



CHAPTER clxx.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Dundee Broughty Ferry and District Tramways.

A.D. 1904.

[15th August 1904.]

WHEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict.
c. 47.

Be it therefore 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:—

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Confirmation
of Order in
schedule.

2. This Act may be cited as the Dundee Broughty Ferry and District Tramways Order Confirmation Act 1904.

Short title.

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SCHEDULE.

DUNDEE BROUGHTY FERRY AND DISTRICT
TRAMWAYS.

Provisional Order incorporating the Dundee Broughty Ferry and District Tramways Company and empowering that Company to make and maintain tramways and other works and for other purposes.

WHEREAS the making and maintaining of the tramways and other works hereinafter described and by this Order authorised and the working of such tramways by mechanical power would be of public and local advantage :

And whereas the persons in that behalf in this Order named with others are willing at their own expense to construct the tramways if authorised so to do and are desirous of being incorporated into a Company (hereinafter called "the Company") with adequate powers for the purpose and it is expedient that they be incorporated and empowered accordingly as by this Order provided :

And whereas it is expedient that the Company and certain local authorities should be empowered to enter into and carry into effect agreements as hereinafter provided and that the other powers mentioned in this Order be conferred upon the Company and that the provisions of the Tramways Act 1870 as to the purchase of the undertaking of the Company should be modified as hereinafter mentioned :

And whereas plans and sections showing the lines and levels of the tramways and other works by this Order authorised and showing the lands required or which may be taken for the purposes or under the powers of this Order and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the principal sheriff clerk for the county of Forfar and are hereinafter respectively referred to as "the deposited plans sections and book of reference" :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament

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under the provisions of the Private Legislation Procedure (Scotland) Act 1899 : A.D. 1904.

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows :—

1. This Order may be cited as the Dundee Broughty Ferry and District Tramways Order 1904 and shall come into operation at the date of the passing of the Act confirming the same which date is hereinafter referred to as “the commencement of this Order.” Short title.

2. The following Acts and parts of Acts (that is to say) :—

The Companies Clauses Consolidation (Scotland) Act 1845 ;

Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act 1863 as amended by subsequent Acts ;

The Lands Clauses Acts ;

Sections 6 8 to 16 18 to 37 60 to 68 70 to 85 and 90 to 99 so far as the same are not repealed of the Railways Clauses Consolidation (Scotland) Act 1845 ; and

Section 3 (Interpretation of terms) Part II. (Construction of tramways) and Part III. (General provisions) of the Tramways Act 1870 ;

Incorporation of general Acts.

so far as they are applicable to and are not varied by or inconsistent with the provisions of this Order are incorporated with and form part of this Order and shall apply to the undertaking Provided that the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 herewith incorporated shall apply only to Tramway No. 2 and such portion of Tramway No. 3 by this Order authorised as is not to be laid along the carriageway of any road and for the purposes thereof such tramway and portion of tramway shall be deemed to be railways and the Company shall be deemed to be a railway company Provided further that the provisions of Part II. of the Tramways Act 1870 herewith incorporated shall not apply to the said tramway and portion of tramway.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order— Interpretation.

“The Company” means the Company incorporated by this Order ;

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"The Dundee Corporation" means the Lord Provost Magistrates and Councillors of the City and Royal Burgh of Dundee ;

"The Broughty Ferry Corporation" means the Provost Magistrates and Councillors of the Burgh of Broughty Ferry ;

"The Monifieth Corporation" means the Provost Magistrates and Councillors of the Burgh of Monifieth ;

"The tramways" "the street works" and "the undertaking" mean respectively the tramways the street works and the undertaking and any part thereof by this Order authorised ;

"Mechanical power" includes steam electrical and every other motive power not being animal power ;

"Engine" includes motor ;

The word "contingencies" in section 125 of the Companies Clauses Consolidation (Scotland) Act 1845 shall with reference to the Company be construed to include the contingency of the undertaking being sold to the local authority at a sum less than the aggregate amount of the capital and debts of the Company.

Incorporation of
Company.

4. George Balfour Frederic Manuelle Leonard Cooper John Fyfe and all other persons who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a Company for the purpose of making maintaining and working the tramways and for other the purposes of this Order and for those purposes shall be and are hereby incorporated by the name of "The Dundee Broughty Ferry and District Tramways Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Order.

TRAMWAYS AND STREET WORKS.

Power to
make tram-
ways.

5. Subject to the provisions of this Order the Company may make form lay down work use and maintain the tramways hereinafter described in the lines and within the limits of deviation 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 necessary and proper rails plates foundations sleepers tubes pulley pits underground chambers shafts manholes embankments cuttings bridges drains stations platforms gates junctions turntables

turnouts crossings cross-overs passing-places pillars posts poles A.D. 1904.
brackets cables chains wires engines dynamos approaches sidings —
waiting rooms stables engine houses carriage houses depôts buildings
sub-stations apparatus machinery appliances works and conveniences
connected therewith and equip the same with the necessary plant
and rolling stock and may enter upon take and use such of the
lands delineated on the said plans and described in the deposited
book of reference as may be required for that purpose Provided
that nothing in this Order shall authorise any interference with
electric lines and works of any undertakers under the Electric
Lighting Acts 1882 and 1888 the Electric Lighting (Scotland) Act
1890 and the Electric Lighting (Scotland) Act 1902 to which
the provisions of section 15 of the first of the said Acts apply
except in accordance with and subject to the provisions of that
section.

The tramways hereinbefore referred to and authorised by this
Order will be situate wholly in the county of Forfar and are—

Tramway No. 1 A tramway (2 furlongs and 9·85 chains or
thereabouts in length double line) wholly in the parish of
Dundee commencing at the eastern boundary of the city
of Dundee in Broughty Ferry Road by a junction with
Tramway No. 3 authorised by the Dundee Gas Street
Improvements and Tramways Act 1899 at its authorised
termination at the Municipal and Police boundary of the
City and Royal Burgh of Dundee and terminating at and
in the gateway of the western carriage drive of Craigie
House:

Tramway No. 2 A tramroad (3 furlongs and 9·80 chains or
thereabouts in length double line and which will be wholly
laid on private lands) wholly in the parish of Dundee
commencing by a junction with Tramway No. 1 at its
termination and terminating at the western boundary of
the burgh of Broughty Ferry at a point 43 yards or there-
abouts south from a point in line with the northern side of
Strathern Road in the burgh of Broughty Ferry:

[**Tramway No. 3** Partly tramroad and partly tramway (2 miles
6 furlongs and 7·30 chains or thereabouts in length of
which 2 miles 6 furlongs and 6·70 chains or thereabouts
will be double line and 0·60 chain or thereabouts will
be single line) wholly in the burgh of Broughty Ferry
commencing in the parish of Dundee by a junction with

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Tramway No. 2 at its termination and terminating in Dalhousie Road in the parish of Monifieth at a point 37 yards or thereabouts east from a point in line with the eastern side of Bridge Street ;

Tramway No. 3 will for a distance of 2 miles 2 furlongs and 4·10 chains or thereabouts be laid along the carriage-way of streets or roads and for the remainder of its length (4 furlongs and 3·20 chains or thereabouts from its commencement) on private lands :

Tramway No. 4 A Tramway (2 furlongs and 0·60 chain or thereabouts in length of which 3 chains or thereabouts will be double line and 1 furlong and 7·60 chains or thereabouts will be single line) wholly in the parish of Monifieth and burgh of Broughty Ferry commencing by a junction with Tramway No. 3 at its termination and terminating in Dalhousie Road at the eastern boundary of the burgh of Broughty Ferry :

Tramway No. 5 A Tramway (1 mile 2 furlongs and 9·35 chains or thereabouts in length of which 4 furlongs and 5·50 chains or thereabouts will be double line and 6 furlongs and 3·85 chains or thereabouts will be single line) wholly in the parish and burgh of Monifieth commencing by a junction with Tramway No. 4 at its termination and terminating in Panmure Street at a point in line with the western side of Ramsay Street.

Power to
make street
works.

6. Subject to the provisions of this Order the Company may make the street works hereinafter described in the lines and within the limits of deviation and according to the levels shown on the deposited plans and sections together with all necessary and proper works improvements junctions connections approaches and conveniences connected therewith or incidental thereto and may enter upon take hold and use such of the lands and buildings delineated on the deposited plans and described in the deposited book of reference as they may require for that purpose and may enter upon open break up and interfere with such streets or roads as may be necessary for the like purpose.

The street works hereinbefore referred to and authorised by this Order will be situate wholly in the county of Forfar and are—

Work A A lowering and alteration of the levels of Dalhousie Road in the burgh of Broughty Ferry in the parish of

Monifieth for a distance of 60 yards or thereabouts eastward from the junction of Dalhousie Road with Guthrie Terrace and for a distance of 17 yards or thereabouts westward from the same point and of the levels of Guthrie Terrace for a distance of 22 yards or thereabouts northward from the same point. Provided that notwithstanding anything shown on the deposited sections the Company shall not in altering the levels of Dalhousie Road westward from the junction aforesaid and of Guthrie Terrace make the same of any inclination steeper than one foot in thirty feet: A.D. 1904.

Work B A widening on the north side of the bridge and approaches thereto in the burgh and parish of Monifieth carrying Ferry Road over the stream known as the Dighty Water between points respectively 10 yards or thereabouts westward and 20 yards or thereabouts eastward from the Ordnance Bench mark on the north-west corner of the said bridge:

Work C A new road wholly in the burgh and parish of Monifieth commencing at a point on the south side of Ferry Road 80 yards or thereabouts eastward from the Ordnance Bench mark aforesaid and proceeding in a southerly direction across an accommodation railway siding from the Dundee and Arbroath Joint Railway to and terminating at the north-east corner of the piece of land hereinafter described numbered 646 on the $\frac{1}{2500}$ Ordnance Survey map of the parish of Monifieth Sheet LV. 1 (Revised Edition 1901).

LANDS.

7. Subject to the provisions of this Order the Company may enter upon take hold and use the lands hereinafter described and may on such lands construct a station or stations for generating electrical energy and erect thereon buildings and use dynamos engines and other apparatus and things necessary or proper for the generation of electrical energy and for the working of the tramways thereby. The lands hereinbefore referred to are as follows:—

Lands for
generating
station.

A piece of land containing 2·308 acres or thereabouts situate in the burgh and parish of Monifieth numbered 646 on the aforesaid $\frac{1}{2500}$ Ordnance Survey Map of that parish bounded on the west by the stream known as the Dighty Water on the north partly by ground and buildings of the Milton flax mill occupied by Thomson Fearn and Company and partly

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by an accommodation railway siding from the Dundee and Arbroath Joint Railway on the east by property belonging or reputed to belong to Thomas Anderson of Grange and on the south by the Dundee and Arbroath Joint Railway.

Company
may acquire
servitude
over certain
lands.

8. Notwithstanding anything delineated on the deposited plans or described in the deposited book of reference the Company may in lieu of acquiring the lands numbered 25 C 25 E and 25 G in the parish of Monifieth on the said plans acquire by agreement a servitude in perpetuity over the said lands for the purpose of constructing the Work C by this Order authorised and the provisions of the Lands Clauses Acts shall apply to such servitude as if the same were included in the word "lands" in those Acts.

Owners may
be required
to sell parts
only of cer-
tain lands
and build-
ings.

9. And whereas in the construction of the tramways and the street works or otherwise in exercise of the powers of this Order it may happen that portions only of the houses or other buildings or manufactories shown on the deposited plans may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto. Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the houses or other buildings or manufactories described in the First Schedule to this Order and whereof parts only are required for the purposes of this Order may if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto be required to sell and convey to the Company the portions only of the premises so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Correction
of errors &c.
in deposited
plans and
book of
reference.

10. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff of the county of Forfar for the correction thereof and if it appear to the sheriff that the omission misstatement or wrong

description arose from mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the principal sheriff clerk for the said county and a duplicate thereof shall also be deposited with the town clerk of the burgh or with the clerk of the parish council of the parish as the case may be in which the lands affected thereby are situate and such certificate and duplicate respectively shall be kept by such principal sheriff clerk and town clerk and clerk of the parish council respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate. A.D. 1904.

11. The powers of the Company for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years from the commencement of this Order. Period for compulsory purchase of lands.

12. The Company shall not under the powers of this Order purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1897 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. Restriction on taking houses of labouring class.

If the Company acquire or appropriate any house or houses for the purposes of this Order in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty.

For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "labouring class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or

A.D. 1904. handiwork 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.

Persons under disability may grant servitudes &c.

13. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Company any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in or over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Purchase of lands by agreement.

14. In addition to the other lands which the Company are by this Order authorised to purchase and acquire they may purchase take on lease or acquire by agreement for the purposes of their undertaking and may hold any lands not exceeding ten acres and they may on such lands and on any other lands purchased or acquired under the authority of this Order erect or construct and hold carriage and engine houses shelters waiting rooms gatekeepers' houses stables sheds depôts yards offices buildings stations sidings works and other conveniences in connection with their undertaking but nothing in this Order shall exonerate the Company from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any land purchased or acquired by agreement under the powers of this section or authorise the Company to construct any station for generating electrical energy elsewhere than on the lands described in the section of this Order whereof the marginal note is "Lands for generating station."

CONSTRUCTION AND MAINTENANCE.

Inspection by Board of Trade.

15. No tramway shall be opened for public traffic until it has been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways not to be made until street works completed.

16. The Company shall not without the consent in writing of the road authority make any of the tramways in any part of any street or road the levels of which are by this Order authorised to be altered until the levels of such street or road have been so altered.

17. If the tramways and street works by this Order authorised are not completed within four years from the commencement of this Order then on the expiration of that period the powers by this Order granted for making or completing the same or otherwise in relation thereto respectively shall cease except as to so much thereof as shall then be completed.

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 Period for completion of tramways and street works.

18.—(1) The tramways shall be constructed on a gauge of four feet eight and a half inches or such other gauge as may from time to time be approved by the Board of Trade but carriages or trucks adapted for use on railways shall not be run thereon.

Gauge of tramways.

(2) So much of Section 34 of the Tramways Act 1870 as limits the extent of the carriage used on any tramway beyond the edge of the wheels of such carriage shall not apply to carriages used on the tramways but no carriage or engine shall if the gauge of the tramways is four feet eight and a half inches exceed six feet six inches or in the event of the tramways being constructed on a less gauge six feet three inches in width or such other width as may from time to time be prescribed by the Board of Trade.

19. The Company in constructing Tramway No. 2 and such portion of Tramway No. 3 as is not laid along the carriageway of any road may deviate laterally from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown on those plans and they may deviate vertically from the levels thereof shown on the deposited sections except where any such tramway is laid across any street or road to the extent and subject to the conditions prescribed in the case of a railway by sections 11 12 14 and 15 of the Railways Clauses Consolidation (Scotland) Act 1845.

Power to deviate in constructing Tramways Nos. 2 and 3.

20. The Company in making the street works may deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding two feet but not so as to increase without the consent of the road authority the rate of inclination of the roads or streets as shown on the deposited plans.

Power to deviate in constructing street works.

21. Subject to the provisions of this Order and within the limits of deviation shown on the deposited plans the Company in connection with the street works and for the purposes thereof may with the consent of the local authority make junctions and communications with any existing streets which may be interfered with by or be contiguous to such works and may with the like

Power to make subsidiary works.

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A.D. 1904. — consent make diversions widenings or alterations of lines or levels of any existing streets for the purpose of connecting the same with such works or otherwise and may with the like consent alter divert and stop up all or any part of any drain sewer or channel within the said limits the Company providing a proper substitute before interrupting the flow of sewage in any drain or sewer and making compensation for any damage done by them in the execution of any such works under the powers of this section.

Vesting of street works in road authority.

22. The street works so far as the same affect any public street or road when the same shall respectively have been completed to the satisfaction of the road authority shall together with the surface rights in all lands laid into and appropriated for such works and the subsidiary works connected therewith vest in such road authority and shall for all purposes form part of the streets to which they are respectively added.

Tramways to be kept on level of surface of road.

23. If and whenever after the commencement of this Order the road authority alters the level of any road along or across which any part of the tramways is laid or authorised to be laid the Company 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 the surface of the road as altered.

Plan of proposed mode of construction of tramways.

24.—(1) In addition to the requirements of section 26 of the Tramways Act 1870 the Company shall at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing laying down and renewing any of the tramways lay before the Board of Trade a plan showing the proposed mode of constructing laying down and renewing such tramways and a statement of the materials intended to be used therein and the Company shall not commence the construction laying down and renewal of any of the tramways or part of any of the tramways respectively until such plan and statement have been approved by the Board of Trade and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction of the surveyor of the road authority as provided by section 26 of the said Act Provided that the word "materials" in this section does not include materials used for paving any part of any street or road under the provisions of the Tramways Act 1870 or this Order.

(2) If any dispute shall arise between the Company and the road authority or the said surveyor under this section such dispute shall be referred to arbitration under the Tramways Act 1870. A.D. 1904.

25. The materials with which and the manner in which the Company shall maintain and keep in good condition and repair the portion of the road referred to in section 28 of the Tramways Act 1870 shall be such as may be agreed between the road authority and the Company or in case of difference between them as may be determined by the Board of Trade on the application of either party. Repair of part of road where tramway is laid.

26. The rails of the tramways shall be such as the Board of Trade may approve. Rails of tramways.

27.—(1) The Company shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramways and the substructure upon which the same rest and if the Company at any time fail to comply with this provision or with the provisions of section 28 of the Tramways Act 1870 as varied by this Order they shall be subject to a penalty not exceeding five pounds and to a daily penalty not exceeding five pounds. Penalty for not maintaining rails and roads.

(2) In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of such district that the Company have made default in complying with the provisions in this section contained or with any of the requirements of section 28 of the Tramways Act 1870 as varied by this Order the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed. Board of Trade may on complaint inspect tramways.

28. Every local and road authority shall at all times have free access to and communication with all their sewers and drains and power to lay lateral and private drains to communicate therewith without the consent or concurrence of the Company and the provisions contained in sections 32 and 33 of the Tramways Act 1870 shall be applicable in the case of any sewer or private drain Local and road authority to have access to sewers.

A.D. 1904. — of or under the control of the said authority as if the same were a pipe for the supply of gas or water.

Cross-overs to be constructed in certain cases.

29. 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 Company shall if and where required by the Board of Trade construct a cross-over or cross-overs connecting the one tramway with the other and by the means of such cross-over or cross-overs the traffic shall when necessary be diverted from one tramway to the other.

Power to make additional cross-overs and to double tramway lines.

30.—(1) The Company may subject to the provisions of this Order with the consent of the Board of Trade make maintain alter and remove such crossings cross-overs passing places sidings turnouts junctions and other works in addition to those particularly specified in and authorised by this Order as they find necessary or convenient for the efficient working of the tramways or for providing access to any generating stations stables or carriage-houses or works of the Company or for forming junctions with other tramways or to any premises near any part of the tramways.

(2) Notwithstanding anything shown on the deposited plans the Company may with the consent of the Board of Trade lay down double lines in lieu of single or interlacing lines or single lines in lieu of double or interlacing lines or interlacing lines in lieu of double or single lines on any of the tramways and if at any time the road in which any tramway or part thereof is authorised to be laid or is laid has been or shall be altered or widened the Company may with the like consent construct such tramway or part thereof or (as the case may be) take up or reconstruct the same in such position as they may think fit.

(3) Provided that if in the construction of any works under this section any rail is intended to be so laid that for a distance of thirty feet or upwards a less space than nine feet six inches would intervene between it and the outside of the footpath on either side of the road the Company shall not less than one month before commencing the works give notice in writing to every owner and occupier of houses shops or warehouses abutting on the place where such less space would intervene and such rail shall not (except with the consent of the Board of Trade) be so laid if the owners or occupiers of one-third of such houses shops or warehouses by writing under their hands addressed and delivered to the Company

within three weeks after receiving the notice from the Company express their objection thereto. A.D. 1904.

31. Where by reason of the execution of any work affecting the surface or soil of any road along which any of the tramways is laid it is in the opinion of the Company necessary or expedient temporarily to remove or discontinue the use of such tramway or any part thereof the Company may with the consent of the local and road authority construct in the same or any adjacent road and 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.

Temporary tramways may be made where necessary.

32. The Company may with the consent of the local and road authority increase the roadway of any street or road in which any of the tramways are authorised to be laid to such extent as may be necessary to leave a space of nine feet and six inches between the outside of the footpath on each and either side of such street or road and the nearest rail of such tramway by reducing the width of the footpath on each or either side of such street or road. Provided that no footway shall be reduced to a less width than six feet.

Company may reduce footpath for constructing tramways.

33. Any paving metalling or material excavated by the Company in the construction of the tramways or street works from any road or bridge under the jurisdiction or control of any road authority may be applied by the Company so far as may be necessary in or towards the reinstatement or making up of the road street work or bridge 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 Company are by section 28 of the Tramways Act 1870 required to maintain and the Company 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 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 notice duly given such surplus is not removed by such surveyor or by some other person named by him for that purpose such surplus paving metalling or material shall absolutely vest in and belong to the Company and may be dealt with removed and disposed of by them in such manner as they may think fit. Any difference between the

Application of road materials excavated in construction of works.

A.D. 1904. — Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be settled by an arbiter to be nominated by the Board of Trade on the application of either party.

Shelters or waiting rooms.

34. The Company may erect and maintain in any district sheds or shelters or waiting rooms for the accommodation of passengers and of the Company's servants and the Company may with the consent of the local and road authority of such district for such period and on such terms as may be agreed upon use for that purpose portions of the public streets or roads within such district.

Stopping of roads during execution of works.

35. Subject to the provisions of this Order the Company may during the execution of the tramways and street works with the consent of the road authority expressed in writing by the clerk of such authority stop up temporarily the carriageway or footway of any road or bridge as they think necessary and for that purpose may put up bars posts and other erections. Provided that the Company shall before stopping up any footway under this section provide a temporary substitute therefor.

Company may lop trees overhanging public highway.

36. The Company may cut and lop any trees planted in or near any highway along which the tramways are laid which may in any way interfere with the construction or working of the tramways or trolley wires in connection therewith or with the clear and safe passage of the tramcars and the passengers thereon. Provided that the Company shall not in the exercise of the powers of this section do unnecessary damage to any such trees and shall make compensation to any persons who may sustain damage by the exercise of the powers conferred by this section. Provided also that except in cases of emergency the Company shall give notice to the owners or reputed owners or their known agents or factors eight days before exercising the said powers.

Power to lay and maintain pipes and make openings in streets.

37. The Company may lay and maintain pipes and make openings or ways in or under the surface of any road or street (including the footways thereof) footpath bridge or public place in order to lay and may lay use and maintain cables ropes conduits electric conductors wires and other apparatus for transmitting motive power for the carriages running on the tramways and the Company may use electric wires and all machinery and apparatus necessary for such motive power.

38. Subject to the provisions of this Order the Company may place and maintain on in under or over any road or street (including the footways thereof) footpath bridge or public place in which the tramways or any of them are or is laid such posts standards brackets and overhead and other electric conductors mains and conduits as they may consider necessary and proper for working the same by electrical power and may with the consent of the owners thereof remove replace or alter the position of any lamp-post or letter-box in any such road street footway footpath bridge or place.

A.D. 1904.
 —
 Power to
 place posts
 wires &c.

39. Subject to the provisions of this Order and of any regulations made under this Order by the Board of Trade the design of all posts standards and brackets and their several attachments erected in the district of any road authority shall be such as the road authority and the Company may agree or as in case of difference between them may be determined by the Board of Trade.

As to posts
 standards
 and brackets.

40. If the Company shall discontinue the use of any posts brackets or overhead electric wires placed or maintained in under or over any street or road for supplying electrical motive power to the carriages used upon the tramways or if the right of the Company to use electrical motive power supplied by means of any such posts brackets or wires shall cease and determine the Company shall forthwith at their own cost remove such posts brackets and wires and shall restore and make good such streets and roads to the satisfaction of the road authority and in case of default the road authority may do all things necessary for that purpose and recover the costs and expenses thereof in any court of competent jurisdiction.

Posts &c. to
 be removed
 if user dis-
 continued.

41. The Company may make junctions between their tramways and any other tramway tramroad wagonway or light railway laid near their tramways and which can be worked in connection therewith but only with the consents of the owners and lessees of such tramway tramroad wagonway or light railway and (where such junctions are laid upon any road) of the road authority within whose district such junctions are intended to be laid and the provisions of the Tramways Act 1870 incorporated with this Order and of this Order with respect to the construction maintenance and working of the tramways shall apply to such junctions where laid along any road and such junctions when made shall for all purposes be deemed to be part of the undertaking of the Company.

Junctions
 with tram-
 ways and
 tramroads
 which can be
 worked in
 connection
 with Com-
 pany's lines.

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As to re-
moval of
snow &c.

42. If the Company at any time find it necessary or desirable to remove snow or other matter impeding the traffic on the tramways the Company shall at their own cost remove the snow or other matter to the side of the road but so as not to impede or obstruct the ordinary traffic on the road. Provided that any dirt or other like matter removed by the Company from the grooves of the rails of the tramways shall not be allowed to remain on the side of the road but shall be taken away by the Company as soon as shall be reasonably practicable and that the Company shall not use salt for thawing the snow on any road.

Attachment
of brackets
&c. to build-
ings.

43. The Company may with the consent of the owner of any building or bridge or of any column post or standard erected for lighting purposes in any road street footway footpath or place in which any of the tramways are situate attach thereto such brackets wires and apparatus as may be required for the working of the tramways by mechanical power :

Provided that—

(1) Where in the opinion of the Company any consent under this section is unreasonably refused they may appeal to the sheriff who shall have power having regard to the character of the building or bridge or of such column post or standard as the case may be and to the other circumstances of the case to allow the attachment subject to such terms as to compensation or rent and otherwise as he may think reasonable or to disallow the same and may determine by which of the parties the costs of the appeal are to be paid :

(2) Any consent of an owner and any order of the sheriff under this section shall not have effect after that owner ceases to be in possession of the building or bridge or of such column post or standard but any attachments fixed under the provisions of this section shall not be removed until the expiration of three months after any subsequent owner shall have given to the Company notice in writing requiring the attachments to be removed. Where such notice is given the preceding provisions of this section shall apply and the sheriff shall have the same powers as under proviso (1) :

- (3) The owner may require the Company to temporarily remove the attachments where necessary during any reconstruction or repair of the building or bridge or of such column post or standard. A.D. 1904.

For the purpose of this section any occupier of a building whose tenancy exceeds one year unexpired and in the case of any other tenancy the person receiving the rent shall be deemed to be the owner.

PROTECTIVE PROVISIONS.

44. For the protection of the local authority of the area in which any of the tramways may be situate the following provisions shall unless otherwise agreed between the local authority and the Company have effect:— For protection of local authority of area affected.

- (1) The tramways shall be laid down under the superintendence and to the reasonable satisfaction of the local authority :
- (2) The tramways shall not be used for experimental purposes and shall be constructed so as to interfere as little as may be with the ordinary traffic on the roads on which the same are laid :
- (3) All standards poles wires and supports erected for the purpose of the electrical equipment of the tramways shall be of such design and shall be erected and placed in such manner and situation and according to such plans as shall have been previously submitted to and approved of by the local authority and the local authority shall have power upon giving to the Company one month's notice in writing of their desire so to do to make use of such standards or poles for the support of electric or gas lamps and all internal wires connections and pipes or other fittings necessary for such electric or gas lamps belonging to or to be used by the local authority in such manner and so far as the same will not interfere with the electric system of the Company or weaken damage or otherwise prejudicially affect the said standards or poles Provided that the approval of the local authority shall not be withheld unreasonably and that if the local authority shall not within twenty-eight days after the submission of such designs or plans signify in writing to the Company their disapproval and their

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 EDW. 7.]
Tramways Order Confirmation Act, 1904.

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requirements in lieu thereof they shall be deemed to have approved thereof:

- (4) Every standard or pole shall be painted in such colours and manner and so often (not being more than once in every three years) as the local authority may require and if any standard or pole after it has been erected is in the opinion of the local authority an obstruction the Company shall alter the position thereof in such manner as the local authority in writing shall reasonably require:
- (5) The Company shall if required by the local authority light in so far as may be necessary to avoid danger to traffic such of the standards or poles placed on any roadway within the jurisdiction of the local authority as the local authority may select:
- (6) The Company shall lay all main feeder wires below the surface of the ground in such direction and position as shall be indicated upon a plan to be submitted to and approved of by the local authority:
- (7) Every carriage used on the tramways shall be kept in proper repair and condition and be painted by the Company to the reasonable satisfaction of the local authority who may prohibit the use of any carriage not in their opinion in proper repair and condition;

The carriages used on the tramways shall be electrically lighted and shall be provided by the Company with all necessary lightning arresters;

All electrical fittings used on the carriages of the Company shall be sufficiently protected so as to prevent injury to passengers:

- (8) When the Company open or break up any street roadway or footway for the purpose of erecting any pole the Company shall within three days after the same has been opened or broken up reinstate the same in as good condition as that in which it was before it was opened or broken up and in case the Company make any default in so doing the local authority may reinstate the same as aforesaid at the expense of the Company:
- (9) The Company shall not without the consent of the local authority remove any public lamp and all lamps so removed under such consent shall be re-erected by the

Company in such manner and position as the local authority may direct: A.D. 1904.

- (10) Whenever the Company desire to erect any pole which involves any alteration or removal of any sewer or drain or machinery or appliance connected therewith vested in or belonging to the local authority the local authority may at their option (but without prejudice to any protection afforded to them by the Tramways Act 1870) make such alteration or removal as the case may be and do all works incidental thereto and all the reasonable and necessary expenses which the local authority shall thereby incur shall be defrayed or repaid to them by the Company:
- (11) No advertisement other than a notice or advertisement relating to the undertaking of the Company shall without the consent of the local authority be affixed to or displayed upon any standard or pole of the Company:
- (12) Where any street or road on which the tramways are laid is widened by the local authority the Company shall alter the position of the rails on such street or road at their own expense if required to do so by the local authority and subject to the provisions of this Order and of the Acts incorporated therewith place them where the local authority may direct:
- (13) Sections 30 32 and 33 of the Tramways Act 1870 shall apply to the local authority with reference to the water and gas mains pipes and apparatus belonging to the local authority in like manner as the same apply to a company or person being the owner of water or gas pipes or mains:
- (14) No advertisement shall be placed on the windows of any carriage used on the tramways in such a position as to obstruct the view and the local authority may order the removal of any advertisements placed on the carriages of the Company which shall in their opinion be objectionable:
- (15) If any difference arise between the Company and the local authority with respect to the reasonableness of any act or requirement of the local authority the same shall be determined by the arbitration of an arbiter to be agreed upon between the local authority and the

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Company or failing agreement to be appointed by the Board of Trade on the application of either of them and the costs of such arbitration shall be borne and paid as such arbiter shall direct :

(16) If the Company shall subject to the provisions of the immediately preceding subsection fail to comply with any of the subsections of this section numbered four five six seven eight eleven and fourteen they shall be liable for every such default to a penalty not exceeding five pounds and to a further penalty not exceeding one pound for each day during which the offence is continued after conviction thereof and every such penalty shall be recoverable under the Summary Jurisdiction Acts :

(17) All money payable by the Company to the local authority under the provisions of this section shall be payable on demand in writing and in default thereof may be recovered by the local authority from the Company as a simple contract debt.

For protection of
Dundee Corporation.

45. For the protection of the Dundee Corporation the following provisions shall unless otherwise agreed upon between that Corporation and the Company have effect (that is to say) :—

(1) The Company shall within six months from the commencement of this Order pay into a bank in the city of Dundee to the credit of the Dundee Corporation the sum of one thousand pounds or give to the Dundee Corporation such security as shall be approved by the Dundee Corporation for that amount and if the said sum of one thousand pounds shall not be so paid or such approved security given as aforesaid within such period the powers conferred on the Company by this Order in so far as they relate to or affect the Dundee Corporation and the city of Dundee (hereinafter in this section called “the city”) shall cease :

(2) The said sum of one thousand pounds or such security for that amount as aforesaid shall if the Company do not before the expiration of the period by this section limited for the completion of the tramways complete the same between the eastern boundary of the city and Barnhill in the burgh of Broughty Ferry (which portion is hereinafter in this section referred to as “the

tramways") and open the same for public traffic or do not bonâ fide work the tramways (of which the Board of Trade shall be the judge) for the twelve months next ensuing after such opening be forfeited to and become the property of the Dundee Corporation and shall be applied by them for the benefit of the city :

- (3) Any interest or dividends accruing on the said sum of one thousand pounds shall from time to time and as often as the same shall become payable until such forfeiture as aforesaid be paid by the Dundee Corporation to the Company :
- (4) After the expiration of the said period of twelve months the said sum of one thousand pounds or such security as aforesaid shall unless the tramways have not been bonâ fide worked as aforesaid be repaid or released by the Dundee Corporation to the Company :
- (5) The tramways shall be worked on the electric overhead trolley system or by such other mechanical power as may be proposed by the Company and approved by the Dundee Corporation and the junction thereof with the tramways of the Dundee Corporation and all works in connection with such junctions or affecting such last mentioned tramways shall be executed in all respects under the direction and superintendence of the engineer of the Dundee Corporation and of the engineer of the Company or as shall in the event of difference be determined as hereinafter provided :
- (6) The tramways shall be completed within two years from the commencement of this Order and on the expiration of that period unless such completion shall be delayed by unforeseen circumstances over which the Company have no control the powers conferred on the Company by this Order in so far as they relate to or affect the Dundee Corporation or the city shall cease :
- (7) If at any time after the construction of the tramways the municipal boundary of the city shall be extended eastwards so as to include the portion of the tramways between the eastern boundary of the city and the western boundary of the burgh of Broughty Ferry as existing at the commencement of this Order the provisions of the section of this Order of which the

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marginal reference is "As to purchase of undertaking" shall cease to apply to such portion of the tramways and the Dundee Corporation may notwithstanding anything in the Tramways Act 1870 contained on the expiry of the period of ten years from the commencement of this Order and on the expiry of every succeeding period of five years by six months' previous notice in writing require the Company to sell and thereupon the Company shall sell to the Dundee Corporation the said portion of the tramways including the overhead equipment thereof but excluding any generating station of the Company situate within the extended area at the structural value thereof at the date of such notice as such value shall failing agreement be determined by an arbiter appointed as hereinafter provided less (if required by the Dundee Corporation) such sum (to be determined failing agreement by arbitration) as shall represent the depreciation (if any) of the said portion of the tramways and overhead equipment by wear and tear between the date of such notice and the transfer of such portion to the Dundee Corporation :

- (8) On the completion of such purchase all the rights powers and authorities of the Company in respect to the portion of their undertaking so purchased except with respect to capital and borrowing powers shall be transferred to vested in and may be exercised by the Dundee Corporation and such portion of tramway shall form part of the tramway undertaking owned by that Corporation :
- (9) In order to facilitate the transmission of passenger traffic coming to or from the tramways from or to the Tramway No. 3 authorised by and partly constructed under the Dundee Gas Street Improvements and Tramways Act 1899 and the Tramway No. 8 authorised by and constructed under the Dundee Corporation Order 1901 (which Tramways Nos. 3 and 8 are hereinafter in this section referred to as "the Corporation tramways") the following provisions shall have effect (that is to say) :—
- (A) The Dundee Corporation shall at the eastern boundary of the city without any delay take on

propel and with their own officers and servants carry westward and thereafter eastward over the Corporation tramways the carriages of the Company as the same arrive from time to time at the said boundary and the Company shall in like manner without any delay take on propel and with their own officers and servants carry eastward and thereafter westward over the tramways the carriages of the Dundee Corporation as the same arrive from time to time at the said boundary ;

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(B) All such through carriages and through traffic shall be subject to the statutory provisions byelaws rules and regulations for the time being in force on and applicable to the tramways over which such carriages and traffic are for the time being proceeding ;

(c) The Dundee Corporation and the Company shall for the purpose of through traffic respectively provide such number of through carriages as shall be proportionate to the route mileage of the Corporation tramways and the tramways and if either the Dundee Corporation or the Company shall at any time for any special purpose desire to run additional carriages over the Corporation tramways or the tramways the transmission of such additional carriages shall be subject to mutual arrangement between the Dundee Corporation and the Company ;

(D) For the purpose of such through traffic the Dundee Corporation and the Company shall respectively book through receive and forward all such traffic over the tramways and the Corporation tramways or any part thereof and shall afford all necessary facilities by through rates tickets invoices carriages and otherwise for the passage and transmission of such traffic from upon over and along such tramways or any part thereof and may (except as hereinafter provided) demand and take upon and in respect of such tramways tolls rates and charges not exceeding the tolls rates and charges which the Dundee Corporation are in respect of the Corporation tramways and the Company are in respect of the tramways entitled to demand and take ;

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(E) The tolls rates and charges in respect of through traffic passing to the tramways over the Corporation tramways shall be collected by the officers of the Dundee Corporation and the tolls rates and charges in respect of through traffic passing to the Corporation tramways over the tramways by the officers of the Company and the rates for through passengers shall not exceed the rates following (that is to say):—

First For every through passenger conveyed outside or inside on or in a carriage running westward from beyond the existing eastern boundary of the city between that boundary and Market Street or any less distance between those points one halfpenny ;

Second For every through passenger conveyed outside on a carriage running westward from beyond the said boundary between that boundary and any point west of Market Street one penny ;

Third For every through passenger conveyed outside or inside on or in a carriage running eastward between Market Street and the said boundary or any less distance between those points one halfpenny ;

Fourth For every through passenger conveyed outside on a carriage running eastward between High Street or any point west of Market Street and the said boundary one penny ;

Provided that if on the Corporation tramways the ordinary fare for an outside passenger differs from the ordinary fare for an inside passenger the fare for an inside through passenger shall be such fare not exceeding the ordinary fare for an inside passenger charged by the Dundee Corporation as may be agreed upon between the Dundee Corporation and the Company ;

(F) From the rates collected by the Dundee Corporation within the city from through passengers conveyed from the High Street or any portion of the city between the High Street and the said boundary eastwards over the tramways or any portion thereof

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a sum equivalent to the rates thirdly and fourthly above prescribed and to be ascertained in accordance with the practice in the Railway Clearing House shall be deducted and retained by the Dundee Corporation and the balance shall be paid by the Dundee Corporation to the Company ;

(G) From the rates collected by the Company beyond the city from through passengers conveyed over the tramways or any part thereof to the High Street or any portion of the city between the said boundary and the High Street on the Corporation tramways a sum equivalent to the rates firstly and secondly above prescribed and to be ascertained as aforesaid shall be deducted and retained by the Company and the balance shall be paid by the Company to the Dundee Corporation ;

(H) The receipts accruing from the through conveyance of small parcels mails and other postal traffic and passengers' luggage over the Corporation tramways or any part thereof and the tramways or any part thereof shall be divided equally between the Dundee Corporation and the Company ;

(I) The provisions of this subsection shall remain in force for the period of fifteen years from the commencement of this Order but shall be subject to revision at the instance of either the Dundee Corporation or the Company at the expiry of each period of five years from the commencement of this Order or on the purchase by the Dundee Corporation of the portion of the tramways specified in subsection (7) of this section :

- (10) On Sundays no traffic of any description from or to the tramways shall without the consent of the Dundee Corporation be forwarded over the Corporation tramways :
- (11) Any difference between the Dundee Corporation and the Company under this section shall at the instance of either party if it relate to any question of law or legal interpretation or procedure be referred to and determined by the Lord Advocate of Scotland for the time being or him failing the Dean of Faculty of Advocates in Scotland for the time being and if it relate to any

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question of construction or mechanical or other powers or to tolls rates or charges or purchase price or other like matters be referred to and determined by an arbiter to be appointed on the application of either party by the Board of Trade and the decision of such Lord Advocate Dean of Faculty or arbiter shall be final and binding on both parties.

For protection of
Broughty
Ferry Corporation.

46. For the protection of the Broughty Ferry Corporation the following provisions shall unless otherwise agreed upon between the Corporation and the Company have effect (that is to say) :—

- (1) The Company shall within four months from the commencement of this Order deposit in a bank in the burgh of Broughty Ferry (hereinafter in this section called “the burgh”) to the credit of the Broughty Ferry Corporation the sum of one thousand pounds or security to be approved by the Broughty Ferry Corporation for that amount and if the said sum of one thousand pounds shall not be so paid or approved security therefor deposited within such period the powers conferred on the Company by this Order shall cease :
- (2) The said sum of one thousand pounds shall if the Company do not before the expiration of the period by this Order limited for the completion of the tramways complete the same between the eastern boundary of the City of Dundee and the eastern boundary of the burgh and open the same for public traffic or do not bonâ fide work the same (of which the Board of Trade shall be the judge) for the twelve months next ensuing after such opening be forfeited to and become the property of the Broughty Ferry Corporation and be applied by them for the benefit of the burgh :
- (3) Any interest or dividends accruing on the said sum of one thousand pounds shall from time to time and as often as the same shall become payable until such forfeiture as aforesaid be paid by the Broughty Ferry Corporation to the Company :
- (4) After the expiration of the said period of twelve months the said sum of one thousand pounds shall unless the said tramways have not been bonâ fide worked be released and repaid by the Broughty Ferry Corporation to the Company :

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- (5) The Company shall within two years from the commencement of this Order complete the tramways within the burgh and open the same for public traffic unless such completion shall be delayed by circumstances over which the Company have no control and shall work the same on the electric overhead trolley system or by such other mechanical power as may be proposed by the Company and approved by the Broughty Ferry Corporation :
- (6) The Company shall use their best endeavours to procure a through passenger service between Barnhill in the burgh and the High Street in the City of Dundee :
- (7) The Company shall not convey on the tramways within the burgh any noisome or offensive goods or things :
- (8) The Company shall not without the consent of the Broughty Ferry Corporation run any carriages on the tramways within the burgh between the hours of eleven in the forenoon and a quarter to one in the afternoon of any Sunday :
- (9) Where the tramways within the burgh are constructed or intended to be constructed or re-constructed over any manhole or entrance into any sewer of the Broughty Ferry Corporation or so close to such manhole or entrance as to make the use thereof dangerous the Company shall at their own expense if reasonably required by the Broughty Ferry Corporation alter the position of such manhole or entrance in such manner as may be reasonably approved by the Broughty Ferry Corporation or that Corporation may at their option at the expense of the Company make such alteration in the position of such manhole or entrance :
- (10) Any difference between the Broughty Ferry Corporation and the Company under this section shall be determined in accordance with the provisions of sub-section (11) of the immediately preceding section.

47. For the protection of the Monifieth Corporation the following provisions shall unless otherwise agreed upon between the Corporation and the Company have effect (that is to say) :—

For protection of
Monifieth
Corporation.

- (1) The Company shall contribute such sum not exceeding two hundred and fifty pounds as may be necessary to

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defray the cost of the widening by the Monifieth Corporation of Maule Street on the north side between Albert Street and the western pillar of the entrance gate to Edenbank :

(2) Such contribution shall be paid by the Company to the Monifieth Corporation within thirty days from the date on which the Monifieth Corporation commence the construction of the said widening if the Company have then commenced the construction of the tramways within the burgh of Monifieth but if the construction of such tramways shall not have been so commenced such contribution shall only be payable after the commencement of the construction of the said widening and after the expiry of thirty days from the date on which the Company shall commence the construction of the said tramways :

(3) The Company shall before laying any tramway across the bridge at Milton Monifieth alter the same and the approaches thereto at their own expense to the reasonable satisfaction of the Monifieth Corporation in such manner as may be necessary to make the same suitable for tramway purposes :

(4) Any difference between the Monifieth Corporation and the Company under this section shall be determined in accordance with the provisions of subsection (11) of the section of this Order of which the marginal note is " For protection of Dundee Corporation."

For protection of Dundee District Committee.

48. For the protection of the Dundee District Committee of the County Council of Forfarshire (hereinafter called " the district committee") the following provisions shall unless otherwise agreed upon between the district committee and the Company have effect (that is to say) :—

(1) The Company shall at their own expense maintain and keep in good condition and repair with such materials and in such manner as the district committee shall direct and to their reasonable satisfaction the whole of the road including the footways thereof and also (except in so far as the same are maintainable by the owners of the adjoining lands) the fences thereof in which the tramways are laid between the eastern boundary of the

city of Dundee and the western entrance to Craigie House : A.D. 1904.

- (2) The Company shall at their own expense remove any snow which may from time to time accumulate on the said portion of roadway :
- (3) The Company shall use their best endeavours to obtain the necessary consents and if they obtain the same shall at their own expense widen to the reasonable satisfaction of the district committee the said road at the foot and on both sides of the Craigie Strips Road :
- (4) Any difference between the district committee and the Company under this section shall be determined in accordance with the provisions of subsection (11) of the section of this Order of which the marginal note is "For protection of Dundee Corporation."

49. In constructing and maintaining the tramways and works connected therewith where the same are intended to pass under any railway bridge belonging to the North British Railway Company the Caledonian Railway Company or the Dundee and Arbroath Joint Railways Committee (hereinafter referred to respectively as "the protected company") and in lowering any road passing under any such bridge the following provisions shall have full force and effect :—

For protection of railway companies.

- (1) Before commencing any works under any such bridge the Company shall give fourteen days' notice in writing to the protected company of their intention to execute such works and such notice shall be accompanied by a plan section and specification showing the nature and extent of the intended works and such works shall be constructed under the superintendence and to the reasonable satisfaction of the protected company and so as not in any way to interfere with the traffic on any railway of that company :
- (2) The Company shall not in any way vary alter or interfere with the structure of any such bridge and shall not injuriously affect the same :
- (3) In the event of any injury being caused to any such bridge by the construction maintenance repairing use or removal of any of the said tramways and works or the lowering of any road under such bridge the protected

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company may at the expense of the Company make good such injury and restore such bridge or the part or parts thereof which may be injured to as good a state and condition as they were in before such injury was occasioned:

- (4) During the construction of the said tramways and works and the lowering of any road as aforesaid the Company shall bear and on demand pay to the protected company all reasonable expense of employment by them of a sufficient number of inspectors or watchmen to be appointed by that company for watching their railways and the works thereof with reference to and during the execution of the intended works and for preventing as far as may be all interference obstruction danger and accident which may arise from any of the operations or from the acts or defaults of the Company or their contractors or any person or persons in the employment of the Company or their contractors with reference thereto or otherwise:
- (5) In the event of any of the tramways being worked by electricity on the overhead system the Company may attach such wires and insulators as may be necessary to any bridge or other work of the protected company Provided that the method of attaching and the position of any such wire or insulator shall be subject to the approval of the principal engineer of the protected company:
- (6) If and when the protected company shall require to repair or paint any such bridge the Company shall in order to ensure the safety of the workmen employed in such repairing or painting cut off the electric current from the trolley wires under such bridge at such times as shall be reasonably required by the said principal engineer of the protected company and as shall not unduly interfere with the traffic on the tramways unless the Company shall have previously adopted some other means of protection to workmen which shall have been approved by the said principal engineer:
- (7) If any difference shall arise between the Company and the protected company or their respective engineers] as to the reasonableness of the plans sections and specifi-

cations hereinbefore provided for or otherwise under this section such difference shall be referred to and be determined by an arbiter to be agreed upon or failing agreement to be appointed on the application of the Company or of the protected company by the Board of Trade.

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50. Notwithstanding anything shown on the deposited sections Tramway No. 2 shall be constructed on the levels delineated on the plan dated the twelfth day of March one thousand nine hundred and four and signed in triplicate by James William Speight on behalf of the Company and by John Turnbull Maclaren on behalf of David Charles Guthrie of Craigie one copy of which plan has been deposited in the office of the Secretary for Scotland.

For protection of
Craigie
Estate.

RATES AND REGULATIONS.

51. The Company may demand and take for every passenger travelling upon the tramways or any part or parts thereof including every expense incidental to such conveyance a fare not exceeding one penny per mile and in computing the said fare the fraction of a mile shall be deemed a mile but in no case shall the Company be bound to charge a less sum than one penny.

Passengers' fares.

52. Every passenger travelling upon the tramways may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof Provided that such luggage be carried by hand and at the responsibility of the passenger and shall not occupy any part of a seat nor be of a form or description to annoy or inconvenience other passengers.

Passengers' luggage.

53. The tramways may be used for the carriage of passengers passengers' luggage and parcels but the Company shall not carry any animals goods minerals articles or things other than passengers' luggage and parcels not exceeding the weight in this Order mentioned.

Traffic upon tramways.

54. With respect to parcels the Company may demand and take any rates and charges not exceeding the following (that is to say):—

Rates for parcels.

For any parcel not exceeding seven pounds in weight three-pence :

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For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight fivepence :

For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight sevenpence :

For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight ninepence.

Cheap fares
for labouring
classes.

55.—(1) The Company at all times after the opening of the tramways for public traffic shall and they are hereby required to run at least two carriages each way every morning in the week and every evening in the week (Sundays New Year's Day and general holidays always excepted) at such hours not being later than eight in the morning or earlier (except on Saturdays) than five in the evening respectively as may be most convenient for artisans mechanics and daily labourers at fares not exceeding one halfpenny for every mile or fraction of that distance but the Company shall not be bound to take any fare less than one penny On Saturdays the Company in lieu of running such carriages after five o'clock in the evening shall run the same at such hours between noon and two o'clock in the afternoon as may be most convenient for the said purposes.

(2) If complaint is made to the Board of Trade that a proper and sufficient service is not provided the Board after considering the circumstances of the locality may by order direct the Company to provide such service as may appear to the Board to be reasonable.

(3) The Company shall be liable to a penalty not exceeding five pounds for every day during which they fail to comply with any order under this section.

As to fares
on Sundays
and holidays.

56. The Company shall not take or demand on Sundays or on any holiday any higher fares or charges than those levied by them on ordinary week days.

Periodical
revision of
rates and
charges.

57. If at any time after three years from the opening for public traffic of the tramways or any portion thereof or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion thereof it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion are or is wholly or partly situate or by twenty inhabitant ratepayers of that district or by the Company that under the circumstances then existing all or any of the fares or other charges demanded and taken in respect of the traffic on the tramways or on such portion should be revised

the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act 1870 and if the referee reports that it has been proved to his satisfaction that all or any of the fares or charges should be revised the said Board may subject to the maximum fares and charges authorised by this Order by order in writing alter modify reduce or increase all or any of the fares or charges to be taken in respect of the tramways or on any portion thereof and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section. Provided that a copy of this section shall be annexed to every table or list of fares published or exhibited by the Company.

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58. Subject to the provisions of this Order the Board of Trade may make byelaws with regard to any of the tramways upon which mechanical power may be used for all or any of the following purposes (that is to say):—

Byelaws by
Board of
Trade.

For regulating the use of any bell whistle or other warning apparatus fixed to the engines or carriages :

For regulating the emission of smoke or steam from engines used on the tramways :

For providing that engines and carriages shall be brought to a stand at the intersection of cross streets and at such places and in such cases of horses being frightened or of impending danger as the Board of Trade may deem proper for securing safety :

For regulating the entrance to exit from and accommodation in the carriages used on the tramways and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages :

For providing for the due publicity of all byelaws and Board of Trade regulations in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere.

Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Order shall be liable to a penalty not exceeding forty shillings.

59. The provisions of the Tramways Act 1870 relating to the making of byelaws by the local authority with respect to the rate

Amendment
of Tramways
Act 1870 as

A.D. 1904.
—
to byelaws
by local
authority.

of speed to be observed in travelling on the tramways shall not authorise the local authority to make any byelaws sanctioning a higher rate of speed than that authorised by this Order or by the Board of Trade regulations at which engines are to be driven or propelled on the tramways under the authority of this Order. Provided that carriages may be driven or propelled on the tramways at such speed not exceeding fifteen miles an hour as the Board of Trade may prescribe.

Penalty for
malicious
damage.

60. If any person wilfully does or causes to be done with respect to any apparatus used for or in connection with the working of any tramway or light railway owned leased or worked by the Company anything which is calculated to obstruct or interfere with the working of such tramway or light railway or to cause injury to any person he shall (without prejudice to any proceedings by way of interdict or otherwise to which he may be subject) be guilty of an offence punishable on summary conviction and every person convicted of such offence or of any offence under section 50 of the Tramways Act 1870 with respect to any such tramway or light railway shall be liable to a penalty not exceeding twenty pounds and the Company may themselves remove obstructions caused by any breakdown or illegal act or cause from any such tramway or light railway so as to free the traffic thereon from any such obstruction.

MOTIVE POWER.

Provisions
as to motive
power.

61. The carriages used on the tramways may be moved by animal power or subject to the following provisions by mechanical power (that is to say) :—

- (1) The mechanical power shall not be used except with the consent of and according to a system approved by the Board of Trade :
- (2) The Board of Trade shall make regulations (in this Order referred to as “the Board of Trade regulations”) for securing to the public all reasonable protection against danger arising from the use under this Order of mechanical power on the tramways and for regulating the use of electrical power :
- (3) The Company or any other company or person using any mechanical power on the tramways contrary to the provisions of this Order or of the Board of Trade regulations shall for every such offence be liable to a

penalty not exceeding ten pounds and also in the case of a continuing offence to a further penalty not exceeding five pounds for every day during which such offence is continued after conviction thereof: A.D. 1904.

(4) The Board of Trade if they are of opinion—

(A) That the Company or such other company or person have or has made default in complying with the provisions of this Order or of the Board of Trade regulations whether a penalty in respect of such non-compliance has or has not been recovered; or

(B) That the use of mechanical power as authorised under this Order is a danger to the passengers or the public;

may by order either direct the Company or such other company or person to cease to use such mechanical power or permit the same to be continued only subject to such conditions as the Board of Trade may impose and the Company or such other company or person shall comply with every such order. In every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

62. The following provisions shall apply to the use of electrical power under this Order unless such power is entirely contained in and carried along with the carriages:—

Special pro-
visions as to
use of elec-
trical power.

(1) The Company shall employ either insulated returns or uninsulated metallic returns of low resistance:

(2) The Company shall take all reasonable precautions in constructing placing and maintaining their electric lines and circuits and other works of all descriptions and also in working their undertaking so as not injuriously to affect by fusion or electrolytic action any gas or water pipes or other metallic pipes structures or substances or to interfere with the working of any wire line or apparatus from time to time used for the purpose of transmitting electrical power or of telegraphic telephonic or electric signalling communication or the currents in such wire line or apparatus:

(3) The electrical power shall be used only in accordance with the Board of Trade regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas or water

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pipes or other metallic pipes structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return :

- (4) The Company shall be deemed to take all reasonable precautions against interference with the working of any wire line or apparatus if and so long as they adopt and employ at the option of the Company either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with the electric wires lines and apparatus of other parties and the currents therein as may be prescribed by the Board of Trade regulations and in prescribing such means the Board shall have regard to the expense involved and to the effect thereof upon the commercial prospects of the undertaking :
- (5) At the expiration of two years from the commencement of this Order the provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire line or apparatus or the currents therein unless in the construction erection maintaining and working of such wire line and apparatus all reasonable precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents :
- (6) If any difference arises between the Company and any other party with respect to anything hereinbefore in this section contained such difference shall unless the parties otherwise agree be determined by the Board of Trade or at the option of the Board by an arbiter to be appointed by the Board and the costs of such determination shall be in the discretion of the Board or of the arbiter as the case may be :
- (7) The expression " Company " in this section shall include licensees and any person owning working or running carriages over any tramway of the Company.

Alteration of
telegraph
lines of

63. Notwithstanding anything in this Order contained if any of the works authorised to be executed by this Order involves or is

likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration and in case any such alteration be made a telegraphic line of the Postmaster-General shall not be altogether removed from any highway (including the unmetalled or waste land by the side of the highway) without his consent.

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Postmaster-General.

64. In the event of any tramways of the Company being worked or lighted by electricity the following provisions shall have effect:—

For protection of Post Office telegraph lines.

- (1) The Company shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein. Any difference which arises between the Postmaster-General and the Company as to compliance with this subsection shall be determined by arbitration:
- (2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Company of their electric lines and works or by the working of the undertaking of the Company the Company shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection:
- (3) Before any electric line is laid down or any act or work for working or lighting the tramways by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the

A.D. 1904.

Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work :

Any difference which arises between the Postmaster-General and the Company as to any requirements so made shall be determined by arbitration :

- (4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the works of the Company is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of the Company's works or to the working of the undertaking the Engineer-in-Chief of the Post Office or any person appointed in writing by him may at all times when electrical energy is being generated by the Company enter any of the Company's works for the purpose of inspecting the Company's plant and the working of the same and the Company shall in the presence of such Engineer-in-Chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Company pursuant to the Board of Trade regulations :
- (5) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues :
- (6) Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the Court having cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph

office nearest to the place where the act or work was done A.D. 1904.
a notice of the execution thereof stating the reason for
doing or executing the same without previous notice :

- (7) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work :
- (8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Order :
- (9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882 :
- (10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbiter appointed by the Board of Trade on the application of either party whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Company or their agents were a company within the meaning of that Act :
- (11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Company by indictment action or otherwise in relation to any of the matters aforesaid :
- (12) In this section the expression "the Company" includes their lessees and any person owning working or running carriages on any of the tramways of the Company.

65. The provisions of sections 26 to 33 and 41 of the Tramways Act 1870 (except so much of section 28 as relates to the repair of the road between and on each side of the rails of the tramway) shall apply as if all posts tubes pipes wires and other apparatus used or to be used by the Company for the purposes of mechanical power were parts of the tramways.

Apparatus
used for
mechanical
power to be
deemed part
of tramways.

66. For the purpose of using mechanical power the Company may acquire hold and exercise patent and other rights or licences relating to motive power or otherwise but not so as to acquire any exclusive right therein.

Power to
acquire
patent rights.

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 EDW. 7.]
Tramways Order Confirmation Act, 1904.

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CAPITAL, &c.

Capital.

67. The capital of the Company shall be seventy-three thousand five hundred pounds in seventy-three thousand five hundred shares of one pound each.

Shares not
to be issued
until one-
fifth paid.

68. The Company shall not issue any share created under the authority of this Order nor shall any such share vest in the person accepting the same unless and until a sum not being less than one-fifth of the amount of such share is paid in respect thereof.

Receipt in
case of per-
sons not sui
juris.

69. If any money is payable to a shareholder or mortgagee being a minor idiot or lunatic the receipt of the guardian or committee of his estate or of his tutor or curator or curator bonis shall be a sufficient discharge to the Company.

Power to
borrow.

70. The Company may borrow on mortgage of the undertaking any sum not exceeding in the whole four thousand nine hundred pounds in respect of each fourteen thousand seven hundred pounds of capital but no part of any of the before-mentioned sum of four thousand nine hundred pounds shall be borrowed until the whole of the shares for the portion of the capital in respect of which the borrowing powers are to be exercised are issued and accepted and one-half thereof is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole of such portion of capital have been issued and accepted and that one-half of such portion of capital has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares were issued bonâ fide and are held by the persons to whom the same were issued or their executors administrators successors or assigns and also that such persons or their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Rights of
mortgagees
on sale of
tramways.

71. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under section 43 of the Tramways Act 1870 as modified by this

[4 EDW. 7.] *Dundee Broughty Ferry and District* [Ch. clxx.]
Tramways Order Confirmation Act, 1904.

Order and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage and every mortgage deed shall be endorsed with notice that the mortgage will not be a charge upon the tramways or the undertaking or any part thereof in the event of such sale. A.D. 1904.

72. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than three thousand pounds in the whole. Appointment of judicial factor.

73. The Company shall not create debenture stock.

Company not to create debenture stock.

74. All moneys raised under this Order whether by shares or borrowing shall be applied only to the purposes of this Order to which capital is properly applicable. Application of moneys.

75. All moneys to be borrowed on mortgage under this Order from the time when the same shall be advanced and the interest for the time being due thereon shall have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into or to be entered into by them But nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Order or injuriously affected by the construction of the tramways or by the exercise of any of the powers conferred upon the Company. Money borrowed on mortgage to have priority.

76. The first ordinary meeting of the Company shall be held within twelve months after the commencement of this Order The subsequent ordinary meetings of the Company shall be held in the month of April in every year or at such other time as shall be appointed for that purpose by an order of a general meeting. First and subsequent ordinary meetings.

77. The number of directors shall until the first ordinary meeting of the Company be five but the Company may at that or at any subsequent ordinary meeting increase the number to seven and may from time to time reduce and again increase the number provided that the number be never less than three nor more than seven. Number of directors.

78. The qualification of a director shall be the possession in his own right of shares of the nominal value of five hundred pounds. Qualification of directors.

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 Edw. 7.]
Tramways Order Confirmation Act, 1904.

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Quorum of
meetings.

79. The quorum of a meeting of directors shall be three and of a general meeting whether ordinary or extraordinary of the Company shall be shareholders present in person or by proxy holding together not less than two thousand pounds in the capital of the Company.

First and
subsequent
directors.

80. George Balfour Frederic Manuelle Leonard Cooper John Fyfe and one other person to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the commencement of this Order At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Order or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Order or nominated as aforesaid being (if they continue qualified) eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for varying the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation (Scotland) Act 1845 and the several persons elected at any such meeting being neither removed or disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Auditors not
required to
hold shares.

81. The Company may elect a single auditor or a firm of accountants who need not hold shares in the Company.

Interim
dividend.

82. The directors may in any year without calling a meeting of shareholders for the purpose declare and pay such interim half-yearly dividend out of the then ascertained profits of the Company as in their judgment the position of the Company justifies.

Closing of
transfer
books pre-
vious to
declaring
interim divi-
dend.

83. It shall be lawful for the directors to close the register of transfers for a period not exceeding fourteen days previous to the declaration of any interim dividend and they may fix a day for closing the same of which seven days' notice shall be given by advertisement in some newspaper published or circulating in the district within which the principal office of the Company is situate and any transfer made during the time when the transfer books are so closed shall as between the Company and the party claiming

under the same but not otherwise be considered as made subsequently to the declaration of any such dividend. A.D. 1904.

84. Notwithstanding anything in this Order or in any Act or Acts incorporated herewith the Company may out of any money by this Order authorised to be raised pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Order for the completion of the works by this Order authorised or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say) :—

Power to
pay interest
out of capital
during con-
struction.

- (A) No such interest shall begin to accrue until the Company shall have deposited with the Board of Trade a statutory declaration by two of the directors and the secretary of the Company that two-thirds at least of the share capital authorised by this Order in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same :
- (B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear :
- (C) The aggregate amount to be so paid for interest shall not exceed four thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one-third of the amount paid for interest as aforesaid :
- (D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares :
- (E) The accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section.

Save as hereinbefore set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this Order authorised to raise to any shareholder on the amount of

A.D. 1904. the calls made in respect of the shares held by him but nothing in this Order shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Tramways
 deposit fund
 not to be
 repaid except
 so far as
 tramways
 are opened.

85. Whereas pursuant to the General Orders under the Private Legislation Procedure (Scotland) Act 1899 and to the Parliamentary Deposits Act 1846 as applied in such General Orders a sum of two thousand four hundred and fifty-six pounds seventeen shillings and seven pence has been deposited with the King's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland in respect of the application for this Order of which sum two thousand three hundred and sixty-one pounds one shilling and ten pence (hereinafter referred to as "the tramways deposit fund") represents five per centum upon the amount of the estimate in respect of the tramways and the remainder (hereinafter referred to as "the street works deposit fund") (that is to say) ninety-five pounds fifteen shillings and nine pence represents four per centum upon the amount of the estimate for the street works Be it enacted that notwithstanding anything contained in the said Parliamentary Deposits Act 1846 the tramways deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Order referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Order for completion of the tramways open the same for the public conveyance of passengers and if the Company shall make default in so opening the tramways the tramways deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as aforesaid the Company open any portion of the tramways for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the tramways opened as aforesaid and the portion of the tramways deposit fund which bears to the whole of the tramways deposit fund the same proportion as the length of the tramways so opened bears to the entire length of the tramways the Court shall on the application of the depositors order the portion of the tramways deposit fund specified in the certificate to be paid or transferred to

them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of the Act confirming this Order having passed anything in the Parliamentary Deposits Act 1846 to the contrary notwithstanding.

A.D. 1904.

86. If the Company do not previously to the expiration of the period limited for the completion of the tramways complete the same and open them for the public conveyance of passengers then and in every such case the tramways deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the Edinburgh Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the tramways or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Order and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively and in making good all damage caused to such roads by the construction or abandonment of such tramways and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit And if no such compensation is payable or if a portion of the tramways deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the tramways deposit fund or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Company is insolvent and has been ordered to be wound up or the undertaking has been abandoned be paid or transferred to such factor or to the liquidator or liquidators of the Company or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors Provided that until the tramways deposit fund has been repaid or re-transferred to the depositors or has become otherwise applicable as hereinbefore mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Application
of tramways
deposit fund.

A.D. 1904.

Repayment
of street
works de-
posit fund.

87. On the application of the depositors at any time after the commencement of this Order the Court of Exchequer in Scotland may and shall order that the street works deposit fund and the interest and dividends thereon shall be paid or transferred to the depositors or any other person or persons whom the depositors may appoint in that behalf.

AGREEMENTS.

Confirming
agreement
with Trus-
tees of Lord
Douglas and
Earl of
Home.

88. The agreement between the trustees of Archibald Lord Douglas and the Right Honourable Charles Alexander Earl of Home Baron Douglas of Douglas of the first part and George Balfour on behalf of the Company of the other part as set forth in the Second Schedule to this Order is hereby confirmed and shall be binding upon the parties thereto of the first part and the Company respectively.

Confirming
agreement
with David
Charles
Guthrie.

89. The agreement between David Charles Guthrie of the first part and George Balfour on behalf of the Company of the other part as set forth in the Third Schedule to this Order is hereby confirmed and shall be binding upon the party thereto of the first part and the Company respectively.

Agreements
with road
authority.

90.—(1) The Company may subject to the provisions of this Order enter into agreements with the road authority with respect to the construction of all or any part of the street works situate in the district of such authority and with respect to the forming laying down maintaining renewing repairing working and using of the tramways and the rails plates sleepers posts wires apparatus and works connected therewith and for facilitating the passage of carriages and traffic over and along any roads or streets in the district of such authority upon or along which any of the tramways are intended to be laid or any part thereof.

(2) The Company on the one hand and the road authority on the other hand may enter into and carry into effect agreements with respect to the cost of the widening and improving by the road authority of any roads streets bridges courts passages and footpaths within the district of such authority and as to the contribution by the Company towards the moneys to be expended on such works and the payment of any sums payable under this section by the Company to the road authority shall be deemed a purpose of this Order to which capital is properly applicable.

Company
may contract
to work tram-

91. The Company may enter into and carry into effect contracts and agreements with the Dundee Corporation and any

local authority company or person owning or working any tramways or light railways which can be worked with the Company's tramways with respect to all or any of the following matters (that is to say):—

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ways or light
 railways in
 neighbouring
 districts.

The working use management and maintenance of all or any of the tramways or light railways of the contracting parties and the works connected and used therewith or any part or parts thereof respectively ;

The making of all necessary junctions ;

The supply and maintenance under any agreement for all or any of the respective tramways or light railways of the contracting parties being worked and used by any one or more of them of rolling stock plant machinery and electrical energy necessary for the purposes and during the continuance of such agreement ;

The appointment and removal of officers and servants ;

The payments to be made and the conditions to be performed in respect of the matters aforesaid ;

The interchange accommodation conveyance transmission and delivery of traffic coming from or destined for the respective undertakings of the contracting parties ;

The division and apportionment of the revenue arising from such traffic and the payment of any fixed or contingent rent ; and

The giving and taking of guarantees against any loss arising by reason of any such agreement and the paying out of their respective rates of any loss arising by reason of such guarantees :

Provided that any agreement under this section with respect to the supply of electrical energy shall be subject to the approval of the Board of Trade and that any such supply to the Company and any works constructed for the purpose thereof shall be subject to all provisions for the protection of the Postmaster-General and of his rights in respect thereof which are contained in the Act or Order by which the supplying local authority company or person is authorised to generate or supply electricity for the purposes of its own undertaking.

92. — (1) The Company on the one hand and any local authority company body or person authorised by any Act or Provisional Order to supply electrical energy in any district in

Agreements
 with local
 authorities
 and others

A.D. 1904.

—

as to supply
of electrical
energy.

which any of the tramways may be situate on the other hand may enter into and carry into effect agreements for or with respect to all or any of the following purposes and all matters incidental thereto (that is to say) :—

(A) The supply to the Company by such local authority company body or person of electrical energy for use by the Company beyond as well as within the area of supply of such local authority company body or person for working any tramways which may for the time being be worked by the Company by electrical power under the provisions of this Order and for lighting any streets which the Company may be under any obligation to light in connection with the working of any such tramways. Provided that any supply of electrical energy by any such local authority company body or person to the Company shall except with respect to the area within which such supply may be used be subject to the provisions of the respective Acts or Orders under which such local authority company body or person may be empowered to supply electrical energy :

(B) The supply by the Company to any such local authority company body or person of electrical energy. Provided that any supply of electrical energy by the Company under this Order and any works constructed for that purpose shall be subject to all the provisions for the protection of the telegraphic lines of the Postmaster-General and of his rights in respect thereof which are contained in the Electric Lighting (Clauses) Act 1899 or in this Order :

(c) The payments to be made or other consideration to be given in respect of any such supply.

(2) For the purpose of carrying out any such agreement as aforesaid the Company may subject to the provisions contained in the Schedule to the Electric Lighting (Clauses) Act 1899 and in this Order lay down electric lines mains or cables through any district in such line or route and in a trench of such dimensions and subject to such other terms and conditions as may be agreed between the Company and the local authority of such district or as failing agreement shall be determined by arbitration.

(3) Any agreement under this section shall be subject to the approval of the Board of Trade.

MISCELLANEOUS.

A.D. 1904.

93. Section 43 of the Tramways Act 1870 shall in its application to the undertaking and to the Company in relation thereto be modified as follows (that is to say):—

As to purchase of undertaking.

(1) The local authorities in whose districts the tramways are situate (if by resolution passed at a special meeting of the members constituting each of such local authorities they so decide) may within six months after the expiration of a period of thirty years from the commencement of this Order and within six months after the expiration of every subsequent period of seven years with the approval of the Board of Trade (which approval the Board of Trade are hereby authorised to give) by notice in writing require the Company to sell and thereupon the Company shall sell to them the whole of the tramways situate within such districts as one undertaking upon the terms of paying the fair market value of the undertaking as a going concern and all lands buildings works materials and plant of the Company suitable to and used by the Company exclusively for the purposes thereof but without any allowance for compulsory purchase. Such value to be in cases of difference determined by an arbiter to be appointed by the Board of Trade on the application of either party and the costs of such arbitration to be borne and paid as the arbiter may direct:

(2) If any of the local authorities aforesaid be unwilling to join in such purchase the remaining local authorities or authority may exercise the powers of purchasing the undertaking under the immediately preceding subsection provided that the provisions of the Tramways Act 1870 with respect to the purchase of the undertaking by a local authority shall from the date of such purchase apply and be exercisable in respect of such portion of the undertaking as is situate within the district of any local authority not being a party to such joint purchase by such local authority except that the period of forty years shall be deemed to be substituted for the period of twenty-one years in section 43 of that Act mentioned:

A.D. 1904.

(3) No such resolution shall be valid unless one month's previous notice of the meeting and of the purpose thereof has been given in the manner in which notices of meetings of the local authority are usually given nor unless two-thirds of the members constituting the local authority are present and vote at the meeting and a majority of those present and voting concur in the resolution and it shall be lawful for the chairman of any such meeting with the consent of a majority of the members present to adjourn the same from time to time :

(4) When any such sale shall have been made all the rights powers and authorities of the Company in respect to the undertaking so purchased shall be transferred to vested in and may be exercised by the local authorities or authority as the case may be in like manner as if such tramways were constructed by the local authorities or authority as the case may be under powers conferred upon such local authorities or authority as the case may be by a Provisional Order under the Tramways Act 1870 together with power to place and run carriages upon and to work such tramways and to demand and take tolls rates and charges in respect of the same or in respect of the use of such carriages and in reference to such tramways the local authorities or authority shall be deemed to be the Promoters :

(5) The local authorities may subject to the approval of the Board of Trade enter into such agreements and arrangements inter se as may be necessary or convenient for giving effect to the purposes of the foregoing provisions.

Company
may take a
lease of tram-
ways from
local autho-
rities.

94. The Company may subject to the approval of the Board of Trade (which approval the Board of Trade are hereby authorised to give) upon the completion of any sale to any local authority of any portion of the undertaking accept and take from such local authority and such local authority may notwithstanding anything in the Tramways Act 1870 contained grant a lease or leases of the portion of the undertaking so purchased from the Company and all works and conveniences connected therewith on such terms and conditions and for such period not exceeding a period of forty-two years from the date of the lease as may be

agreed between the Company and such authority and during the continuance and subject to the terms and conditions of any such lease the Company may work maintain and use the undertaking thereby leased and demand take and recover in respect thereof tolls fares and charges not exceeding the tolls fares and charges authorised to be taken thereon by this Order or by any subsequent Act or Order relating to or regulating the same. A.D. 1904.

95. From and after the date of purchase by any local authority under the Tramways Act 1870 as modified by this Order of all or any tramways of the Company and if and so long as the Company shall continue to be the owners or lessees of any tramway connecting with any of the tramways so purchased the Company may with their engines carriages and servants and for the purposes of traffic of every description run over all or any portions of the tramways so purchased and use in connection therewith the depôts posts standards electric wires mains and cables and other apparatus and appliances constituting the equipment of the said tramways for working by means of mechanical power on terms to be agreed on or failing agreement settled by an arbiter to be appointed on the application of the Company or the local authority by whom such tramways have been purchased and the Company may demand and recover in respect of the tramways so run over by them tolls rates and charges not exceeding those authorised in respect thereof. Running powers over tramways purchased.

96. The Company may apply for obtain and carry into effect Provisional Orders under the Electric Lighting Acts 1882 and 1888 the Electric Lighting (Scotland) Act 1890 and the Electric Lighting (Scotland) Act 1902 and acquire or take for such period and upon such terms as may be agreed upon a transfer or lease of the powers duties and liabilities conferred or imposed on and the works constructed by and the undertaking of any local authority company or person under any Order granted under the said Electric Lighting Acts or under any Act empowering prior to the commencement of this Order any such local authority company or person to generate and supply electrical energy for lighting or other public or private purposes and such local authority company or person may sell transfer or lease the same but any such purchase transfer or lease shall in all respects be subject to the approval of the Board of Trade. Company may apply for and take transfers of Electric Lighting Orders.

97. Subject to the provisions of the section of this Order of which the marginal note is "As to purchase of undertaking" the Power to lease tramways.

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 Edw. 7.]
Tramways Order Confirmation Act, 1904.

A.D. 1904. — Company may subject to the approval of the Board of Trade and after the completion of the tramways or any part thereof lease to any local authority company body or person the whole or any part of the tramways or the right of user of the same and of levying tolls rates fares and charges in respect thereof for such period (not exceeding in the case of any local authority forty-two years) and generally upon such terms and conditions as may be agreed on between the contracting parties.

Form and
delivery of
notices.

98. With respect to notices and the delivery thereof by or to the Company the following provisions shall have effect (namely):—

(1) Every notice given under this Order by the Company or by the local or road authority shall be sufficiently authenticated by being signed by their secretary or clerk :

(2) Any notice to be delivered by or to the Company to or by the local or road authority or other body may be delivered by being left at the principal office of such local or road authority or other body or of the Company (as the case may be) or by being sent by post addressed to their respective clerk or secretary at their principal office or to such other office as the local or road authority or other body or the Company (as the case may be) may from time to time by notice to the other request that such notices may be sent or delivered.

Consents of
local or road
authority.

99. Where the consent or approval of any local or road authority is by this Order required before the exercise of any powers by the Company such consent or approval shall not be unreasonably withheld and if any difference arises as to whether any consent or approval is unreasonably withheld that difference shall be referred to an arbiter to be appointed by the Board of Trade.

Deposits for
future Orders
not to be paid
out of capital.

100. The Company shall not out of any money by this Order authorised to be raised pay or deposit any sum which by any Standing Order of either House of Parliament or any General Order made under the Private Legislation Procedure (Scotland) Act 1899 now or hereafter in force may be required to be deposited in respect of any application to the Secretary for Scotland for the purpose of obtaining an Act or Order authorising the Company to construct any other tramway or to execute any other work or undertaking.

[4 EDW. 7.] *Dundee Broughty Ferry and District* [Ch. clxx.]
Tramways Order Confirmation Act, 1904.

101. Nothing in this Order contained shall exempt the Com- A.D. 1904.
pany or the tramways from the provisions of any general Act Provision as
relating to tramways passed before or after the commencement to general
of this Order or from any future revision or alteration under the Tramway
authority of Parliament of the maximum fares rates or charges Acts.
authorised by this Order.

102. Any penalty under this Order or under any byelaws or Recovery of
regulations made under this Order may be recovered in manner penalties.
provided by the Summary Jurisdiction (Scotland) Acts.

103. All orders regulations and byelaws made by the Board of Orders &c.
Trade under the authority of this Order shall be signed by a of Board of
Secretary or an Assistant Secretary of the Board. Trade.

104. All costs charges and expenses of and incident to the Costs of
preparing for obtaining and passing of this Order and the con- Order.
firming Act or otherwise in relation thereto shall be paid by the
Company.

The SCHEDULES referred to in the foregoing Order.

FIRST SCHEDULE.

DESCRIBING PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN.

Parish.	Numbers on deposited Plans.
Dundee - - - - -	4 6 7.
Monifieth - - - - -	22G 25C 25E 25G 26F 27.

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SECOND SCHEDULE.

AGREEMENT between the Right Honourable CHARLES ALEXANDER EARL OF HOME BARON DOUGLAS OF DOUGLAS K.T. &c. &c. the Honourable JAMES ARCHIBALD DOUGLAS HOME of the Inner Temple barrister-at-law and ROBERT STRATHERN writer to the Signet Edinburgh the Trustees now acting under and in virtue of the Act of Parliament passed in the third and fourth years of the reign of Her Majesty Queen Victoria cap. 29 intituled "An Act for vesting certain parts of the " entailed estates of Archibald Lord Douglas of Douglas lying " in the county of Forfar in Trustees for the purpose of " feuing the same" and the said the Right Honourable CHARLES ALEXANDER EARL OF HOME BARON DOUGLAS OF DOUGLAS K.T. &c. &c. as an individual of the first part (hereinafter called "the First Parties") and GEORGE BALFOUR electrical engineer of 22A College Hill Cannon Street London of the second part (hereinafter called "the Promoter").

WHEREAS the Promoter proposes to make application to the Secretary for Scotland in December one thousand nine hundred and three for a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 to incorporate a Company under the title of

(hereinafter referred to as "the Company") and to empower the Company to make inter alia certain tramways and tramroads from the municipal and police boundary of the city and Royal burgh of Dundee as at first April one thousand nine hundred and three passing through inter alia the First Parties' lands within the burgh of Broughty Ferry and thence to Monifieth:

And whereas the Promoter has applied to the First Parties for their consent to the said Order being proceeded with and also for ground for the tramways or tramroads after-mentioned and the said First Parties have agreed to give such consent and such ground upon the terms and conditions hereinafter contained:

Now therefore both parties do hereby agree as follows:—

First The tramways and tramroads to be authorised by the Order shall include such tramways and tramroads as may be necessary to provide a through route from the eastern boundary of the city of Dundee as at first April one thousand nine hundred and three viâ Craigie and Douglas Estates Strathern Road Victoria Road Albert Road Claypots Road Queen Street and Monifieth Road to the eastern boundary of the burgh of Broughty Ferry and subject to the provisions of this agreement the Promoter shall in good faith promote the Order and use his best endeavours to procure the same being passed into a law with all such powers as may be necessary to be incorporated

[4 EDW. 7.] *Dundee Broughty Ferry and District* [Ch. clxx.]
Tramways Order Confirmation Act, 1904.

by the Order to construct the said tramways and tramroads and provide and efficiently work such through route. A.D. 1904.

Second The Promoter has agreed and hereby agrees immediately on the passing of the Act confirming the before-mentioned Provisional Order to make complete and maintain free of expense so far as the First Parties are concerned that portion of the road over which the tramway or tramroad will be laid from the point in Strathern Road marked "A" on the plan annexed and signed as relative hereto westwards until it reaches the unfeued ground belonging to the First Parties immediately to the west of the house known as "The Croft" at the point marked "B" on the said plan all in the line and of the width of 17 feet 6 inches and in the manner shown on the said plan And the First Parties have agreed and hereby agree to make and complete on each side of said tramway or tramroad between said points "A" and "B" the remaining portion of the road or street with footpaths all in the manner and of the width shown on said plan and the First Parties shall give so far as they are concerned all rights which they can confer on the Company to form tramways of either single or double track on the said road.

Third The said First Parties have agreed and hereby agree on the portion of their present unfeued ground running between the point marked "B" on the said plan and the boundary of the estate of Craigie belonging to David Charles Guthrie at the point marked "C" on the said plan to give to the Company an absolute right of user to a track of 17 feet 6 inches wide to run in the centre of a proposed street of 50 feet wide across said unfeued ground as said street is shown on the said plan to join with the new road to be constructed for tramway purposes on the estate of Craigie And the Promoter shall be bound on the passing of the said before-mentioned Act to lay out the said portion of road between "B" and "C" in the manner necessary to carry the tramway or tramroads of the Promoter on the said track of 17 feet 6 inches wide in the centre of said proposed street and to lay thereon in his option either a tramway or tramroad said tramway or tramroad also at his option to be either of single or double track.

Fourth The tram rails to be laid by the Promoter shall at all points be flush with the levels of the roads or streets.

Fifth The Promoter shall be bound to erect and maintain suitable fences on both sides of said track between "B" and "C" for a full period of seven years from the date of the completion of said tramway or tramroad and shall be bound so long as said track is fenced to provide at such points as may be mutually agreed upon by the parties crossing places of at least eleven feet in width over said track and tramway or tramroads for access to the First Parties' ground lying on each side thereof On the expiry of the said period of seven years the Promoter shall remove said fences if called upon to do so but declaring that the First Parties shall be entitled if they see fit to make and complete on each side of said track the remaining portion of said proposed street with footpaths between the points marked "B" and "C" or any portion thereof at any time before the expiry of said

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 EDW. 7.]
Tramways Order Confirmation Act, 1904.

A.D.1904.
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period of seven years And in the event of their not completing their share of the said road within said seven years they bind themselves to do so at expiry of said period in same manner and of same width as under this agreement they are bound to make their portion of road lying to the east of "The Croft."

Sixth The First Parties shall not be entitled to require payment of any consideration in respect of wayleave.

Seventh The First Parties shall subject to this agreement when required give to the Promoter the consent required by the General Order No. 22 made under the Private Legislation Procedure (Scotland) Act 1899.

Eighth If the Promoter fails to obtain power to construct so much of the tramways and tramroads as are necessary for the provision of the said through route this agreement shall fall without any claim by one party against the other but without prejudice to any future application or proceeding on the part of either and the answers or objections of either of the other thereto Provided that if part only of such tramways and tramroads shall be authorised by the Order and the Company construct the same such part shall be constructed subject to the provisions of this agreement in so far as such provisions shall be applicable thereto but nothing herein contained shall make it obligatory upon the Promoter or the Company to proceed with the Order or the construction of any of the works thereby authorised unless the whole of the tramways and tramroads forming the said through route are sanctioned.

Ninth In the event of any difference or dispute arising between the First Parties and the Promoter or between the First Parties and the Company as to the true intent meaning or effect of this agreement or as to the carrying out of the same such difference or dispute shall if it relates to any question of law or legal interpretation or procedure be referred to the Lord Advocate of Scotland for the time being whom failing the Dean of Faculty of Advocates in Scotland for the time being and if it relates to any question of construction or mechanical or other power or tolls rates and charges or such like matters be referred to an arbiter to be appointed on the application of both or either of the parties by the Board of Trade and the award of such Lord Advocate whom failing such Dean of Faculty or of the said arbiter to be appointed by the Board of Trade shall be final and binding on both parties.

Tenth This agreement is made subject to the approval of Parliament and to such alterations as may be made therein during the progress of the Order and shall if required by the First Parties be scheduled to the Order or be embodied so far as the First Parties may require in clauses to be inserted therein and is conditional on the Order being passed into a law Provided that if any material alterations be made therein it shall be competent for either party to withdraw from this agreement.

Lastly If the Order shall pass into a law the Promoter hereby obliges himself to procure the adoption of this agreement by the Company within

three months from the passing of the Confirming Act and upon such adoption all further liability shall wholly cease and these presents shall thenceforward enure and be carried into effect as if the Company had been substituted for the Promoter herein. A.D. 1904.

In witness whereof these presents written on this and the two preceding pages of stamped paper by John Spalding apprentice to Edward Cowan Solicitor Dundee are together with the plan annexed subscribed in duplicate by the parties hereto as follows videlicet By the said the Right Honourable Charles Alexander Earl of Home as trustee foresaid and as an individual and by the Honourable James Archibald Douglas Home as trustee foresaid at Douglas Castle Lanarkshire on the twentieth day of August one thousand nine hundred and three before these witnesses Charles Burr valet and George Dives footman both to the said the Right Honourable Charles Alexander Earl of Home by the said Robert Strathern as trustee foresaid at Portsalon county Donegal Ireland on the twenty-fourth day of the said month of August and year last mentioned before these witnesses Walter James Chambers shipowner of 3 King Street Liverpool and Frank Workman ship builder Belfast and by the said George Balfour at London on the fifth day of September one thousand nine hundred and three before these witnesses William John Balfour-Murphy and Ray Palmer both assistants to Messrs. J. G. White and Company Limited electrical engineers and contractors of 22A College Hill Cannon Street London.

HOME.

JAMES A. D. HOME.

CHARLES BURR Witness.

GEORGE DIVES Witness.

ROBERT STRATHERN.

WALTER J. CHAMBERS Witness.

F. WORKMAN Witness.

GEO. BALFOUR.

W. J. BALFOUR-MURPHY Witness.

RAY PALMER Witness.

THIRD SCHEDULE.

AGREEMENT between DAVID CHARLES GUTHRIE Esquire of Craigie near Dundee in the county of Forfar of the first part (hereinafter called "the First Party") and GEORGE BALFOUR electrical engineer of 22A College Hill Cannon Street London of the second part (hereinafter called "the Promoter").

WHEREAS the Promoter proposes to make application to the Secretary for Scotland in December One thousand nine hundred and three for a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 to

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 Edw. 7.]
Tramways Order Confirmation Act, 1904.

A.D. 1904. incorporate a company under the title of

(hereinafter referred to as "the Company") and to empower the Company to make inter alia certain tramways and tramroads from the municipal and police boundary of the city and royal burgh of Dundee through the First Party's lands to the burgh of Broughty Ferry and thence to Monifieth :

And whereas the Promoter has applied to the First Party for his consent to the said Order being proceeded with and also for his consent to the tramways and tramroads after-mentioned being constructed through his lands and the said First Party has agreed to give such consents upon the terms and conditions hereinafter contained :

Now therefore both parties do hereby agree as follows :—

First The tramways and tramroads to be authorised by the Order shall include such tramways and tramroads as may be necessary to provide a through route from the eastern boundary of the city of Dundee as at first April One thousand nine hundred and three viâ the Craigie and Douglas Estates Strathern Road Victoria Road Albert Road Claypots Road Queen Street and Monifieth Road to the eastern boundary of the burgh of Broughty Ferry all as delineated on a plan or sketch signed as relative hereto and subject to the provisions of this agreement the Promoter shall in good faith promote the Order and use his best endeavours to procure the same being passed into a law with all such powers as may be necessary to be incorporated by the Order to construct the said tramways and tramroads and provide and efficiently work said tramways and tramroads along said through route.

Second The said First Party has agreed and hereby agrees to give off the strip of ground of not less than 40 nor more than 50 feet in breadth through his lands from a point at or near the cottage at the west entrance to Craigie House north-eastwards to join the continuation from the Douglas Estate of Strathern Road all as delineated on said plan and that for the purpose of forming a road or street with a tramway or tramroad in the centre thereof as after-mentioned.

Third The Company shall be bound to make according to specifications and sections annexed and signed as relative hereto a street to the full extent of not less than 40 nor more than 50 feet wide between fences including a footpath feet wide on either side thereof which fences bounding said street they shall be bound to erect (with gates where necessary) and maintain on either side of said street and the Company shall further be bound to lay in the centre of said street either a tramway or tramroad of single or double track and in working the said tramway or tramroad the Company shall be bound to provide stopping places at such points as may be fixed mutually by the Company and the First Party or his agents.

Fourth In the event of the Company making said street of 50 feet in width they shall be entitled to fence off the said tramway or tramroad in the centre of said street from the remainder of said street but they shall

be bound to make crossing places over said tramway or tramroad at such points as shall be mutually fixed and it shall be in the power of the First Party to call upon the Company to remove said fences or any portion thereof and to throw open said tramway or tramroad or any portion thereof to the street when the ground ex adverso is feued and in any event the whole fence shall be removed if the First Party desire it at the expiry of five years from the opening of the tramway or tramroad. Declaring that the Company shall not be bound to make or pave the tramway track between the fences so long as they are standing but immediately on their removal shall be bound to do so. Declaring that on the frontages ex adverso of the said street being feued the feuars shall be taken bound to pay to the Company or their successors the value of street formation fronting their feus including footpaths gullies and drains but on each side only to the extent of the portion of said street outside the causeway said value to be fixed by arbiters mutually chosen or by an oversman in the event of their differing in opinion and the feuars shall be taken bound thereafter to maintain said street including foresaid and to the extent foresaid.

A.D. 1904.

Fifth The said road or street when constructed shall be the property of the First Party subject to the right of the Company to construct and maintain the said tramway or tramroad thereon in accordance with this agreement and the Order and as between the First Party and the Company the First Party shall in regard to the said road or street be deemed to be the road authority for the purposes of the Tramways Act 1870.

Sixth The Company shall at their own expense form bottom metal and drain the whole of the carriageway of the said road or street and the footway on either side thereof and shall (subject to the provisions of Article fourth hereof) pave the tramway or tramroad track between the rails and for a distance of eighteen inches outside the rails on both sides and all cross-overs crossing places and fixed stopping places and shall also provide such channels gullies and drains as may be required for the efficient drainage of the said road all to the reasonable satisfaction of the First Party and shall thereafter to the like satisfaction maintain the said road and other works referred to in this Article subject also to the provision in said Article fourth whereby the feuars shall be bound to maintain a portion of said street fronting their respective feus.

Seventh All cables standards and poles laid down or erected by the Company in the said road or street for the working of the said tramway or tramroad shall be placed in such position as the First Party shall approve but no standards or poles shall be erected in any part of the carriageway of the said road or street.

Eighth The Company shall light to the satisfaction of the First Party the said road or street during such period of each twenty-four hours as the First Party may reasonably require.

Ninth In constructing said road or street for said tramway or tramroad through the First Party's lands the Company shall be bound to allow the

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 EDW. 7.]
Tramways Order Confirmation Act, 1904.

A.D. 1904. First Party to lay a main sewer in the said street for the drainage of the houses and other buildings within the said area and at all time to allow the First Party or those acting with his authority access thereto But said main sewer shall be laid before said tramway or tramroad.

Tenth The Company shall repay to the First Party any abatement from the rent or other compensation which he may require to pay to the tenants of the lands or other property taken for the construction of said street and tramway or tramroad and that during the remaining years of their present leases and the First Party shall not be entitled to require payment of any further consideration in respect of said wayleave.

Eleventh If the Promoter fail to obtain power to construct so much of the tramways and tramroads as are necessary for the provision of the said through route this agreement shall fall without any claim by one party against the other but without prejudice to any future application or proceeding on the part of either and the answers or objections of either of the other thereto Provided that if part only of such tramways and tramroads shall be authorised by the Order and the Company construct the same such part shall be constructed subject to the provisions of this agreement in so far as such provisions shall be applicable thereto but nothing herein contained shall make it obligatory upon the Promoter or the Company to proceed with the Order or the construction of any of the works thereby authorised unless the whole of the tramways and tramroads forming the said through route are sanctioned.

Twelfth In the event of any difference or dispute arising between the First Party and the Promoter or between the First Party and the Company as to the true intent meaning or effect of this agreement or as to the carrying out of the same such difference or dispute shall if it relates to any question of law or legal interpretation or procedure be referred to the Lord Advocate of Scotland for the time being whom failing the Dean of Faculty of Advocates in Scotland for the time being and if it relates to any question of construction or mechanical or other power or tolls rates and charges or such like matters be referred to an arbiter to be appointed on the application of both or either of the parties by the Board of Trade and the award of such Lord Advocate whom failing such Dean of Faculty or of the said arbiter to be appointed by the Board of Trade shall be final and binding on both parties.

Thirteenth Notwithstanding this agreement the First Party shall be at liberty to oppose any clauses or provisions contained in the Order or proposed to be inserted therein at the instance of any authority company or person which he may consider would injuriously affect his property rights or interests.

Fourteenth This agreement is made subject to the approval of Parliament and to such alterations as may be made therein during the progress of the Order and shall if required by either party be scheduled to the Order or be embodied so far as either party may require in clauses to be inserted therein and is conditional on the Order being passed into a law Provided

[4 EDW. 7.] *Dundee Broughty Ferry and District* [Ch. clxx.]
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that if any material alteration be made therein it shall be competent for either party to withdraw from this agreement. A.D. 1904.

Fifteenth If the Order shall pass into a law and this agreement become binding on the Company all further liability under this agreement on the part of the Promoter shall wholly cease and these presents shall thenceforward enure and be carried into effect as if the Company had been substituted for the Promoter herein and the Company shall be bound immediately on the Order passing into law to carry out the works herein agreed upon and to have the same completed within three years of the passing of said Order; and

Lastly The parties hereto by subscribing these presents hereby agree to implement the terms of this agreement under the penalty of three hundred pounds to be paid by the party or parties failing to the party or parties observing or willing to observe the same over and above performance And the parties hereto consent to the registration hereof for preservation and execution.

In witness whereof these presents consisting of this and the two preceding pages and the said specifications written on the immediately following page all written by Charles Boyd Anderson clerk to Shiell and Small solicitors Dundee are along with the said plans and sections hereto annexed subscribed in duplicate by the parties hereto as follows viz. By the said David Charles Guthrie at Glinger Bank Longtown Cumberland on the third day of September nineteen hundred and three before these witnesses The Honourable Cecil Edward Bingham colonel First Life Guards London and Charles Alexander artist Edwardes Square Studios London and by the said George Balfour at London on the fifth day of said month and year last mentioned before these witnesses William John Balfour-Murphy and Ray Palmer both assistants to Messrs. J. G. White and Company (Limited) electrical engineers and contractors twenty-two A College Hill aforesaid Declaring that the words "and for a distance of eighteen inches outside the rails" are interlined so as to be read between the words "rails" and "on" both occurring on the third line counting from the top of page second hereof before subscription.

D. C. GUTHRIE.

C. BINGHAM Witness.

CHARLES ALEXANDER Witness.

GEO. BALFOUR.

W. J. BALFOUR-MURPHY Witness.

RAY PALMER Witness.

SPECIFICATIONS REFERRED TO IN FOREGOING AGREEMENT.

The road and footpaths to be graded from the present level of the public road at Craigie West entrance to the present level of the ground at the

[Ch. clxx.] *Dundee Broughty Ferry and District* [4 EDW. 7.]
Tramways Order Confirmation Act, 1904.

A.D. 1904. eastern termination of said new road levels being furnished by the estate surveyors and the ground to be excavated or embanked as required to provide for this. The portions of road bed outside of the $17\frac{1}{2}$ feet width occupied by the tramway to be cleared of black soil and excavated to the depth of or embanked with hard material well beaten down to 16 inches below the intended finished surface and the formation bed formed to approved convexity.

The bottoming extending over the macadamised carriageway to be of hard solid stones 10 inches in finished depth set by hand on the largest bed in upright position firmly wedged and close packed by stones placed in the reverse manner blinded with coarse sand rotten rock or good gravel run in with water and well rolled with a steam road-roller. Over the bottoming of the carriageway will be spread a layer of whinstone metal of best quality 6 inches in finished depth broken to pass through a ring $2\frac{1}{2}$ inches in diameter. The top surface will then be thoroughly blinded with hard gravel screened to pass through a 1 inch riddle and sharp river sand well watered and rolled with a steam road roller the sand being brushed in with hard brushes as the watering and rolling proceed until the carriageway is thoroughly consolidated and the surface is made uniform and of perfect convexity. After the surface is sufficiently dry it is to receive a coating of coarse river sand or gravel at least $\frac{1}{4}$ inch thick and have the steam roller passed over the surface.

Cast-iron gully traps with cast-iron gratings 18 inches by 14 inches of Dundee Commissioners pattern to be placed on either side of the road at an average distance apart on each side of 150 feet or at points to be agreed on with the estate surveyors and protected by a double course of whinstone setts round the gratings. The gulleys to be connected to the sewer by 6 inches diameter spigot and faucet fireclay pipes jointed in cement.

The footpaths to be formed with 4 inches of shivers or shingle and surfaced with 3 inches of fine gravel or danders and brought to a uniform surface 6 inches above the level of the roadway.

The edges of the footpaths next the road bed are not to be kerbed or channelled but to be turfed and defined by pavement stones 12 inches by 12 inches by 3 inches set at intervals of not more than 3 feet.

D. C. GUTHRIE.
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