for the transference of the Turnpike Roads within the Burgh to the Police Commissioners, and the abolition of Tolls; and for other purposes. A.D. 1878.

[17th June 1878.]

WHEREAS the inhabitants of the burgh of Dundee (which burgh is herein-after called "the burgh") duly adopted, in the year one thousand eight hundred and fifty-one, the General Police Act for Scotland, being an Act passed in the thirteenth and fourteenth years of the reign of Her present Majesty, intituled "An Act to make more effectual provision for regulating the "police of towns and populous places in Scotland, and for paving, "draining, cleansing, lighting, and improving the same," with the exception of the clauses and provisions thereof with respect to the supply of water: 13 & 14 Vict. c. 33.

And whereas an Act was passed in the nineteenth and twentieth years of the reign of Her present Majesty, intituled "An Act to "make better provision for the removal of nuisances, regulation "of lodging houses, and the health of towns in Scotland": 19 & 20 Vict. c. 103.

And whereas an Act was passed in the thirtieth and thirty-first years of the reign of Her present Majesty, intituled "An Act to "consolidate and amend the law relating to the public health in "Scotland;" and the said Act was amended by an Act passed in the thirty-fourth and thirty-fifth years of the reign of Her present Majesty, intituled "An Act for amending the Public Health "(Scotland) Act, 1867": 30 & 31 Vict. c. 101. 34 & 35 Vict c. 38.

And whereas by the adoption of the first-recited Act the provost, magistrates, and town council of the burgh (herein-after called the Commissioners) became and have exercised the powers of Commissioners of Police within the burgh, under and for the purposes of the first-recited Act; and the second-recited Act amends the first-recited Act; and the third-recited Act repeals the second-recited

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Act, except Part V. thereof; and under the second-recited Act the said Commissioners were duly appointed by the Board of Supervision as, and under the second, third, and fourth recited Acts have exercised the powers of, and are now the local authority in and for the parish of Dundee, and the united parishes of Liff, Logie, Benvie, and Invergowrie, commonly called the united parish of Liff and Benvie, within which parishes the burgh lies:

And whereas an Act was passed in the twenty-fifth and twenty-sixth years of the reign of Her present Majesty (herein-after called

25 & 26 Vict. c. 101.

"the Police Act of 1862"), intituled "An Act to make more "effectual provision for regulating the police of towns and "populous places in Scotland, and for lighting, cleansing, paving, "draining, supplying water to and improving the same, and also "for promoting the public health thereof:"

And whereas an Act (local and personal) was passed in the thirty-fourth and thirty-fifth years of the reign of Her present Majesty (herein-after called "the Improvement Act"), intituled

34 & 35 Vict. c. cliii.

"An Act for the improvement of the burgh of Dundee and the "police thereof, and for constructing new, and widening, altering, "improving, and diverting existing streets in said burgh, and for "constructing sewers and other works, and for other purposes;" and the said Act incorporated various clauses of the Police Act of 1862, and authorised the construction and laying out of new and improved streets within the burgh, and the acquisition and demolition of old houses and properties in various parts of the burgh, and the reconstitution of those portions of the burgh:

And whereas additional clauses of the Police Act of 1862 were duly adopted in and made applicable to the burgh on the eleventh October one thousand eight hundred and seventy-one:

And whereas it is expedient to apply to the burgh other and additional clauses of the Police Act of 1862, and that these and the clauses thereof adopted as aforesaid should be made part of the ordinary police powers and provisions:

And whereas an Act (local and personal) was passed in the thirty-fifth and thirty-sixth years of the reign of Her present

35 & 36 Vict. c. cxci.

Majesty (herein-after called "the Tramways Act"), intituled "An "Act to authorise the construction of tramways in the burgh "of Dundee and places adjacent, and for other purposes;" and by virtue of the agreement scheduled to and confirmed by the said Act the Commissioners duly elected to be substituted for the Company incorporated by the said Act, and executed a notarial instrument and published the same in terms of the said agreement, and thereupon became vested with all the powers conferred by the said Act on the said Company as to the construction, maintenance,

use, and working of the tramways thereby authorised to be constructed: A.D. 1878.

And whereas a certain line of tramways authorised by the said Act has been constructed, and the right of user of the tramways so constructed, and of demanding and taking in respect thereof the tolls and charges authorised by the said Act, has been leased, or agreed to be leased, by the Commissioners to the Dundee and District Tramway Company, Limited, who are now in possession of and are working the said tramways:

And whereas the statutory powers for constructing the other tramways authorised by the said Act expired on the tenth day of August one thousand eight hundred and seventy-seven:

And whereas the tramways constructed as aforesaid have proved beneficial to the public, and the extension of the tramway system in the burgh would be of local and public advantage:

And whereas plans and sections showing the lines, situations, and levels of the tramways authorised by this Act, and also books of reference to such plans, have been deposited with the principal sheriff clerk of the county of Forfar at his offices in Dundee and Forfar respectively, and these plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas that part of the turnpike road leading from Dundee towards Perth, situate within the burgh, and upon which a double line of tramway is by this Act authorised to be laid, is in some places narrow and inconvenient, and the deposited plans and books of reference show and describe certain lands on the north side thereof which might be advantageously taken for the purposes of this Act:

And whereas it is expedient that the Commissioners should be empowered to lay down and maintain the several tramways in this Act particularly described, and also to acquire the said lands:

And whereas there are within the burgh portions of six several turnpike roads, embracing in the aggregate fully seven miles of turnpike roads, but these are under the management of six separate bodies of trustees:

And whereas by the Improvement Act the Commissioners obtained power to compel the owners of houses and lands abutting on such turnpike roads to cause footways to be made and paved on the sides thereof in manner mentioned in the said statute, and it was also made lawful for the Commissioners and the trustees of any turnpike road to contract for the removal of the toll-bars on any such road from within or nearer to the limits of the burgh,

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and also for the relinquishment by the trustees and the assumption by the Commissioners as a public street of the whole or any part of any such turnpike road so far as situated within the burgh:

37 & 38 Vict. c. cxlvii.

And whereas by the Forfarshire Roads Act, 1874, it was also made lawful for the trustees and the Commissioners to agree as to the transference of the said turnpike roads to the Commissioners, and as to the abolition of tolls:

And whereas no agreement has been made between the trustees and the Commissioners under the Improvement Act or the last-mentioned Act:

And whereas there are at present five toll-bars and five check toll-bars upon the said turnpike roads within the burgh, and the existence of toll-bars and the exaction of tolls within the burgh are productive of serious inconvenience:

And whereas it is expedient to abolish tolls and toll-bars within the burgh, and to transfer to and vest the turnpike roads within the burgh in the Commissioners, and to provide for the improvement and maintenance and management of the said roads as public streets of the burgh:

And whereas it is expedient that the considerations or other moneys paid or payable for and incident to the transfer of the said turnpike roads and the improvement of the same, and the management and repair of the said roads, should be met and provided for by a special assessment:

And whereas it is expedient in respect of the burgh to amend the first and second recited Acts, and the Improvement Act, as regards streets, the paving, flagging, kerbing, and channelling of streets and roads, and the regulation of the traffic thereon, and to make further provision in regard thereto, and for the better government of the burgh:

And whereas in carrying out the several statutes under which they act, and in exercise of the powers and obligations vested in and incumbent on them, the Commissioners purchased considerable property with a view to the improvement and partial reconstitution of the burgh, and the execution of the works by the said statutes authorised, and thereby contracted debts, and have paid off by means of sinking funds and otherwise considerable portions thereof, and hold, under the Improvement Act, large areas of land suitable for building lots, which it is not expedient to dispose of otherwise than in a gradual way, whereby the money value of such lots is not immediately available for discharging the cost of acquiring the properties of which such lots form a part:

And whereas the Commissioners debts have been incurred for general purposes; for the construction of sewers within the first drainage district of the burgh; for the construction of sewers within the second drainage district of the burgh; for the purposes of the Dundee Roads and Streets Act, 1865; for and incident to providing public markets and slaughter-houses within the burgh; for and incident to the new and improved streets under the Improvement Act; and for and in respect of properties purchased under the Improvement Act in connexion with the reconstitution of the burgh; and some of the debts of the Commissioners have been incurred for more than one purpose or object, and it is expedient to divide the same between and among such purposes and objects without prejudice to the rights, securities, and priorities of the existing holders of the said debts, and to keep separate accounts applicable to such purposes and objects, and to make suitable provision in regard to the application of the prices realised for building lots, and the debts incurred in purchasing the properties of which such building lots form a part: 28 & 29 Vict. c. lx.

And whereas it is necessary to borrow money for the purposes of the Tramways Act and this Act:

And whereas the objects aforesaid, and the other 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:

Branch I.—General.

Short title.

1. This Act may be cited for all purposes as the Dundee Street Tramways, Turnpike Roads, and Police Act, 1878.

Interpretation of terms.

2. In this Act terms to which meanings are assigned by the recited Acts, or by the Acts or parts of Acts incorporated herewith, shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; further, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, viz.,

"Burgh" or "royal burgh" shall mean the burgh of Dundee, within the limits thereof as fixed and defined by the Public Act second and third William the Fourth, chapter sixty-five:

"Commissioners" shall mean the Commissioners of Police acting in and for the burgh of Dundee:

"Trustees" shall mean the trustees appointed or acting on any turnpike road within the burgh of Dundee:

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"Turnpike road" shall include all toll-houses and gardens with their pertinents, and all toll-bars and check bars:

"Building lots" shall mean all lands, houses, and other property acquired under the Improvement Act, not required for new or improved streets:

"Lands" shall mean and include lands, houses, and other property, and all heritages, of whatever kind.

Provisions of Acts incorporated. 8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106.

3. The Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, are, except where expressly varied by or inconsistent with this Act, incorporated with and form part of this Act, wholly as regards the lands herein-after specially mentioned, but in other respects with the exception of the following provisions of the Lands Clauses Consolidation (Scotland) Act, 1845; (that is to say,)

With respect to the purchase and taking of lands otherwise than by agreement;

With respect to the entry upon lands by the promoters of the undertaking; and

With respect to small portions of intersected lands:

8 & 9 Vict. c. 19.

Provided always, as regards section twenty-seven of the Lands Clauses Consolidation (Scotland) Act, 1845, that the sheriff shall have the power thereby conferred on the Lord Ordinary, and that the application therein provided for shall be made to the sheriff, and not to the Lord Ordinary: Provided further, that if the arbiters, or their oversman or umpire, shall for three months have failed to make their or his award, the question of compensation submitted to him or them shall devolve upon and be settled by the sheriff as sole arbiter, with all the powers of a sole arbiter conferred by the said Act, or competent by the law of Scotland.

Incorporation and application of 25 & 26 Vict. c. 101.

4. The following clauses of the General Police and Improvement (Scotland) Act, 1862, are incorporated with and form part of this Act, except in so far as not expressly varied by this Act, viz., one hundred and fifteen, one hundred and sixteen, one hundred and eighteen, one hundred and twenty, two hundred and fourteen, two hundred and thirty-eight, two hundred and fifty-one, two hundred and fifty-eight, two hundred and seventy, two hundred and seventy-four, three hundred and twenty-two, three hundred and twenty-six, three hundred and thirty-one, three hundred and thirty-six, three hundred and thirty-seven, three hundred and forty, three hundred and ninety-three, four hundred and five, four hundred and ten, four hundred and fifteen, four hundred and seventeen, four hundred and twenty-three; and the adoption by the Commissioners of clauses one hundred and thirty-two, one hundred and forty, three hundred

and fifty-eight, three hundred and fifty-nine, three hundred and sixty, three hundred and sixty-one, three hundred and sixty-two, and three hundred and sixty-three of the said Act is hereby confirmed: Provided always, as regards all the said clauses, that the powers, provisions, and jurisdictions contained therein shall be deemed, construed, and taken to be powers, provisions, and jurisdictions of and additional to those contained in the recited Acts, and to apply to the assessments thereby authorised to be levied, and to the summary procedure and manner of prosecutions and convictions authorised by the first-recited Act, and to the magistrates as defined in the Improvement Act, and to the Commissioners, and to the superintendent of police, inspector of cleansing, and all other officers of the Commissioners, and to the purposes of and powers conferred by the recited Acts.

Omissions or mistakes in plans may be corrected.

5. If any omission, mis-statement, or erroneous description is found to have been made of any lands, or of any owners, lessees, or occupiers of any lands, described or intended to be described in the deposited plans or books of reference, the Commissioners may apply to the sheriff of the county of Forfar for the correction thereof, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by the proposed correction; and if it appears to the sheriff that the omission, mis-statement, or erroneous description arose from mistake, he shall certify the same accordingly, in duplicate, stating the particulars of the omission, mis-statement, or erroneous description, and one of such certificates shall be deposited with the principal sheriff clerk for the county of Forfar at each of his offices in Dundee and Forfar, and shall be kept by him with the other documents to which it relates, and subject and according to the same enactments and provisions as apply to those other documents, and thereupon the deposited plans or books of reference (as the case requires) shall be deemed to be corrected according to the certificate, and the Commissioners may enter on, take, hold, and use those lands accordingly.

Power to take lands on deposited plans.

6. Subject to the provisions of this Act, the Commissioners may enter upon, take, and use the lands situate on the north side of the road leading from Dundee to Perth shown on the deposited plans and described in the deposited books of reference, or any part thereof which they may think necessary for the purposes of this Act.

Power to take easements, &c. by agreement. 8 & 9 Vict. c. 19. 23 & 24 Vict. c. 106.

7. Persons empowered by the Lands Clauses Consolidation (Scotland) Act, 1845, to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of

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this Act, grant to the Commissioners any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, feu duties, or ground annuals, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights, and privileges as aforesaid respectively.

Period for compulsory purchase of lands.

8. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power to appropriate lands for purposes of Act.

9. The Commissioners may from time to time appropriate and use for any of the purposes of the recited Acts and this Act any lands for the time being vested in them.

Purchase of lands by agreement.

10. In addition to the lands which the Commissioners are by this Act authorised to take compulsorily, they may from time to time, but only by agreement, purchase, take on lease, or otherwise acquire, any lands not exceeding five acres, and any interest, right of user, power, or privilege in, over, or affecting any lands which they think expedient for any of the purposes of this Act.

Branch II.—Tramways.

Provisions of 33 & 34 Vict. c. 78. incorporated.

11. Section three (interpretation of terms), Part II. (construction of tramways), and Part III. (general provisions) of the Tramways Act, 1870, are incorporated with and form part of this Act, save where the same are inconsistent with or expressly varied or excepted by this Act: Provided that sections thirty, thirty-three, forty-six, and fifty-eight of the said Act shall have effect with reference to the tramways hereby authorised as if the sheriff of the county of Forfar was therein mentioned instead of the Board of Trade.

Power to make tramways, &c. according to deposited plans.

12. Subject to the provisions of this Act, the Commissioners may, except as is herein-after provided, make, form, lay down, 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, stables, carriage houses, sheds, works, and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act will be wholly in the burgh, and are those following; (that is to say,)

Lochee to Nethergate.

(1 and 1a.) A Tramway No. 1 (single line, about one mile seven furlongs three chains and six yards in length) and a

Tramway No. 1A (single line, about one mile seven furlongs two chains and twelve yards in length), commencing Tramway No. 1 at a point in the street or road called the High Street of Lochee twenty-five yards or thereabouts north from the north-east corner of Bank Street, Lochee, and Tramway No. 1A commencing in the said High Street sixteen yards or thereabouts southwards from the said point of commencement of Tramway No. 1, by a junction therewith, thence proceeding respectively and passing by Dudhope Crescent to and terminating in the Nethergate of Dundee, opposite or nearly opposite the south-east corner of South Tay Street at its junction with the Nethergate, Tramway No. 1 there forming a junction with the existing northern line of tramways in said Nethergate, and Tramway No. 1A there forming a junction with the existing southern line of tramways in the said Nethergate.

WARD ROAD BRANCH.

(1B and 1C.) A Tramway No. 1B (single line, about two furlongs and five yards in length) and a Tramway No. 1C (single line, about two furlongs and five yards in length), commencing respectively by a junction with the said Tramways No. 1 and No. 1A in the said Lochee Road, opposite or nearly opposite the north-west corner of Ward Road of Dundee, Tramway No. 1B there forming a junction with the said Tramway No. 1, and Tramway No. 1C there forming a junction with the said Tramway No. 1A, and terminating by a junction with the existing tramways at or near the junction of Reform Street with Meadowside, Tramway No. 1B there joining the eastmost line of said existing tramways, and Tramway No. 1C there joining the westmost line of said existing tramways.

JUNCTION BRANCH AT POST OFFICE.

(1D and 1E.) A Tramway No. 1D (single line, about one chain and ten yards in length) and a Tramway No. 1E (single line, about one chain and ten yards in length), commencing respectively by a junction with the said Tramways No. 1B and No. 1C in Meadowside, nineteen yards or thereabouts west from the north-west corner of Reform Street, Tramway No. 1D there forming a junction with Tramway No. 1B, and Tramway No. 1E there forming a junction with Tramway No. 1C, and terminating in Euclid Crescent, Tramway No. 1D there forming a junction with the Tramway No. 2 herein-after described, and Tramway No. 1E there forming a junction with the Tramway No. 2A, also herein-after described.

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JUNCTION BRANCH IN MEADOWSIDE.

(1F and 1G.) A Tramway No. 1F (single line, about one chain and nineteen yards in length) and a Tramway No. 1G (single line, about one chain and nineteen yards in length), commencing respectively by a junction with the said Tramways No. 1B and No. 1C in Meadowside, nineteen yards or thereabouts west from the north-west corner of Reform Street, Tramway No. 1F there forming a junction with Tramway No. 1B, and Tramway No. 1G there forming a junction with Tramway No. 1C, and terminating in Meadowside, Tramway No. 1F there forming a junction with the Tramway No. 2D herein-after described, and Tramway No. 1G there forming a junction with the Tramway No. 2E, also herein-after described.

POST OFFICE TO STOBSWELL.

(2 and 2A.) A Tramway No. 2 (single line, about one mile seven chains and four yards in length) and a Tramway No. 2A (single line, about one mile six chains and ten yards in length), commencing respectively in Reform Street, at the junction of Meadowside therewith, by a junction with the existing tramways, Tramway No. 2 there forming a junction with the westmost line of said existing tramways, and Tramway No. 2A there forming a junction with the eastmost line of said existing tramways, thence proceeding respectively along Dura Street, and respectively terminating in Dura Street, twelve yards or thereabouts south-west and twenty-eight yards or thereabouts west from the south-west corner of Main's Loan of Dundee.

BRANCH TO BAXTER PARK.

(2B and 2C.) A Tramway No. 2B (single line, about three furlongs eight chains and four yards in length) and a Tramway No. 2C (single line, about three furlongs seven chains and ten yards in length), commencing respectively by a junction with said Tramways No. 2 and No. 2A in Victoria Road, twenty-five yards or thereabouts east from the south-east corner of Lamb's Lane, and respectively terminating in the turnpike road from Dundee to the bridges over the South Esk at Montrose, and to Ferryden (commonly called the Arbroath Road), sixteen yards or thereabouts south-east from the eastmost gate pillar of the south-west entrance of the Baxter Park, and sixteen yards or thereabouts westward therefrom.

BRANCH—REFORM STREET TO VICTORIA ROAD.

(2D and 2E.) A Tramway No. 2D (single line, about one furlong five chains and eighteen yards in length) and a Tramway No. 2E (single line, about one furlong five chains and eighteen yards in length), commencing respectively by a junction with the existing tramways in Reform Street, Dundee, eight yards or thereabouts south of Meadowside, Tramway No. 2D there forming a junction with the western line of the existing tramways, and Tramway No. 2E there forming a junction with the eastern line of the existing tramways, and terminating in Victoria Road, eight yards or thereabouts northwards from East Bell Street, Tramway No. 2D there forming a junction with the Tramway No. 2, and Tramway No. 2E there forming a junction with the Tramway No. 2A.

WEST PARK ROAD TO DALHOUSIE TERRACE.

(3 and 3A.) A Tramway No. 3 (single line, about three furlongs nine chains and nineteen yards in length) and a Tramway No. 3A (single line, about four furlongs and twenty yards in length), commencing respectively in the street or road commonly called the Perth Road, thirteen yards or thereabouts south-west of the south-west corner of West Park Road of Dundee and sixteen yards eastwards therefrom, and terminating in said Perth Road near Dalhousie Terrace, Tramway No. 3 there forming a junction with the northern line of the existing tramways in the said Perth Road, and Tramway No. 3A there forming a junction with the southern line of the existing tramways in the said Perth Road.

HIGH STREET TO CATTLE MARKET.

(4 and 4A.) A Tramway No. 4 (single line, about seven furlongs three chains and five yards in length) and a Tramway No. 4A (single line, about seven furlongs three chains and twenty-one yards in length), commencing in the High Street of Dundee, twenty yards or thereabouts west from the north-west corner of the Town House of Dundee, by a junction with the existing tramways in said High Street, Tramway No. 4 there forming a junction with the north-western line of said existing tramways, and Tramway No. 4A there forming a junction with the south-eastern line of said existing tramways, and respectively terminating in East Dock Street, twenty-two yards or thereabouts and thirty-eight yards or thereabouts east from the south-west corner of the buildings abutting on said East Dock

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Street, forming part of the cattle markets and slaughter-houses of Dundee.

JUNCTION BRANCH ON HIGH STREET.

(4B and 4C.) A Tramway No. 4B (single line, about one chain and nineteen yards in length) and a Tramway No. 4C (single line, about one chain and twenty yards in length), commencing respectively by a junction with the existing tramways in Reform Street, eleven yards or thereabouts north-west from the High Street of Dundee, Tramway No. 4B there forming a junction with the eastern line of said existing tramways, and Tramway No. 4C there forming a junction with the western line of said existing tramways, and terminating in the High Street of Dundee, Tramway No. 4B there forming a junction with said Tramway No. 4, and Tramway No. 4C there forming a junction with said Tramway No. 4A.

LOOP IN NETHERGATE AND HIGH STREET.

(5 and 5A.) A Tramway No. 5 (single line, about three chains and thirteen yards in length), commencing in the Nethergate of Dundee by a junction with the north-western line of the existing tramways, fifty yards or thereabouts west from the north-west corner of Crichton Street, and a Tramway No. 5A (single line, about one chain and thirteen yards in length), commencing in the High Street of Dundee by a junction with Tramway No. 5 at a point forty-five yards or thereabouts from the commencement of that tramway, and both tramways terminating in said High Street of Dundee, Tramway No. 5 there forming a junction with the north-westerly line of the existing tramways in said High Street, and Tramway No. 5A there forming a junction with the south-easterly line of the existing tramways in said High Street.

Provided always, that the Commissioners shall not make, form, or lay down so much of Tramway No. 3A as lies between a point in the Perth Road opposite the west side of the street running northwards from the said road along the east side of East Rockfield and a point in the said road opposite the east side of the street running northwards therefrom called Hyndford Street; and they shall not at any time make, form, or lay down between or within the said points on the south of the Tramway No. 3 as laid down on the deposited plans any rails, crossings, passing places, turnouts, sidings, junctions, curves, or other works, any power or authority to the contrary in this Act contained notwithstanding: Provided

nevertheless, that the Commissioners may make, form, lay down, use, and maintain junctions between Tramway No. 3A and Tramway No. 3 at or near but not within or between the said points respectively.

Mode of formation of tramways.

13. Every tramway to be made, formed, or laid down under this Act shall be constructed with two rails, to be laid at a distance (reckoning from the inside edge of the bearing portion of each rail) of four feet eight inches and half an inch from each other, and be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road.

As to construction of passing places.

14. Where in any road in which a double line of tramway is laid there shall be less width between the outside of the footpath on either side of the road and the nearest rail of the tramway than nine feet six inches, the Commissioners may construct such and so many passing places connecting the one line of tramway with the other, and at such points or places as may be proper, so that by means of such passing places the traffic may when necessary be diverted from the one line of tramway to the other.

Only one tramway may be laid in certain cases.

15. Notwithstanding anything in this Act contained, the Commissioners shall not lay down more than one tramway, consisting of two rails, along or across any road or street, or part of a road or street, if at any meeting of their number specially called for the purpose it shall be resolved that only one tramway shall be laid down; and in any such case the tramway shall be laid down on such road or street, or part of a road or street, in the line or position the Commissioners may direct, not being further from the centre of the road or street than the line or position of the tramway or tramways authorised to be laid thereon as shown on the deposited plans.

If Commissioners improve streets, they may alter line of tramways.

16. If and whenever the Commissioners shall, under the powers of the recited Acts or this Act, improve by widening or otherwise any road along or across which any tramway is by this Act authorised to be laid, they may alter the line of such tramway, but so as that the same shall not be farther from the centre of the road than is shown on the deposited plans and sections, and in the exercise of the powers conferred by this section the Commissioners shall alter or (as the case may be) lay their rails so that the uppermost rail thereof shall be on a level with the surface of the road.

Tramways to be kept on level with surface of roads.

17. If and whenever after the passing of this Act any road authority alters the level of any road along or across which any tramway or any part of a tramway is laid, the Commissioners may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with

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the surface of the road as altered, to the satisfaction of the surveyor of such road authority.

Application of road materials excavated in construction of works.

18. Any paving, metalling, or material excavated by the Commissioners in the construction of their works from any road under the jurisdiction or control of any road authority may be applied by the Commissioners, so far as may be necessary, in or towards the reinstating of the road, and the maintenance for six months after completion of any of the tramways within the district of such road authority of so much of the roadway on either side of such tramways as the Commissioners are by Part II. of the Tramways Act, 1870, required to maintain, and the Commissioners shall, if so required, deliver the surplus paving, metalling, or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority, or to such person or persons as he may appoint to receive the same: Provided that if, within seven days after the setting aside of the surplus arising from the excavation of any such paving, metalling, or material, and due notice being given, such surplus thereof as aforesaid is not removed by the said surveyor, or by some other person or persons named by him for that purpose, such surplus paving, metalling, or material shall absolutely vest in and belong to the Commissioners, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Commissioners and any road authority, or surveyor, or other person, with reference to any of the matters aforesaid, shall, subject to the provisions of this Act, be determined in manner provided by the Tramways Act, 1870, with respect to differences between the promoters and any road authority.

33 & 34 Vict. c. 78.

33 & 34 Vict. c. 78.

Inspection by Board of Trade.

19. The tramways shall not be opened for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Period for completion of works.

20. If the tramways authorised by this Act are not completed within two years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Commissioners for executing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Additional crossings, &c. may be made where necessary.

21. The Commissioners may, subject to the provisions of this Act, with the consent of the local authority and road authority, from time to time make, maintain, alter, and remove such crossings, passing places, turnouts, sidings, junctions, curves, and other works, in addition to those particularly specified in and authorised by this

Act, as may from time to time be necessary or convenient to the efficient working of the tramways, or any of them, or for providing access to any stables, or carriage sheds, or works of the Commissioners or their lessees: Provided that in the construction of any such works no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the foot-path on either side of the road if the owner or owners or occupier or occupiers of the premises abutting on the place where such rail is proposed to be laid shall, by writing under his or their hand addressed to the Commissioners, express his or their objection thereto.

Penalty for not maintaining rails and road in good condition. 33 & 34 Vict. c. 78.

22. The Commissioners shall at all times maintain and keep in good condition and repair the rails of which any of the tramways shall for the time being consist; and if the Commissioners at any time fail to comply with this provision, or with any of the requirements 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 act of omission continues, and such penalty may be recovered as by clause fifty-six of the said Act is provided.

Temporary tramways may be made where necessary.

23. Where by reason of the execution of any work affecting the surface or soil of any road along which any of the tramways are laid it shall, in the opinion of the Commissioners, be necessary or expedient temporarily to remove or discontinue the use of such tramway or any part thereof, the Commissioners may from time to time make or construct in the same or any adjacent road, and may maintain so long as occasion may require, a temporary tramway or temporary tramways in lieu of the tramway or part of a tramway so removed or discontinued.

As to pipes, &c. of Dundee Water and Gas Commissioners.

24. The Dundee Water Commissioners and the Dundee Gas Commissioners shall have full power at all times to lay down, construct, and alter from time to time such conduits, aqueducts, pipes, and other works belonging to or used by them which they may consider necessary, and that without any claim for damages by the Commissioners on any ground whatever; and in constructing and maintaining the works authorised by this Act nothing shall be done which can interfere with or affect such conduits, aqueducts, pipes, or other works, nor limit or restrict in any way the right of the said several Commissioners or their officers to free access thereto at all times, and all works which can in any way interfere with such conduits, aqueducts, pipes, or other works shall be approved of by and executed at the sight and to the satisfaction of the managers of the Dundee Water Commissioners and the Dundee Gas Commissioners for the time respectively.

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Carriages to be used on tramways.

25. The Commissioners may use on their tramways carriages with flange wheels, or wheels specially adapted to run on a grooved rail.

Traffic upon tramways.

26. The tramways may be used for the purpose of conveying passengers, animals, goods, minerals, and other articles and parcels by animal power.

Tolls, rates, and charges. 35 & 36 Vict. c. cxci.

27. Sections fifty-three to sixty-two, both inclusive, and section sixty-five of the Dundee Tramways Act, 1872, shall apply to the tramways authorised by this Act, and to the Commissioners and any lessees of the Commissioners, and to all other persons, the same as if they were specially herein enacted to that effect; but nothing in that Act or this Act contained shall authorise the Commissioners otherwise than by their lessees to place or run carriages upon any tramway, and to demand and take tolls and charges in respect of the use of such carriages.

Form and delivery of notices.

28. With respect to notices and to the delivery thereof by or to the Commissioners, the following provisions shall have effect; (namely,)

(1.) Every notice shall be in writing or print, or partly in writing and partly in print, and if given by the local authority or any road authority shall be sufficiently authenticated by being signed by their clerk or secretary:

(2.) Any notice to be delivered by or to the Commissioners to or by any road authority or other body, or any company, may be delivered by being left at the principal office of that authority, body, or company, or of the Commissioners, as the case may be, or by being sent by post in a registered letter addressed to their respective clerks or secretaries, at their principal office, and every such letter shall be deemed to be received by the authority, body, or company, or by the Commissioners (as the case may be), on the day on which the same ought to be delivered at their principal office in the ordinary course of post.

Proof of byelaws. 33 & 34 Vict. c. 78.

29. The production of a written or printed copy of any byelaws made under the authority of the Tramways Act, 1870, and this Act with respect to the tramways hereby authorised, authenticated by the signature of the sheriff, shall, without proof of the signature of the sheriff, be evidence of the existence of such byelaws, and that all preliminaries requisite to the making and operation thereof have been duly observed and fulfilled.

Tramways not exempt from pro-

30. Nothing herein contained shall be deemed or construed to exempt 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 the Tramways Act of 1872 or this Act.

Provisions of present or future general Acts. 35 & 36 Vict. c. 43.

Branch III.—Turnpike Roads.

31. The turnpike roads within the burgh shall be and are hereby transferred to and vested in the Commissioners, and the roads specified and described in the schedule to this Act annexed shall be held to be the roads so transferred and vested in the Commissioners; and, subject to the provisions contained in this Act, the Commissioners shall have and may exercise all the powers and rights, and may enforce all the liabilities and obligations, with respect to the alteration, re-construction, widening, improvement, repair, maintenance, and management of the roads so transferred, which before the commencement of this Act were conferred on or might have been so enforced by the trustees, and also all the powers, rights, and obligations which are conferred on or may be exercised or enforced by the Commissioners with respect to the other roads or streets within the burgh: Provided always, that nothing herein contained shall impose on the owners of lands and heritages fronting or abutting on any road transferred by this Act any liability to pave, flag, or otherwise make good the carriageway of such road.

Vesting of turnpike roads in Commissioners.

32. The Commissioners shall make payment to the trustees or to the creditors on the said roads, and to all other parties interested, of the value of any debts or securities affecting the said roads or the revenues thereof, or if such debts or securities shall also extend over any portion or portions of any road or roads beyond the burgh, of such proportion of the value of such debts or securities as shall, according to equity, and having regard to all the circumstances of the case, be applicable to the roads within the burgh by this Act transferred to the Commissioners over which such debts or securities respectively extend, and such value or proportion thereof as aforesaid shall be fixed by agreement between the Commissioners and the said trustees and creditors and other parties interested, or, failing agreement, by an arbiter to be appointed by the Lord President of the Court of Session; and the said Lord President shall, on the application of either party, appoint an arbiter for that purpose, who shall have all the powers conferred upon arbiters by the Railways Clauses Consolidation (Scotland) Act, 1845: Provided always, as regards the turnpike road from

Compensation to be paid for beneficial interests in roads.

8 & 9 Vict. c. 33.

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Dundee to the confines of the county of Forfar at Coupar Angus, that in the event of the proportion of the value of the debts or securities affecting the said road or the revenues thereof to be paid by the Commissioners in respect of the portion thereof by this Act transferred to them not being fixed by agreement, and of an Act being passed during the present session of Parliament, or within five years from the passing of this Act, providing for the abolition of tolls in Scotland, the value of the said debts or securities and the proportion of the valued amount thereof to be paid by the Commissioners shall be fixed and determined as provided by such Act, so far as applicable to the county of Forfar and the burghs therein.

Tolls and toll-bars abolished.

33. The Commissioners shall not levy or exact any tolls on or in respect of the roads transferred to and vested in them under the provisions of this Act; and all toll-bars and check bars upon the said roads, and all tolls leviable for or in respect of the same, are hereby abolished.

Debts on roads extinguished.

34. Subject to the provisions of this Act, all subscriptions, debts, mortgages, assignments, and securities on, over, or affecting the roads by this Act transferred to the Commissioners, and all arrears of interest on the said subscriptions, debts, mortgages, assignments, and securities, shall be and are hereby extinguished so far as regards the said roads, but without prejudice to the said subscriptions, debts, mortgages, assignments, and securities in all other respects and upon and affecting the remaining portions of the several roads not transferred to or vested in the Commissioners.

Assessments may be levied for acquisition and maintenance of roads.

35. From and after the commencement of this Act it shall be lawful for the Commissioners to levy on and from the occupiers of all lands and heritages within the burgh, according to the valuation roll in force therein for the time being, and in the same manner as the assessment for general purposes of police may be imposed and levied within the burgh under the provisions of the first-recited Act and the Improvement Act, an annual special assessment not exceeding fourpence in the pound on the yearly rent or yearly value of such lands and heritages for the purpose of defraying the considerations or other moneys paid or payable for and incident to the acquisition, alteration, reconstruction, improvement, maintenance, and management of the roads transferred by this Act, and the interest on borrowed money, and the sinking fund in connexion with the purposes specified in this branch of this Act; and such assessment may be imposed and levied separately or along with and in addition to any assessment for general purposes of police, or other assessment which the Commissioners are or may be by the recited Acts authorised to impose and levy within the burgh; and

all the powers, enactments, and provisions contained in the recited Acts with respect to the levying, payment, and recovery of the assessments thereby authorised to be levied on and from the occupiers and owners of lands and heritages, and with respect to the exceptions and exemptions from such assessments, shall be and are hereby made applicable to the levying, payment, and recovery of the annual assessment by this Act authorised to be levied, and the exceptions and exemptions therefrom, in the same manner as if such last-mentioned assessment had been authorised to be levied under the authority of the first-recited Act and the Improvement Act: Provided always, that any exemption which may be granted by law within any time not exceeding five years from the passing of this Act to railway companies from the payment of the whole or of any portion of assessment for paying off road debt shall extend to railway companies liable to the assessment hereby authorised within the burgh. A.D. 1878.

BRANCH IV.—BORROWING OF MONEY.

Borrowing of money for tramways.

36. In addition to the moneys which the Commissioners have borrowed for the purposes of the recited Acts, the Commissioners may borrow, upon the credit of the annual assessments for general purposes leviable by them under the first-recited Act, any sum or sums of money requisite for the purposes, or any of the purposes, of the Tramways Act and this Act, or either of them, other than the purposes specified in Branch III. hereof, and may grant bonds therefor in manner mentioned in the first-recited Act; provided always, that no borrowed money shall be applied to any purpose for which capital is not properly applicable.

Borrowing of money for acquisition, &c. of turnpike roads.

37. The Commissioners may from time to time borrow such sums of money as may be required for the purposes of Branch III. of this Act, and grant bonds for the same of and over the special annual assessment by this Act authorised to be levied.

Providing for special account applicable to building lots, &c.

38. The Commissioners shall keep a special account applicable to the lands, houses, and properties acquired by them for the reconstitution of the burgh, and there shall be debited to the said account the purchase price, compensation, and costs attendant upon the acquisition of the said lands, houses, and properties, with all interest thereon, and there shall be credited to the same all prices, feu-duties, and ground annuals, or other capital or revenue from building lots sold or feued, and also the proceeds of all such feu-duties and ground annuals when sold; and the said account shall be annually balanced, and shall be finally balanced and closed within ten years from the passing of this Act; and any balance at

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the credit of the said account at the final balance thereof shall fall into and be applied by the Commissioners in reduction of their borrowed money for new and improved streets, and if any residue shall remain after discharging all such borrowed money, then in reduction of any money borrowed for the general purposes of the first-recited Act; and should any balance remain at the debit of the said account when the same is finally balanced as aforesaid, such balance shall be a charge and debt upon the said annual assessments for general purposes, and shall be dealt with as borrowed money for general purposes.

Separate accounts applicable to tramways, &c.

39. The Commissioners shall also keep separate accounts of all receipts, including borrowed money, and of all expenditure for or in respect of the tramways authorised by the Tramways Act and this Act, and for and in relation to markets, and for and in relation to slaughter-houses, and for and in relation to baths, and the said accounts shall be balanced annually.

Bonds for borrowed money.

40. All bonds to be granted for money to be borrowed under the authority of this Act may be in the form contained in the first-recited Act, and shall be executed and completed as therein provided, and shall be available for the purposes, and shall create the liens and securities therein mentioned applicable to and on the rates and assessments respectively upon the credit of which the same is borrowed, and the Commissioners may grant bonds accordingly for the money so to be borrowed, and may assign the said rates and assessments respectively in security of the money to be so borrowed, and of the interest thereof; and all such bonds may be assigned in manner and according to the form provided in the first-recited Act.

Protection of lenders from inquiry.

41. Any person lending or paying money under the recited Acts, or any of them, or this Act, to the Commissioners or their treasurer, shall not be bound or entitled to inquire as to the observance by them of any provisions of the recited Acts or this Act, or be bound to see to the application or be answerable for any loss or non-application of such money, or any part thereof.

Present bonds and securities not to be prejudiced.

42. Nothing herein contained shall prejudice or affect any bonds or securities which may have been granted by the Commissioners for money borrowed by them previous to the passing of this Act, but the same shall, as to the rates, funds, and property comprised therein respectively, have priority over all money borrowed under this Act.

Powers of borrowing not restricted.

43. Nothing in this Act nor in the Improvement Act shall restrict any of the powers of the Commissioners under the recited Acts, or any of them, for borrowing money.

Sinking funds of Improvement Act applied to this Act.

44. The provisions as to sinking funds and repayment of money borrowed contained in the Improvement Act shall apply to all the moneys authorised to be borrowed under this Act, and the additional assessments authorised and required by the Improvement Act for making the payments and producing the respective sinking funds therein mentioned shall be increased so as also to apply to and cover the payments or sinking funds applicable to the moneys authorised to be borrowed under this Act other than for the purposes specified in Branch III. hereof, together with the interest of such borrowed money.

Branch V.—Miscellaneous.

Expense in flagging and paving streets to be a real burden on defaulting owners.

45. All expenses incurred by the Commissioners in default of the owners of property failing to execute the works which they may be liable to execute under or by virtue of sections two hundred and twelve, three hundred and eight, three hundred and nine, three hundred and ten, three hundred and eleven, or three hundred and twelve of the first-recited Act, or section sixty-four of the second-recited Act, or sections nineteen and twenty of the Improvement Act, shall be and become a real debt and burden on and against the lands and property of the defaulting owner in respect of which such expenses were incurred, but that only for three years from the date when the same shall be respectively payable as against bonâ fide singular successors or heritable creditors: Provided always, that nothing herein contained shall affect the rights and remedies of superiors for the recovery of their feu-duties and casualties.

Levelling of streets.

46. The powers of levelling streets conferred upon the Commissioners by the recited Acts, and specially by section two hundred and eighty-three of the first-recited Act, shall apply to all levels or alterations of levels necessary or proper for the purpose of easing or improving the gradient of any street: Provided always, that if the gradient be altered so as to cause damage to any adjoining owner, the Commissioners shall make full compensation to such owner in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, as incorporated by this Act.

8 & 9 Vict. c. 19.

Regulation of traffic on streets.

47. The powers of the Commissioners as regards the regulation of traffic on streets, and the route to be observed by all carts, carriages, horses, and persons, and for preventing obstructions of streets, and for stopping streets temporarily, conferred by the recited Acts, and specially by sections ninety-three and two hundred and forty of the first-recited Act, shall apply to all occasions and to all times at which the Commissioners may consider it proper and necessary for the safety of the public or the peace of the neighbour-

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hood, and said sections ninety-three and two hundred and forty are hereby amended accordingly.

Application to Act of jurisdiction clauses of Improvement Act. 25 & 26 Vict. c. 101.

48. Sections one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, and one hundred and seventy-two of the Improvement Act shall apply to all contraventions of or offences under the Tramways Act or this Act, or any of the clauses of the Police Act of 1862 incorporated, or the adoption of which is confirmed by this Act, or under any byelaws made or to be made by the Commissioners or magistrates under the said several Acts or the recited Acts, or any of them.

Inspector to have power to enter premises, and require articles to be weighed.

49. Every inspector of weights and measures may, at all reasonable hours, enter any building or part of a building or other place within the burgh in which any article is sold, or is made up, or kept or exposed for sale by weight or measure, or in which articles are sold or are set apart, or kept or exposed for sale in numbers, or in which any article is weighed or measured, or any articles are numbered with a view to their being bought or sold, or he may stop any waggon, cart, or carriage, or any person carrying or in charge of any basket from which such articles are sold, or kept or exposed for sale, on the street, and require such article or articles to be weighed, measured, or numbered in his presence, and if the weight, measure, or number thereof ascertained does not correspond with the weight, measure, or number thereof which has been represented by the person who has sold or made up, or kept or exposed the same for sale, or who weighed, measured, or numbered the same with a view to purchase or sale, such inspector may seize, impound, and convey such article or articles to the police office, or to the office provided for the purpose by the Commissioners, and the magistrate may sentence the person who has sold or made up, or kept or exposed the same for sale, or who has incorrectly weighed, measured, or numbered the same with a view to purchase or sale, to a penalty not exceeding five pounds, or to imprisonment for any period not exceeding thirty days, and declare such article or articles in so far as belonging to such person to be forfeited, unless such person shall prove to his satisfaction that the deficiency in weight, measure, or number has arisen without any fraudulent intent.

Small quantities of coals sold from carts to be in labelled bags or boxes.

50. Every person who sells or delivers coals in quantities not exceeding two hundredweight in weight from any waggon, cart, or carriage shall have and keep the specific quantities of coals to be sold by him made up in bags or boxes labelled in such a manner as to indicate the weight which such bag or box contains, or is to be sold as containing, and any such person failing to comply with this provision shall be liable to a penalty not exceeding forty

shillings, and failing payment to imprisonment for a period not exceeding twenty days.

Police may take possession of premises in which fire has occurred.

51. The superintendent or chief officer of police in charge at any fire within the burgh shall, if he consider it necessary for the ends of justice, be entitled to take and retain possession of the premises in which the fire has occurred for any period not exceeding twenty-four hours.

Superintendent of police to keep register of persons convicted.

52. The superintendent of police shall cause to be kept a register of the name, description, crime, and sentence of persons charged with and convicted before the magistrates of crimes and offences punishable by imprisonment, with or without the alternative of a penalty or fine, or in default of payment of a penalty or fine, and shall cause to be entered therein such other particulars as he may from time to time be directed to enter by the magistrates; and the entries in such register, or any extracts therefrom, certified by the superintendent of police, shall be received as primâ facie evidence of the particulars of any previous conviction, and unless the same be disputed it shall not be necessary to produce the complaint on which such previous conviction proceeded, or the sentence thereon, or an extract thereof.

Magistrates may appoint a temporary substitute for superintendent.

53. The magistrates may from time to time appoint one of the lieutenants of police to be superintendent of police in the stead of the superintendent during his temporary absence from the town, or his illness, with power to act in case of his death until the appointment of his successor.

Saving rights of magistrates and town council of Dundee.

54. Subject to the powers and provisions of this Act, nothing herein contained shall extend or be construed to extend to take away, impeach, diminish, or affect any rights, titles, powers, privileges, jurisdictions, or authorities of the magistrates and town council of Dundee, for behoof of the community, under or by virtue of the rights and charters of said burgh, or any of them.

Saving rights of Dundee Harbour trustees.

55. Subject to the powers and provisions of this Act, nothing herein contained shall extend or be construed to extend to take away, impeach, diminish, or affect the rights, titles, powers, privileges, jurisdictions, or authorities of the trustees of the Harbour of Dundee under or by virtue of any statute, disposition, charter, or other writ whatsoever.

Expenses of Act.

56. The costs, charges, and expenses of and incident to the preparing for, obtaining, and passing this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys and assessments to be raised under the authority of this Act.

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SCHEDULE referred to in the foregoing Act.

Roads transferred by this Act.

Name of Road.	Description of Road.
1. Turnpike road from Dundee to Forfar.	From commencement of said road within the burgh of Dundee to the boundary of the burgh of Dundee, where the said road intersects Clepington Road, Dundee.
2. Turnpike road from Dundee to the confines of the county of Forfar at Coupar Angus.	From commencement of said road within the burgh of Dundee to the boundary of the burgh of Dundee intersecting said road opposite, or nearly opposite, Dryburgh Farm Steading, Dundee.
3. Turnpike road from Dundee to the bridges over South Esk at Montrose and to Ferry Den (commonly called the Arbroath Road).	From commencement of said road within the burgh of Dundee to the boundary of the burgh of Dundee intersecting said road opposite or near to the Eastern Necropolis of Dundee.
4. Turnpike road from Dundee towards Perth to the borders of the county of Forfar.	From commencement of said road within the burgh of Dundee to the boundary of the burgh of Dundee intersecting said road opposite Hazel Hall, Dundee.
5. Turnpike road from Dundee to Baldovie (commonly called the Pitkerro Road).	From commencement of said road within the burgh of Dundee to the boundary of the burgh of Dundee, meeting or intersecting said road at Stobsmuir Toll-bar, Dundee.
6. Turnpike road from Hill of Dundee to Strathmartine and Sidlaw Hill.	From commencement of said road within the burgh of Dundee to Clepington Road, Dundee, intersecting said road and forming the boundary of the burgh of Dundee.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1878.