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# CASE

FOR THE

## EXTENSION OF THE MUNICIPAL BOUND. OF EDINBURGH,

AND THE

## TRANSFERENCE OF THE POWERS

OF

## THE POLICE AND PAVING BOARD

TO

## THE TOWN COUNCIL.

BY

JOHN SINCLAIR,

Conjunct City-Clerk.



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## PREFATORY NOTE.

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BELIEVING that the time approaches when the question of Municipal Extension must again be seriously considered, I have deemed it my duty to review the whole subject beforehand. From various causes, much of the information which is essential to the determination of the question is comparatively little known, and it has therefore occurred to me to be proper to submit the following statement to the Magistrates and Council and to the public, who will thus possess the means of judging for themselves. I could have wished that the chapter as to the Paving Board had been much shorter; but I felt that a full statement was requisite, in order that the constitution of this Board, and its relation to the City and suburban districts, and also to the Trustees of the Turnpike Roads of the County, might be rightly understood. It is proper to add, that the suggestions in this statement are made entirely on my own responsibility. In how far they are worthy of being adopted, it will be for the public, through their representatives, to determine.

J. S.

CITY CHAMBERS, EDINBURGH.  
30th June 1855.

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# C A S E.

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THE object of the following statement is to explain the grounds upon which it is humbly conceived that the time has arrived when the municipal boundaries of the city of Edinburgh should be made co-extensive with those of the Parliamentary burgh; when the Police and Paving Boards should be merged in the Town-Council; and when the municipal affairs of the entire population resident within the Parliamentary burgh should be managed by one governing body, chosen by the whole electors therein.

## I. POPULATION.

According to the census of 1851, the population of the Parliamentary burgh amounted to 160,302, made up as follows:—

1. The City proper, or Royal Burgh, comprising the Old Town or ancient Royalty, and the New Town or extended Royalty, . . . . .	66,734
2. The Parish of Canongate, . . . . .	10,801
3. The Castle of Edinburgh, . . . . .	497
4. Part of the Parish of South Leith, comprising the houses built on the Calton Hill, Hillside, &c., . . . . .	3,589
5. Part of the Parish of St Cuthbert's, comprising the Southern and other suburban districts, the Barony of Portsburgh, &c., . . . . .	78,681
Total, as before, . . . . .	<u>160,302</u>

The entire population of South Leith parish amounts to 24,126, and of St Cuthbert's to 82,479, whereof 19,468 and 2452 respectively are resident within the Parliamentary burgh of Leith.

## II. RENTAL.

The rentals of the different districts comprised within the Parliamentary burgh do not bear the same proportion to one another that the population does. When the Valuation of Lands Act comes fully into operation, the means will exist of stating the actual rental of each district in the most authentic form. In the meantime, the following state, taken from the Police books, shews the rental for the year 1854-55, as assessed by the Commissioners of Police:—

1. The City proper, . . . . .	£251,329	0	0
2. The Parish of Canongate, . . . . .	10,243	0	0
3. The Castle of Edinburgh, . . . . .	0	0	0
4. Part of the Parish of South Leith, . . . . .	14,073	0	0
5. Part of the Parish of St Cuthbert's, . . . . .	208,207	0	0
Total, . . . . .	£483,852	0	0

## III. EXISTING MUNICIPAL ARRANGEMENTS.

### 1. THE CITY PROPER.

The municipal affairs of the city are managed by the Lord Provost, Magistrates, and Council, a body of thirty-three members, whereof thirty-one are chosen by the Parliamentary electors enrolled in respect of the ownership or occupancy of property within the city, which is divided into five wards for municipal election purposes. The Dean of Guild, chosen by the Guild-brethren, and the Convener of the Trades, chosen by the Conventry, make up the remaining number.

The jurisdiction of the Magistrates extends over the population within the city. The city and liberties thereof form a sheriffdom, of which the Lord Provost is Sheriff-principal, and the Bailies are Sheriffs-depute, in which character they are in the constant exercise of jurisdiction in matters of crime over a portion of the suburban population, as well as over that of the city proper; and his Lordship is likewise the Queen's Lieutenant and Chief Commander within the said sheriffdom. The liberties comprise the Canongate, Pleasance, Easter and Wester Portsburgh, and other portions of the Southern districts. In practice, the royal proclamations in order to the electing and

summoning the sixteen peers of Scotland, require the Lord Provost and Magistrates to take especial care to preserve the peace of the city during the time of the elections, and to prevent all manner of riots, tumults, disorders, and violence whatsoever; and accordingly, on these occasions they invariably attend at the Palace of Holyrood with all the insignia of office, although the palace is not locally situated within the city. By the Police Act, the Magistrates are constituted judges in the Police Court, in so far as concerns offences committed within the city of Edinburgh or liberties of the same; while the Sheriff of the county and his Substitutes are constituted judges in the same court as to all offences committed within any part of the limits of the Act. These limits, which are more extensive than those of the Parliamentary burgh, will be afterwards described. Under the same Act, the Magistrates are authorised to license and regulate hackney coaches, drivers of hackney coaches, chairmen, carters, porters, chimney-sweepers, &c., to ply within the limits of the Act, and to enforce penalties in the Burgh Court against parties contravening the regulations, although the offence charged occur beyond the royalty; and the Act does not give the Sheriff or his Substitutes any power in relation to these matters. For the purposes of the Acts relating to the Cattle-market and Slaughter-houses, which are locally situated beyond the royalty, the jurisdiction of the Magistrates has been extended over these establishments.

By virtue of certain royal charters, ratified by Acts of the Parliament of Scotland, the Provost and Magistrates were constituted justices of the peace within the burgh and liberties thereof. In the Police Act of 1822, a clause was introduced, empowering the Crown to nominate and appoint special justices of the peace for the city of Edinburgh and the liberties thereof. A similar clause was inserted in the subsequent Police Acts; and in the existing Act of 1848, the clause was amplified so as to extend the nomination to "justices of the peace for the city of Edinburgh *and limits of this Act.*" The successive commissions issued by the Crown, in virtue of the powers thus conferred, have been invariably granted on the recommendation and application of the Lord Provost, as her Majesty's Lieutenant within the said city, liberties thereof, and lands annexed thereto. The justices of the peace thus appointed are therefore essentially a civic institution.

The revenues of the city, under the administration of the Town Council, are divided, in terms of the provisions of the



City Agreement Act, into two parts. One of these is specially applicable to the payment of the permanent annuities due to the creditors of the city in commutation of their debts. The experience of the seventeen years which have elapsed since the passing of the Act, shews that this portion of the revenues is sufficient for its purposes, and that no party resident in the suburban districts need entertain the idea that by the incorporation of these with the city, the property or residents within the former will be subjected to any burden whatever in respect of these debts. The other portion of the revenues of the city, together with the surplus arising from year to year on the portion first mentioned, is specially applicable to the proper municipal expenditure of the burgh, and to no other purpose, and is not liable in any way for the payment of the creditors' annuities. This portion—exclusive of the one per cent. impost assessment, which the Town Council have ceased to levy, partly because it is not now necessary to resort to a direct tax for the support of the municipality, and partly because the tax was partial in its operation—and exclusive also of casual revenue—amounts to £4461, 1s. 10d. on an average of the last nine years, and has proved sufficient for its purposes. It arises mainly from the customs and market dues, which are increasing in amount. Eventually, the New Corn-market and Slaughter-houses will afford considerable additions. The Lords of the Treasury have recently agreed to place the county of the city, in the matter of the expenses incurred in criminal prosecutions, on the same footing as other counties in Scotland,—an arrangement which will have the immediate effect of relieving the corporation funds of a burden of perhaps £800 per annum. It cannot therefore be alleged that the extension of the municipal boundaries is desired because of any inability on the part of the city to bear its proper municipal burdens, or from a wish to throw a portion of these upon the suburban districts.

## 2. THE CANONGATE.

The burgh of regality of Canongate comprises the greater portion of the parish of the Canongate, and the Pleasance, which is situated in St Cuthbert's parish. Anterior to 1833 it likewise comprised a considerable district of the parish of North Leith, which was included in the newly-created burgh of Leith by one of the Burgh Reform Acts of that year. The burgh is dependent on the Town Council of the city, who are the feudal supe-

riors, and is governed by a bailie, chosen by the Town Council from among their own number, and by two resident bailies and a treasurer, also chosen by the Town Council,—who, however, of their own free will, devolve the nomination of these local officials on the rate-payers of the burgh.

In former times, the Canongate was a place of very considerable importance. It was the great outlet from the city; and from its vicinity to the ancient palace of Holyrood, many of the nobility and gentry of Scotland had their town residences within it. It had its jail, distinct from that of Edinburgh; and in 1772, an Act of Parliament was passed, by which the local authorities were empowered to direct the lighting, cleaning, and watching of the streets of the burgh, and to levy assessments for the purposes of the Act. The powers of this Act were suspended, in so far as the watching was concerned, by the Edinburgh Police Act of 1805; and in 1812 they were likewise suspended, as to lighting and cleaning, by the Edinburgh Act of that year; the reason being, that it was found desirable to have one uniform system of police applicable to the whole population of the town, without reference to the existing divisions for other purposes. The Act of 1772 was repealed by the Edinburgh Police Act of 1848.

At one period, a considerable amount of business was transacted by the Magistrates in the Canongate Court; but the opening of the Calton road and bridge, which diverted the thoroughfare from the High Street and Canongate, and the shutting-up of the Canongate jail, conjoined with other changes, have led to the practical abolition of the court. The duties of the local Magistrates now consist chiefly in the management, along with the parochial authorities, of matters affecting the interests of the parish, in attending to the education of the humbler classes of the inhabitants, and in the laying-on of the quota of the land-tax payable by the burgh, and by the North Leith district, which is still connected with the burgh for that purpose,—the Canongate portion of the tax amounting to £141, 14s., and the North Leith portion to £45, 6s. 9d. for the year 1854-55. The two resident bailies are members of the Paving Board, and they and the treasurer are also justices of the peace, under the commission already mentioned. They appoint a number of the inhabitants as constables within their bounds.

The Magistracy of Canongate possess a revenue from customs levied at the Watergate, guaranteed by the North British Rail-

way Company to amount to £200 per annum ; a sum of £60 a-year payable by the Commissioners of Police as compensation for the revenue formerly derived by the burgh from the fulzie of the streets ; and some small feu-duties, &c., yielding about £20 yearly ; or £280 sterling per annum in whole.

### 3. PORTSBURGH.

The barony of Portsburgh, which is situated in the parish of St Cuthbert's, consists of two districts, termed Easter and Wester Portsburgh, the former comprising Potterrow and Bristo, and the latter the West Port and Lauriston. This burgh likewise depends on the Town Council as the feudal superiors, and is governed by a baron, chosen by the Council from among their own number, and by two resident bailies, appointed in the same manner as those of the Canongate. A body of constables is maintained in each of the districts. The senior bailie is a member of the Paving Board, and both are named in the commission of the peace. As Magistrates, they discharge no judicial functions whatever. Under a provision in the Police Act, each of the resident bailies receives a sum of £30 annually from the assessments levied by the Commissioners of Police, for defraying the expense of their respective offices,—these payments being made for the same reason as the corresponding payment to the Canongate. The barony possesses no other funds.

### 4. THE CALTON.

This barony originally comprised the Calton Hill, the buildings along its southern base, Calton Street, and the road leading from thence to the hill, and the district called the High Calton. The formation of the Calton road and bridge caused many of the old houses in the barony to be removed ; while the hill itself, including the buildings of the Prison of Edinburgh, now forms part of the royalty of the city. The Town Council, who are the feudal superiors, annually elect one of their own number as the baron ; but, beyond appointing a small body of constables, he has no duties to discharge. There are no funds under his administration.

### 5. THE SOUTHERN DISTRICTS.

These districts lie to the south of the old city wall, which separates them from the old town, or ancient royalty. They

form parts of the parishes of St Cuthbert's and Canongate. Previously to the formation of the South Bridge, which is now the direct communication from the city to the country southwards, the population of the Southern districts were very much isolated, their only communications with the city being through the Cowgate Port, the Potterrow Port, and the Bristo Port. In 1771, an Act was passed "for cleansing, lighting, and watching the several streets and other passages on the south side of the city of Edinburgh, and for removing nuisances and annoyances therefrom, and preventing the same for the future." By this Act, the several streets, &c., between the Pleasance on the east, and the road to Wright's Houses toll-bar on the west, and the Gibbet toll-bar, the Grange toll-bar, and the Wright's Houses toll-bar on the south, were divided into eight districts, each having a distinctive name. Five commissioners were appointed for each of five of the districts, who were to cease to hold office at the end of one year. Their places were to be supplied by the inhabitants of each district, assessed under the Act, who were appointed to assemble separately, and to elect five commissioners for the ensuing year, and also a treasurer, collector, and clerk. The whole commissioners were appointed to meet annually, and choose one of their number to be convener. The commissioners, in their several districts, were empowered to take measures for lighting, watching, and cleaning the streets, &c., within their bounds, and to levy assessments on the occupiers of houses, shops, &c., for the purpose. The Act recites that no commissioners were named for three of the districts, on account of their being but thinly inhabited, and prescribes the manner in which these were to be brought within its operation. The general body of commissioners were empowered to determine disputes arising between the different districts, and to put the Act in execution in any district where the local commissioners might fail to do so. Apparently they had no further powers. The Act contains a clause "saving and reserving to the city of Edinburgh all jurisdictions, commodities, rights, and privileges, competent and belonging to them, within the several districts mentioned in this Act, in the same manner as the city and community now have and enjoy, or might enjoy the same."

In 1785, another Act was passed "for opening an easy and commodious communication from the High Street of Edinburgh to the country southward," "for regulating certain

taxes," and for various other purposes, unnecessary to be here referred to.

Under the powers of this Act, the South Bridge was built, and connected with Nicolson Street; South College Street and Lothian Street were formed; and provision was made for the paving of Nicolson Street, and also the cross streets leading thereto, and for supplying the Southern districts with water, in common with the city; and it was enacted that as soon as the South Bridge should be opened, the share of the land-tax rated on the city and its liberties should thereafter be paid, in proportion to their respective valuations, by the City, South Leith, Canongate and Pleasance, North Leith and Coal-hill, and the eight Southern districts. The boundaries of the Causewayside district were enlarged, and the commissioners of the eight districts were required to appoint stentmasters for valuing the yearly rent, similar to the stentmasters appointed for the City, South Leith, Canongate and Pleasance, North Leith and Coal-hill. In making the valuations for the Southern districts, the stentmasters were empowered to give a proper abatement to such proprietors as pay land-tax along with the county in respect of the ground occupied by the houses, &c., which last alone were to be assessed for the city's share of the land-tax. The commissioners of each of the eight districts were authorised to appoint a collector to levy the proportion of land-tax payable by them respectively, and to pay the same to the collector for the city. The Act extended to the Southern districts a certain impost on wines and foreign liquors, including foreign (that is, London) beer and ale consumed on the premises where sold, which they had long been entitled to levy within the city and its liberties.\* It contains the following clause:—"That payment of a proportion of the land-tax imposed, or to be imposed, on the city of Edinburgh and its liberties, by the owners and proprietors of the eight districts to the south of the city of Edinburgh, shall never infer or be construed into any pretext for subjecting them in any further burden, nor for extending the royalty of the city over these districts, or any of them."† The Police Act of 1771 was reserved, excepting in so far as altered by the later Act; and all rights and privileges competent to the city of Edinburgh,

\* By a local Act passed in 1840 for the regulation of the city's customs, this impost was abolished.

† This clause is substantially repeated in an Act passed in 1786, referring partly to the funds leviable for constructing the South Bridge. The effect of the two clauses will be hereafter considered.

and the Magistrates and Council thereof, were likewise reserved.

The powers of these Acts, in so far as watching, lighting, and cleaning were concerned, were subsequently dealt with in the same manner as the corresponding powers in the Canongate Act, as already explained.

Since 1812, therefore, the powers of the commissioners under these Acts have been limited to the matter of the land-tax, and of late years they have undergone considerable change in reference to it also. The commissioners themselves first superseded the cumbrous machinery of stentmasters for each district, and devolved the making-up of the rent-roll on the surveyor of the parish of St Cuthbert's, constituting him stentmaster for the whole districts. At a later period, the Lords of the Treasury relieved them, in common with other burghal and county authorities, of the duty of collecting the land-tax, that being devolved on the Government collector of land and assessed taxes for the county. And under the operation of the recent Valuation of Lands Act, the Assessor appointed by the Town Council will ascertain the rental of the Southern districts, in common with every other portion of the Parliamentary burgh, and according to one uniform rule, which will apply to all local taxes. All, therefore, that will remain for the commissioners to do will be once in each year to fix the *rate* of the land-tax,—a matter of mere arithmetical calculation, depending on the amount of the rental to be assessed, and the sum to be raised by the assessment from the districts.

The following is the amount of land-tax allocated on the eight Southern districts for the year 1854-55 :—

Teviot Row and Lauriston, . . . . .	£43	1	4
Potterrow and Bristo, . . . . .	34	15	0
George Square, . . . . .	53	19	11
Nicolson's Park, . . . . .	81	8	9
Crosscauseway, . . . . .	63	8	3
St Leonard's and Gibbet-toll, . . . . .	93	14	11
Causewayside, . . . . .	118	10	6
Tollcross, . . . . .	21	1	9
	<hr/>		
	£510	0	5
	<hr/>		

The only statutory duty, other than the matter of the land-tax, devolving on the commissioners of the Southern districts, is the election of three persons as members of the Paving Board, in addition to their convener, who is one *ex officio*. It is not

known that the commissioners have any funds or property subject to their administration.

## 6. THE COMMISSIONERS OF POLICE.

The limits of the Edinburgh Police Act, 1848, very nearly coincide with the Parliamentary boundary, excepting towards Leith, where the Police Act includes the whole of Leith Walk to the old town of Leith, and the grounds on either side, while the line separating the Parliamentary burgh of Edinburgh from that of Leith intersects Leith Walk at Pilrig Street. The authorities of Edinburgh, when applying for the Act of 1848, felt that it was not proper that the police system of Edinburgh should extend for half a mile or more into the burgh of Leith, and accordingly proposed to disjoin this district from the police of Edinburgh, and to annex it to that of Leith. The then Commissioners of Police of Leith, however, objected to the proposal, alleging that the assessment to be levied in the district would not defray the expenses to be incurred on account of it, and therefore the transfer was not insisted on. By the Edinburgh Police Amendment Act, 1854, the limits were extended over the whole of the Queen's Park, Arthur's Seat, and Duddingston Loch. The object of this extension was to afford facilities for the apprehension of chain-droppers, thimblers, and other swindlers, and therefore the commissioners were not authorised to levy any assessment in respect of the places mentioned.

For the purposes of police, the limits of the Act 1848 are divided into thirty-two wards, the rate-payers within each of which elect one general and two resident commissioners. The thirty-two general commissioners, together with the Lord Provost, the four Bailies, the Sheriff of the county, and one of his Substitutes, being thirty-nine in all, form the Police Board, at which the Lord Provost, or in his absence the Sheriff, presides. It is the duty of the resident commissioners to take a general superintendence of their respective wards, and to report to the proper quarter any neglect or infringement of the provisions of the Act. The powers of the Police Board are very extensive, and embrace watching, lighting, cleaning, streets and buildings, foot-pavements, drains and sewers, fire-engines, public parks and bleaching-greens, and the various other subjects usually falling under the charge of the police of a large town. They have power to assess the occupiers of tenements rented at £5 and under £10 in a sum not exceeding one shilling,

and those rented at £10 and upwards in a sum not exceeding one shilling and sixpence in the pound for ordinary purposes ; and they may assess proprietors to an extent limited only by the necessities of the case for drainage purposes. The actual ordinary expenditure of the establishment for the year ended at Whitsunday 1854 (the latest date to which the accounts have been made up) amounted to £38,746, 1s. 5d.

The police system has attained its present magnitude very gradually. Anciently the watching of the city was entrusted to the town-guard, the management of which was vested in the Town Council, and regulated by the Scotch Act of 1690, the expense being borne by the burgesses and inhabitants liable in watching and warding. This Act contains a clause exempting the members of the College of Justice from liability for any part of the expense. The Town Council also took charge of the cleaning, the expense of which was defrayed from the fulzie collected ; and when it became necessary to assess the inhabitants for the purpose of lighting the city, two sets of commissioners were appointed by the Act of 1785 (the same under which the South Bridge was erected), one for the ancient royalty, and the other for the extended royalty. The separate Acts passed in 1771 and 1772, for lighting, cleaning, and watching the Southern districts and Canongate, have been mentioned above. The threefold system of police established by these several Acts continued until 1805, when an Act was passed which recited that, by the extension of the city and the great increase of the inhabitants therein, and in its vicinity, it had become necessary to provide for a more steady and regular administration of internal government and police within the same ; reduced the number of the city-guard ; suspended the Southern districts and Canongate Acts, in so far as watching was concerned, and established one system of watching for the entire town. The powers of these Acts were continued in so far as lighting and cleaning were concerned ; and the cleaning of the ancient and extended royalties was added to the powers as to lighting, formerly conferred on the commissioners for the royalties. This Act was to continue in force for ten years ; but before the expiry of that period it was discovered that it was ineffectual, and that it was necessary to have only one body of commissioners, and one uniform system for watching, cleaning, and lighting the city and whole adjoining districts. Accordingly, in 1812, one system for all purposes was introduced, and



made applicable to an enlarged territory. This system was improved and extended by successive Acts until it embraced the entire Parliamentary burgh and the districts beyond, as already explained. From time to time the old local Acts were suspended, and in 1848 they were repealed. The different Acts contain clauses reserving the jurisdiction, civil as well as criminal, of the Magistrates of the city, and others ; and with respect to the privileges of the College of Justice, the learned bodies composing the college, sensible that the objects to be attained by the Acts were of great public importance, and could not be accomplished unless the burdens imposed were borne by the whole inhabitants without distinction, agreed to waive their privilege of exemption from local taxation for police purposes,—a principle which, embodied in the Act of 1805, was carried through the whole series. The city-guard was abolished by one of the Acts passed in 1817.

#### 7. THE PAVING BOARD.

It will be necessary to enter somewhat into detail in order rightly to understand the constitution of this board, and its relation to the city and suburban districts, and also to the trustees of the turnpike roads of the county ; and that the more especially, that the latter body were leading opponents of the Municipal Extension Bill of 1848. Until the Statute Labour Act of 1835, the burden of upholding the causeways within the ancient royalty, and within the older portion of the extended royalty, where the burden had not been imposed on the feuars by their feu-charters, devolved on the Magistrates and Council of the city. At an early period, the avenues leading to the ports of the city, and the roads from the city to Leith, were likewise upheld by the Magistrates and Council. The expense was defrayed from the tax called the causeway mail, and from the ordinary municipal revenues of the city. Certain dues payable at the ports of the city, termed petty port customs, appear to have been at one period applied to the same purpose. These, however, were suspended by the Ale Duty Act of 1717, the produce of which duty, for a time at least, was partly applicable to the maintenance of the streets. They were ultimately repealed by the City Agreement Act of 1838. In 1757 it was decided, in a question between the Perthshire Road Trustees and the Burgh of Perth, that the inhabitants of royal burghs were liable to be called upon to perform statute labour on roads without the royalty. Previously to this period the inhabitants of the city of Edinburgh do not appear to have been

called on to perform this service or to pay an equivalent conversion in money. One consequence of the decision in the Perth case was, that, after some communications between the county and the city, a committee was appointed for the purpose of levying and applying the conversion moneys payable by the inhabitants in lieu of statute labour. This was the origin of the Middle District Trust,—so called, it is presumed, because the district was surrounded by the turnpike districts of the county of Midlothian. By the Road Act of 1751, the trustees thereby appointed—among whom were the Lord Provost, four Bailies, Dean of Guild, and Deacon-Convener—were authorised to appoint trustees for the respective districts, the revenues collected within which were directed to be employed in repairing the roads within them respectively. Another Road Act was obtained in 1764, under the powers of which, and of the prior Act of 1751, the Middle district was constituted and subjected to the direction and control of the general meetings of the county trustees. The Act of 1764 enacts, “That the composition money from each householder within the city of Edinburgh, Canongate, Leith, and suburbs of the said city, for the statute work, shall be applied towards repairing, and keeping in repair, the great and cross roads leading to and round the city, within the present toll-bars next adjacent thereto, and the roads leading to the northward of the said city; excepting the coach-road by the Watergate to Leith, the road commonly called the Walk of Leith, the road at the side of the said Walk, and such other roads as the city of Edinburgh is bound to repair and keep in repair.” It further enacts, “That the money arising from the compositions paid by the inhabitants of Leith for their statute work, or such part thereof as shall be judged necessary, shall be applied towards repairing, and keeping in repair, the several roads and avenues leading to the said town, excepting the roads above excepted, and that in such order as the said trustees shall judge proper.” This distinction between the city of Edinburgh and the town of Leith runs through the whole succeeding statutes.

The next Road Act was passed in 1784. It enacted “that the composition-money leviable from householders within the city of Edinburgh, Canongate, and suburbs of the city, and from the inhabitants of Leith, in lieu of statute work, shall be applied in the same manner, and to the same purposes, to which they were appropriated by former Acts; any thing contained in the present Act to the contrary notwithstanding.”

By the South Bridge Act of 1785, it was enacted that as soon as the bridge should be completed and opened, Nicolson Street, and also the cross streets leading thereto, and certain other roads, should be deemed and held to be public streets, and should be afterwards kept up and repaired by the trustees for the highways of the county. The streets and roads referred to, all of which are in the Southern districts, thus came to be upheld as part of the Middle district. Previously to this Act the rate leviable upon the inhabitants as the conversion of the statute work upon the high roads was only one shilling and sixpence each. On the narrative that this rate was not sufficient for repairing and keeping the said roads in repair, the trustees were authorised to levy an additional sum of one shilling yearly from every householder at or above £15 of yearly rent.

In 1789 an Act was passed which continued the powers of the former Road Acts for a further term of years, but made no change on the arrangements affecting the Middle district. Another Act was passed in 1798, having reference mainly to the building of bridges over the rivers South and North Esk and the Water of Leith at Bonnington Mills, to which it is unnecessary here to allude.

Another Act was passed in 1803, which increased the conversions leviable in lieu of statute labour from the householders of the city and suburbs according to a scale proportioned to the rent, the lowest rate being one shilling and sixpence and the highest eighteen shillings. This Act likewise made provision for various improved approaches to the city, the expense of making which was to be defrayed from the tolls and conversions in such manner as the general body of trustees should direct. It seems probable that the trustees of the Middle district had claimed to be independent of the general body of county trustees, for the Act declares that "the money so to be levied" (within the Middle district) "shall be applied as the former conversions at present are or ought to be, under the charge and inspection of the Middle district aforesaid, *who shall be subject to the direction and control, and liable to account to the general meetings of trustees, in the same manner in every respect as the districts for the turnpike roads of the same county may be by law directed, controlled, or made accountable.*"

The next Road Act was passed in 1809. *Inter alia*, this Act recites: "Whereas the western road from the city of Edinburgh to the town and port of Leith, commonly called the Walk of

Leith, with the footways on either side thereof, and the road by the Water Gate to Leith, commonly called the East Road, have been excepted out of the provisions of the said Acts." It enacts that the roads mentioned shall be made, repaired, and kept in repair in the same manner as if they had been particularly included in the recited Acts ; constitutes a separate district, to be called the Leith Walk district, to include the said eastern and western roads from Edinburgh to Leith, with so much of the road from Baxter's Buildings, by or near the bottom of the Calton Hill, as connects the same ; appoints certain civic authorities of Edinburgh and Leith, together with two of the Middle district trustees, to be nominated by these trustees, as trustees of the newly-created district, subject nevertheless to the direction and control of the general meetings of trustees of the county ; grants increased toll-duties to be levied on the turnpike roads, including the roads in the Leith Walk district ; authorises a sum not exceeding £14,000 to be borrowed for behoof of the Leith Walk district upon the credit of the toll-duties, and to be applied, along with such part of the produce of the toll-duties as may be required, towards causewaying Leith Walk, and otherwise making, repairing, and improving the said road and the other roads within the district, and for upholding them when so made ; appoints the surplus toll-duties to be employed in extinguishing the principal of the debt, and in providing a fund of £4000 to be invested, the interest of which to be applied for maintaining and supporting the roads in the district, any deficiency in the annual fund being made up by the Magistrates and Council of the city as heretofore ; directs that the tolls in Leith Walk district shall thereupon cease and determine ; enacts that not more than £3000 of the funds of the Leith Walk district shall be laid out in making the new road at Baxter's Buildings to the eastern road to Leith ; that if more money be necessary, it shall be contributed by the Middle district and Post-road district ; and that after this new road shall have been made and completed, it shall fall into the Middle district, and be repaired out of the funds of that district.

In 1814 the Act was passed in virtue of which the Calton road and bridge were formed, and the great outlet from Edinburgh to the eastward made to run directly from Princes Street. Commissioners were appointed specially to carry this Act into execution, irrespective of the County Road Trustees. The trustees of the Leith Walk district were required to pay to the

commissioners a contribution of £18,000, to be levied from the toll-duties; and the funds of the Middle district, within the bounds of which the new line of road is situated, were burdened with an annuity of £300, payable to the commissioners for ten years. The royalty was extended over the lands betwixt the east end of Princes Street and the Calton Hill, to be acquired by the commissioners; and when completed, the bridge and road, as far east as the eastern road to Leith, were to be maintained, so far as within the royalty at the expense of the city, and so far as beyond the royalty by the trustees of the Middle district. By another Act passed in 1816, the funds of the Middle district were burdened with a further sum, for the purposes of the Calton road and bridge, payable by instalments of £800 per annum, until the same should amount to a capital sum not exceeding in whole £14,000. And to enable the Middle district trustees to meet this increased charge, the conversions leviable within the district under the Act of 1803 were increased one-third in amount. By a further Act passed in 1821, the funds of the Middle district were burdened with a further *present* capital sum of £7000 for the purposes of the Calton road and bridge, payable by instalments of £500 per annum, until the £7000 and interest thereon, from Whitsunday 1821, should be paid up. The increased conversions were to be leviable until all these purposes were accomplished.

Another Act was passed in 1822, referring to the Leith Walk district, and also to the Middle district. In so far as the Leith Walk district was concerned, this Act empowered the trustees to defray the expenses of management and of repairing and supporting the roads, before applying the toll-duties to any other purpose. It suspended the power to raise the fund of £4000 for keeping the roads in repair till all other debts and obligations were cleared off and extinguished. When these were discharged, a capital of £8000 was to be raised and invested for keeping the roads in repair. The tolls were then to cease and determine. If the interest of the £8000 should prove insufficient, the deficiency was to be made up by the city of Edinburgh, provided that such deficiency should not exceed £200 in any one year. In so far as the Middle district was concerned, and on the recital that the conversions levied from the householders were inadequate for the purposes to which the same were by law applicable, the former rates of conversion were repealed, and the trustees were authorised to levy rates according to a new scale,

the lowest rate in which was two shillings, and the highest forty-two shillings. In certain circumstances these rates might be reduced. To prevent disputes, the bounds of the Middle district were more accurately defined than formerly; and where the site of any toll-bar had been or might be removed farther from the city of Edinburgh or town of Leith than the place where such toll-bar stood in the year 1789, in so far as regards the Post-road district, and where such toll-bar stood in the year 1764, in so far as regards the other districts, it was provided that the space of road between the old and new sites of such toll-bars should be maintained out of the funds of the Middle district and contiguous outer district, in such proportions as the trustees of the respective districts should mutually fix, or in case of their differing in opinion, in such proportions and manner as the general trustees for the high roads in the county should determine. Seven trustees were added to the Middle district, all of them the holders of certain offices, or the heads of public bodies in the city of Edinburgh and town of Leith.

The first reformed Town Council was elected in November 1833. They very early directed their attention to the application of the road-money collected within the royalty, and a report on the subject was laid before the Council in January 1834, and printed. It is unnecessary to enter on the details of this report further than to state, that the committee complained that an assessment, yielding more than £2500 per annum, was levied from the householders of the royalty, but wholly expended upon the streets of the suburban districts beyond the royalty; and that, with the exception of the small tax called the causeway mail, which then yielded only about £300 per annum, the expense of maintaining the causeways of the streets within the royalty was defrayed from the common revenues of the city. Circumstances were favourable for securing attention to these complaints. The heavy obligations imposed on the trustees of the Middle district had nearly all been liquidated, and the various Road Acts of the county (the duration of which had been successively extended, nominally for twenty-one years at a time, but in reality for much longer periods, the successive extensions having been granted long before the expiry of the subsisting term) were about to expire, which made it necessary for the county road trustees to apply of new to Parliament. The Council therefore determined on making a vigorous effort to secure the abolition of the road-money collected within the

royalty, or its application to the maintenance of the streets within the same, and no longer to tolerate the system in virtue of which the householders within the royalty were annually assessed in large sums for the support of streets belonging to their neighbours in the suburbs.

The report having been communicated to the county road trustees, it was resolved by their committee that they "could not assent to the proposals contained in the report of the Town Council." On the other hand, the committee of the latter body, in another report, which was approved of generally on 14th October 1834, were "nevertheless of opinion that in the Bill about to be applied for by the county of Edinburgh, the Town Council, on the part of the community of the city of Edinburgh, ought, in accordance with the views contained in their printed report, to insist on the insertion of clauses by which the following objects may be obtained":—

"1. The application of all moneys now levied under the name of road-money, within the ancient and extended royalty, solely to the making, causewaying, paving, repairing, widening, and improving the public streets, lanes, roads, and common sewers within the said ancient and extended royalty.

"2. The vesting the powers of exacting and levying, and of managing and applying, the said road-money within the ancient and extended royalty, in the Lord Provost, Magistrates, and Town Council.

"3. The application of the funds levied under the name of road-money *without* the ancient and extended royalty, and *within* the toll-bars, or the Middle district, to the making, causewaying, paving, repairing, widening, and improving the public cross streets, lanes, roads, and common sewers within the district from which they are levied.

"4. The application of so much of the produce of the toll-bars, placed on the great roads leading into Edinburgh, as may be sufficient to maintain and keep up the said great leading roads into the centre of the city, the amount allotted for this purpose to be in the same proportion as is required to maintain and keep up an equal length of road without the toll-bars; and for this purpose, the trustees of the different districts to pay to the trustees of the Middle district a sum sufficient to maintain and keep up the portion of the great leading roads within that district, and to the Lord Provost, Magistrates, and Council, a sum sufficient to maintain and keep up the great leading roads within the ancient and extended royalty. Any additional expense to be provided for out of the funds placed at the disposal of the trustees of the Middle district, and the Lord Provost, Magistrates, and Council, respectively.

"5. The *election* of the trustees from the Town Council and certain other public bodies named, instead of the nomination in the Act as at present, of certain office-bearers, and an increase of their number. Thus, instead of the four Bailies, Dean of Guild, the Deacon Convener, the Master of the Merchant Company, the Convener of the Southern districts, Treasurers of George Heriot's and Watson's Hospitals, Senior Magistrate of Leith, named as trustees for the Middle district, there ought to be returned the Lord Provost and six members of the Town Council, one to be elected by the Guildry, one by the Convener, one by the Merchant

Company, two by the Southern districts, two Governors of Heriot's Hospital, one Governor of Watson's Hospital, one Governor of Trinity Hospital, the Provost and two members of the Leith Town Council, and one from the Society of Solicitors before the Supreme Courts. All the others, viz., the Conveners of the eight country districts, the Members of Parliament for the City and County, including the Member for Leith, the Sheriffs Depute and Substitute of the County, the Dean of the Faculty of Advocates, and the Deputy Keeper of the Signet, to remain as in the present Act. In the County Bill, Clause III., Qualification of Trustees, instead of those heritors or superiors who are in possession of *feu-duties* to the amount of £50 sterling yearly, payable from certain descriptions of lands, and their eldest sons, every heritor or superior, who is, in his own right, or in the right of his wife, in the possession and enjoyment, as fiar or liferenter, of any lands, houses, feu-duties, or other heritable subjects (except debts heritably secured) to the amount of £50 sterling yearly or upwards; as also the Lord Provost, six members of the Town Council, one member of the Guildry, one of the Conveners, one of the Merchant Company, two Governors of George Heriot's Hospital, all to be elected annually, to be appointed trustees in addition to the other trustees proposed.

"6. The extension of the powers proposed in the first article, along with any future extension of the royalty; and powers to be taken to allow the Lord Provost, Magistrates, and Council to contribute to such improvements without the royalty, as they shall think advantageous to the city.

"7. The retaining, as at present, the burden of maintaining and keeping up all streets, lanes, roads, and common sewers, upon the feuars or others on whom such burden is laid, by any existing feu-charter, or other competent authority; but taking power to include any district so situated, under the general provisions of the first proposition, on the payment of an adequate compensation.

"8. The shortening the duration of the Act from 31 years to 11.

"9. Powers to be taken:—

"1st, For widening the street between Bristo Port and Lothian Street.

"2d, For improving the communication between the Dalkeith Railway Depôt and the South Back of the Canongate.

"3d, For improving the road from the Lothian Road by the back of the Castle near the south gate of the West Churchyard.

"4th, For widening the west entrance to Argyle Square, and foot of the Cowgate, with several other places in that neighbourhood.

"5th, For several alterations on the boundaries of the district, and the situation of the county toll-bars, which should also be provided for. The Pitt Street bar, for instance, is actually situated within the royalty. But these, with the minor matters, will fall to be considered when a draft of the Bill comes before the Council.

"10. The annexation of the Leith Walk district to the Middle district, so soon as the £8000 directed to be levied for its maintenance are made up; the toll then to cease.

"The committee, in submitting these propositions, are of opinion that they propose nothing but what is most reasonable in itself, and most just. It appears a principle of the law, as specified in the introduction to the Summary of the Turnpike Law, under the *third* class of roads, that 'the services and conversions of each parish shall be applied to the roads within the same.' Were this principle followed out, then the claim under the first proposition would be at once made out, and the funds levied within the parish of Edinburgh would be applied as therein recommended. In Glasgow this has been already carried into effect by an Act of Parliament, obtained in 1820, by which the money levied within the royalty of that city, under the name of conversion-money, is directed to be employed 'solely in making, causewaying, paving, and repairing the public streets, lanes, roads, and common sewers, within the said royalty.'



“It appears no less just and equitable to lay upon the proceeds of the tolls the making and repairing of the great leading roads within the toll-bars as well as without; thus causing the produce of the tolls to make and maintain the entire leading roads to their termination in the centre of the city. In carrying this into effect, it is proposed that the trustees of each district should pay a proportion of the expenses out of the proceeds of the tolls to the trustees of the Middle district, and to the Lord Provost, Magistrates, and Council, on account of the portion of the turnpike thus to be created within their respective bounds, instead of being burdened with the charge of management themselves. This arrangement, it is believed, will prevent confusion between the different trusts. If, however, the preliminary point is agreed upon, the details can afterwards be adjusted.

“It appeared also of importance to the committee, that the management of the roads within the royalty, whether as at present existing, or as at any future period extended, should be placed under the hands of the Council, as representing the community, and as best fitted by their local knowledge, and the deep interest they have in the prosperity of the city, to conduct the trust for the advantage of the public. Indeed, the sole management within the royalty has always been in their hands; and nothing can be more equitable than to place the management of the funds levied from the citizens in the hands of those elected by themselves.

“It is also of much importance that the duration of the Act should be shortened; for if passed for thirty-one years, it will prevent, during that long period, the possibility of any further improvements being obtained than are at present contemplated in the Act, without special enactments being obtained for each. The other propositions the committee also consider extremely important; but they forbear enlarging, as each sufficiently explains itself.

“With respect to the management of the different county trusts, it appears to your committee that all the toll-bars round Edinburgh, within a circle of six miles in diameter, ought to be placed under the management either of a distinct board of trustees, in which the citizens shall be properly represented, or of the Middle district trustees, and that the produce of the toll-bars should be applied solely to the roads within this circle. By the present system of management, the inhabitants of Edinburgh and Leith have no control over the expenditure of the money collected at the toll-bars, although there is reason to believe they pay three-fourths of all the money collected in the county. This opinion is founded on the fact, that the entire population of the county in 1831 was 219,600, of which Edinburgh and Leith formed 162,156, leaving for the population of the country districts (including the country towns) only 57,444, being little more than one-fourth of the whole. Hence, even assuming that all the villages, farm-houses, and gentlemen’s seats in the county are as closely surrounded with toll-bars as Edinburgh and Leith, which it is presumed no one will venture to affirm, and that the number of coaches, carts, and horses, passing along the different country roads is as great, in proportion to the population, as in the neighbourhood of the city, the inhabitants of Edinburgh must pay nearly three-fourths of all the money collected for tolls in the county; or in other words, they pay for nearly all the expensive alterations that are made in the different lines of road, in remote parts of the county, in which they are little interested; and yet they have no control whatever over the expenditure. The management is thus vested solely in the county gentlemen, who represent one-fourth of the population, and, as has been shewn, pay one-fourth of the tolls, to the entire exclusion of the representatives of the other three-fourths of the population, who are also the payers of three-fourths of the money collected at the toll-bars. This glaring anomaly, your committee conceive, only requires to be pointed out to insure its correction. In London, a plan simi-

lar to that recommended by your committee, of placing all the trusts round the metropolis under one board of trustees, has been adopted with great advantage ; and the Magistrates of Glasgow, during the last session of Parliament, have made some preliminary arrangements for effecting the same object.

“ Your committee cannot conclude their report without calling the attention of the Council, in a very special manner, to the extreme importance of this subject, and to the necessity of the most decided and vigorous prosecution of the proposals now submitted. Feeling them to be most reasonable and just, they cannot entertain a doubt of obtaining their enactment ; and should they do so, the Council will have the satisfaction of placing the relations between the city and the county on a more equitable basis than they have hitherto been, and of delivering their fellow-citizens from a most grievous burden under which they have long laboured, and by which they have been oppressed—1st, with the sole expense of maintaining the streets within the burgh ; 2d, with a heavy tax for maintaining the streets without the burgh ; and, 3d, with their proportion, in common with those who pass the tolls, in maintaining the roads of the county ;—a threefold burden from which no effort and no expense should be spared to effect their deliverance.”

These demands naturally called forth the most anxious attention on the part of the committee of the county. The result of a conference between the two committees will be best understood from the following report of the committee of the Town Council (dated 16th February 1835), which contains the basis of the two Acts subsequently passed, the one limited to the turnpike trusts of the county, and the other embracing the statute labour roads in the county, and also the Middle district :—

“ Your committee made a report to the Council on the 6th of October last, which was approved of on the 14th of that month, and immediately thereafter communicated to the county road trustees, in the view of a meeting with a committee of their number. That meeting took place in the latter end of October ; and it affords much satisfaction to your committee to have it in their power to state, that the views suggested in their former report were not unfavourably received, and that the claims made on the part of the Magistrates and Council were fully discussed and candidly considered by the gentlemen composing the county road trusts.

“ In the course of this discussion the gentlemen of the county expressed their readiness to abandon all interference with the road-money collected from the town ; but at the same time stated it as their opinion, that it would be better to place the Middle district under a new arrangement, in which the streets *within* the royalty should be included within that district, and repaired out of the proceeds of the assessment, as well as those *without* the royalty, than to separate the royalty from the other portions of the city, as proposed in the report of the committee ; and in order to enable the funds to bear the additional burden thus to be placed upon them, they proposed that certain portions of the roads at present maintained by the road-money, should be maintained in future out of the proceeds of the tolls, thus relieving that fund to an extent of about £1100 per annum.

“ The result of the above meeting will be best understood from the following ‘Outline of Proposed New Arrangement for the Middle District,’ communicated to your committee by the clerk of the trustees :—

“1. The limits of this district, with respect to payment of the assessment, to remain as fixed by the Act 3, Geo. IV., c. 45, sec. 8.

2. The conversion-money raised in the above limits to be applicable to the repair of the streets and roads within the royalty, as well as those without the royalty.

3. The causeway mail and other funds applicable to the repair of the streets, to be applied also to that purpose.

4. The whole management of the funds and roads within this district to be placed under a distinct board of trustees, over whom the county trustees are not in future to have any control.

5. This board to consist of a number of the Town Council, and persons elected by the several public bodies, together with heritors of property within the district, of the valued rent of                    pounds Scots.

6. To enable this new board to undertake the expense of repairing the streets within the royalty, in addition to the roads at present maintained out of the funds of the Middle district, the several county districts agree to keep in repair a portion of the great leading roads now repaired by the Middle district.

7. The future limits of the several county districts, or the point within the toll-bars up to which they are severally to repair the great or leading roads, may be fixed as under :—

#### 1. POST-ROAD DISTRICT.

To keep in repair the road from Rose Lane, by the London Road, till it joins Leith Walk at Baxter's Buildings; Calton Hill road to the Calton Convening Hall; and also the old road from Clockmill to Rose Lane, and Rose Lane itself.

#### 2. DALKEITH DISTRICT.

To keep in repair the road from Mayfield Loan, by St Leonard Street, to the east end of Rankeillor Street, and also East Preston Street.

#### 3. LASSWADE DISTRICT.

To keep in repair the Newington road, from Mayfield Loan to Rankeillor Street, the road by Causewayside to Hope Park End, and West Preston Street.

#### 4. THE WRIGHT'S HOUSES DISTRICT.

To keep in repair the road within the toll-bar to Toll-cross.

#### 5. THE DISTRICTS OF SLATEFORD AND CALDER.

To keep in repair, at their joint expense, the road from Tyne Castle toll, by Fountainbridge, to the Lothian Road at the Canal basin.

#### 6. THE CORSTORPHINE DISTRICT.

To keep in repair Maitland Street, to the west end of Princes Street, and also Tobago Street to the Lothian Road.

#### 7. THE CRAMOND DISTRICT.

To keep in repair Queensferry Street, and also the road from the toll in Stockbridge to the Water of Leith.'

“As the foregoing outline appeared to your committee to form a fair basis for an arrangement, they did not deem it proper to insist upon several points embraced in their former report, particularly the proposal of placing the toll-bars, within a circle of six miles round the metropolis, under the management either of a distinct board of trustees, or of the Middle district. They considered it to be more for the advantage of the community to meet the offer in the spirit in which it was made, not doubting that if they should be able to shew to the trustees that more was required to enable the Middle

district, as now proposed to be constituted, effectually to accomplish the objects of the trust, a reasonable addition would be made to the proposal contained in the above Outline, either in the shape of an annual payment, or by the county districts taking the burden of repairing somewhat more of the great leading roads.

“ In this view, therefore, your committee set themselves about procuring the requisite information to enable them to ascertain the probable income of the new Middle district, and to estimate the expenditure likely to be required to accomplish the objects of the trust. The following estimate was made up accordingly :—

Average expenditure of the last five years of the present Middle district, . . . . .	£3551	11	10
Average expenditure of streets within the royalty, assumed at . . . . .	3000	0	0
Average of fifteen years of repairs of roads (not causewayed) within the royalty, . . . . .	610	4	2
	<hr/>		
	£7161	16	0
Average nett produce of assessment for five years, from 1827 to 1832, . . . . .	£4851	10	7
Causeway mail, . . . . .	300	0	0
Roads proposed to be maintained by the county trusts, . . . . .	1100	5	5
	<hr/>		
	6251	16	0
	<hr/>		
Leaving an annual deficiency (exclusive of an existing engagement of about £900) of . . . . .	£910	0	0
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“ At a conference with the committee of the road trustees, your committee urged very strongly the justice of making provision for the above deficiency, and pressed upon them, although ineffectually, the propriety of doing this by an annual payment out of the revenues of the tolls adjoining the city. In the end the committee, after retiring to deliberate, agreed to restrict their demand to an additional payment of £600 per annum, out of the proceeds of the tolls, to the Middle district, and left this proposal with the county committee for their consideration. In a subsequent correspondence between the convener of your committee and Lord Melville, on the part of the county trustees, the same topics were discussed, and a hope was held out by his lordship that somewhat more might perhaps be added to the roads immediately adjoining the town, to be maintained by the Dalkeith and Lasswade districts. At a meeting held with the committee of the county, at which Lord Melville was present, on the 19th January last, the matter was again brought forward, and it was proposed that, in addition to the roads agreed to be kept in repair, as specified in the Outline above engrossed, and waiving the demand of £600 per annum, made at the last meeting, the respective districts should maintain the different roads to the Crosscauseway, and the main centre line to the College. The county committee approved of the first part of the proposal, and seemed favourably inclined to the latter part, but could not agree unless these districts were willing to undertake this additional burden. Your committee, however, regret to state that they have been informed by Lord Melville, that the trustees of the Lasswade district decline to undertake to maintain the centre line further northward than the Crosscauseway.

“ Your committee have now to report that the arrangement with the county road trustees, whereby the road-money levied from the inhabitants is henceforward to be made applicable to the keeping in repair the streets of the burgh, as well as the other roads within the district, may now be considered as completed ; and as the Parliamentary notices were given,

pending the discussion with the county trustees, of a renewal of the Middle District Act, along with the Act relating to the statute labour in the county, it now only remains with the Magistrates and Council, if they shall approve of the arrangement which their committee has made, to give instructions for the preparation of the necessary clauses to be introduced into the Bill in order to constitute the 'New Middle District Trust.'

"In making this recommendation, your committee are influenced by the consideration that although they have not succeeded in obtaining all that they considered reasonable and just, they have nevertheless obtained much for the advantage of the city.

"*First*, The sum of, at present, about £2500 per annum, levied within the royalty, and yet altogether expended without, will in future be placed under the direct control of the citizens themselves, and applied to the repair of the streets of the burgh.

"To shew the importance of this point it may be remarked, 'that in the course of the last twenty years upwards of £40,000 must have been raised within the royalty, while not one sixpence of it has been expended within its limits;' and upwards of £50,000 more has, within the same time, been expended out of the proper revenue on the streets of the royalty. And further, out of this assessment nearly £30,000 have been expended on the Regent Bridge and Waterloo Road, upwards of the half of which has been levied from the royalty.

"*Secondly*, A portion of the roads hitherto maintained by direct assessment on the inhabitants, will in future be maintained out of the produce of the tolls; and

"*Thirdly*, The proper revenue of the burgh will be relieved of the expense of repairing the streets,—a burden which, in the present state of its funds, it is so unable to bear, that the streets at present are, and for some time past have been, in the most wretched, disgraceful, and even dangerous condition.

"The committee are most anxious that the Council should be fully aware that the benefits derived from the present arrangement will not be felt in any reduction of the assessment, but in the appropriation of the money levied to the purposes for which it is professedly raised, under the control of those by whom it is paid, in the proper repair of the streets, and in for ever preventing the citizens from being heavily taxed without their own consent, for the making of roads over the expenditure for which they have no control.

"The position of the tolls in the immediate neighbourhood of the city has attracted much of the attention of the committee. They have communicated on the subject with the county trustees, and will endeavour, in the framing of the Bill, to make as favourable an arrangement for the citizens as may be in their power.

"The committee feel considerable difficulty in fixing upon the parties who ought to compose the intended new trust, and have not been able to arrive at any definite conclusion; but they would propose that this point be recommitted for further consideration."

The Town Council of the city and the road trustees of the county having thus arrived at an amicable understanding, the clauses of the two Bills were mutually adjusted, and these were passed into law in July 1835. The following is an outline of the Acts, in so far as necessary to understand the altered relations of the Middle district trust to the county road trustees, and the position of the latter trustees relatively to the inhabitants generally:—

(1.) The Act for further Regulating the Statute Labour, and Repairing the Highways and Bridges in the County of Edinburgh.

The whole of the former Acts, beginning with that of 1764, in so far as they relate to statute labour roads, and to the roads of the Middle district, are repealed, excepting in so far as they contain power to make certain specified improvements. The following are named as trustees for the Middle district:—the Lord Provost, the Sheriff, the Dean of Guild, the Convener of the Trades, the Convener of the Southern districts, the Senior Bailie of Portsburgh, the two Bailies of Canongate, the Provost of Leith, all for the time being; two conveners of county districts of turnpike roads, to be elected annually by the conveners of the several county districts; seven members of the Town Council, to be annually elected by the Town Council; two commissioners, to be annually elected by the Commissioners of the Southern districts from their number; the Master of the Merchant Company of Leith; two members of the Town Council of Leith, to be annually elected by the Town Council; one person, to be annually elected by each of the following public bodies:—the Merchant Company, the Faculty of Advocates, the Society of Writers to the Signet, and the Society of Solicitors in the Supreme Courts; and three persons residing within the parish of St Cuthbert's, and possessed of the requisite qualification to enable them to act as trustees in any parish of the county not situated within the Middle district, to be annually elected by the Justices of the Peace of the county,—making thirty trustees in all, who are annually to choose a convener. The conversions to be levied yearly from all householders within the bounds of the Middle district are fixed at rates varying from two shillings up to forty-two shillings. All dwelling houses situated within the city of Edinburgh and town of Leith respectively, or within the toll-bars next adjacent to the said city and town respectively, as the said toll-bars shall be placed for the time being, by authority of any general meeting of the trustees for the turnpike roads in the county, and also all dwelling houses or tenements having a horse-road or access to the city of Edinburgh or town of Leith, without passing through any toll-bar erected by authority of the said trustees, shall be deemed to be within the bounds and limits of the Middle district: Provided always, that no toll-bar shall be erected nearer to the said city of Edinburgh than the present toll-bars adjacent thereto, except check-bars. The causeway mail heretofore levied by the Town

Council of the city, and by the Magistrates of Canongate, for the repair of the streets within the royalty of the city and of the burgh of Canongate, shall be payable and belong to the trustees of the Middle district, and the same shall be applied by them, along with the conversions before provided, towards the repair of the streets and roads within the said district. The trustees of the Middle district shall, out of the funds before provided to them by the Act, maintain and uphold the whole streets, side-pavements, and roads within the royalty of the city, and in the town of Leith, heretofore maintained and upheld by the Town Council, together with the whole roads and streets heretofore maintained and upheld by the Magistrates of Canongate and by the trustees of the Middle district, with the exception of the following roads and streets, which shall henceforward be maintained and upheld out of the funds of the turnpike roads of the County of Edinburgh, *videlicet*—the road from Rose Lane, by the London Road, till it joins Leith Walk, at Baxter's Buildings; the Calton Hill Road to the Calton Convening House; the Old London Road from Clockmill to Rose Lane, with Rose Lane itself; the road from Mayfield Loan, by St Leonard's Street, to the Crosscauseway; East Preston Street; the Newington Road, from Mayfield Loan to the Crosscauseway; the road by Causeway-side to the Crosscauseway; West Preston Street; the road within the Wright's Houses toll-bar to Tollcross; the road from Tyne Castle toll-bar, by Fountainbridge, to the Lothian Road, at the Canal basin; the road through Maitland Street to the west end of Princes Street; the road through Tobago Street to the Lothian Road; the road through Queensferry Street to the west end of Princes Street; and the road from the toll-bar in Stockbridge to the Water of Leith;—the roads and streets so excepted being those embraced in the "Outline" proposed by the committee of the county road trustees, as amended in the course of the subsequent negotiations with them. The toll-duties on the roads in the Leith Walk district to cease on 25th May 1836, the powers of the Leith Walk district trustees then to come to an end, and the roads in the district to be thenceforward included in the Middle district, and kept in repair by the trustees of that district, to whom the trustees of the Leith Walk district shall pay over their whole funds, the Middle district trustees relieving them of all obligations and claims in relation to the Leith Walk district. The roads and streets formed by the Commissioners of the Calton Road and Bridge shall hence-

forth be maintained and upheld by the trustees of the Middle district, in so far as the same are not to be maintained and upheld out of the funds of the turnpike roads of the county, in manner before directed. The trustees of the Middle district shall have right to the whole property, funds, &c., belonging to the Calton Road Commissioners, and shall, at same time, relieve them of all the debts incurred by them in relation to the said roads and streets, and to the bridge over the Low Calton, forming part of the said streets. The trustees of the Middle district, after deducting a proportionate share of the general expenses and burdens affecting the district, shall annually account for and pay over to the trustees before appointed, belonging to the town of Leith, the whole conversions in lieu of statute labour collected within the town of Leith and within the toll-bars next adjacent thereto, as heretofore; and all the roads and streets hitherto supported by the Magistrates of Leith from the funds of the Middle district, shall be supported and maintained by the trustees before appointed belonging to the town of Leith, who shall annually lay an account of their expenditure before the trustees of the Middle district, the last-named trustees being bound, as before mentioned, to maintain and uphold those streets and roads in the town of Leith, heretofore maintained and upheld by the Magistrates and Town Council of Edinburgh: Provided always, that nothing herein contained shall affect the existing obligations on the Town Council of Edinburgh, or on the Commissioners for the Harbour and Docks of Leith, &c., in regard to the streets of Leith and shore thereof, and the streets connected with the said harbour and docks.\* The conversions for statute labour and the causeway mail, before directed to be made over to the trustees of the Middle district, shall be applied to the roads within the same, and to the discharge of any obligations incumbent on the trustees with respect to the district, and to no other purpose. The trustees may contract and agree with the superiors and proprietors of houses in streets, the burden of maintaining which remains with or is imposed upon them, for maintaining and upholding such streets, along with the other streets of the district. The trustees are empowered to widen the roads or streets within the district, as shall appear to them expedient. To enable the trustees to execute such improvements as they may deem necessary, they may borrow any sum not exceeding £10,000, and assign the conversions for repayment of the same.

\* These obligations were adjusted by the City Agreement Act of 1838.



(2.) The Act for more effectually Making, Repairing, and Maintaining the Turnpike Roads in the County of Edinburgh.

The whole of the former Acts, beginning with that of 1751, in so far as they relate to turnpike roads, are repealed. Every heritor in the possession of lands rated in the land-tax roll at £100 *Scots* of valued rent, or retoured as a forty-shilling land of old extent, prior to 16th September 1681, and every heritor or superior in the possession of feu-duties payable from lands in the county of the valuation or extent foresaid, to the amount of £50 *sterling* yearly, and the eldest son of every person so qualified ; as also the Lord Provost, the four Bailies, the Dean of Guild, and Deacon Convener of the city of Edinburgh, the Provost of Leith, the Provost of Portobello, the Provost of Musselburgh, or, in their respective absence, the Senior Bailie of Leith, Portobello, and Musselburgh, the Members of Parliament for the county and city of Edinburgh, and for the towns of Leith, Portobello, and Musselburgh, the Sheriff of the county of Edinburgh, and his principal Substitute, the Master of the Merchant Company of Edinburgh, the Treasurer of George Heriot's Hospital, the Treasurer of George Watson's Hospital, and the Treasurer of Trinity Hospital, all for the time being, are appointed trustees for keeping the roads in repair. For the better execution of the Act, the roads shall be divided into the following districts — Lasswade District, Dalkeith District, Post-road District, Cramond District, Corstorphine District, Calder District, Slateford District, and Wright's Houses District. The trustees may consolidate or subdivide districts, or alter the distribution of the roads among the several districts. The trustees are authorised to appoint such a number of the said trustees as they shall think proper, *who shall reside or have property within the same respectively*, to be trustees for each district, and to grant power to such district trustees to choose a convener, clerks, surveyors, &c., and to give such orders and directions for the repair of the roads within the district for which they shall be particularly appointed, or for the application of the tolls arising therefrom, as to them shall seem reasonable. The trustees of the respective districts shall be under the control of, and accountable to, general meetings of the trustees for the county. The tolls to be paid only once in six miles, provided that it shall be lawful to levy the tolls not only at the gates or bars next adjoining to the city of Edinburgh and the town of Leith, but also at all and every bar six measured miles distant from the said city, measuring from the Tron Church outwards in all directions,

although such bars shall be within six measured miles of the bar or bars next to the city of Edinburgh or town of Leith. The tolls to be applied in such manner that each district may have the produce of the tolls collected on the roads within the several districts. The tolls granted by this Act to be liable for debts already contracted. In order to provide a fund for redeeming and discharging the debts contracted or to be contracted on the credit of the tolls, the treasurer of each district shall annually retain a sum equal to one-fifth of the gross revenue of such district for the preceding year, to be applied to the reduction of the debt of that district from which they shall arise, and to no other purpose whatsoever. The sinking fund may be limited in any district to any sum not less than one-tenth of the gross revenue of the district, and in certain circumstances it may be discontinued or revived. An annual statement to be made relative to the sinking fund. The trustees may authorise the trustees of any district to erect side-gates on any of the roads, provided that a fair proportion of the sums levied at such side-bars shall be applied towards the upholding and keeping in repair the several cross-roads upon which the same are respectively drawn and collected. The general trustees may declare any of the roads, for the repair of which the statute labour of any parish is liable, to be turnpike roads, and thenceforth the said trustees shall have the management of the roads so declared turnpike roads. The powers by this Act granted shall commence from and after 25th August next (1835), and shall continue during the term of thirty-one years, and from thence to the end of the then next session of Parliament.

By virtue of the operation of the first of the two Acts of 1835, the Middle district trust ceased to be accountable to the county road trustees, and became in reality, what it afterwards did also in name, "The City of Edinburgh Paving Board." This change took place in terms of an Act passed in 1846, the objects of which were twofold:—(1), to place the whole roads, streets, and bridges within the Middle district, as defined by the Act, under the charge of the trustees of the district, and to make provision for their undertaking the future repair and maintenance of such of the said streets as had hitherto been maintained and repaired by private proprietors other than the trustees, the provision on the subject of these streets contained in the Statute of 1835 having been found quite inoperative; and, (2), to disjoin the town of Leith from the Middle district.

The Act of 1846 continues the whole provisions of that of 1835, except in so far as the same are varied, altered, or repealed. It omits from the list of trustees the Provost of Leith, the Master of the Merchant Company of Leith, and the two members of the Town Council of Leith, or four in all, and adds one to the number to be elected by the Commissioners of the Southern Districts, thereby reducing the members of the board from thirty, their former number, to twenty-seven. The bounds of the district remain as in the former Act, excepting in so far as Leith is concerned; and it is enacted that nothing therein contained shall be held or construed to embrace any part of that town within the Parliamentary bounds thereof. That portion of Leith Walk from and including Pilrig Street to Constitution Street, the street called Duke Street, leading thence to the road called the Easter Road, and the said Easter Road, are notwithstanding to continue to form part of the streets to be maintained and upheld by the trustees of the Middle district. The roads and streets to be maintained and upheld out of the funds of the turnpike roads are the same as in the former Act, though described in somewhat different words. The conditions under which the trustees are to repair and maintain the private streets within the district are specifically set forth. In lieu of the conversions leviable under the former Act, the trustees may levy a rate not exceeding fourpence sterling in each pound of the rental (or fivepence, if the rate be taken on four-fifths of the rental), in respect of the occupation of premises by parties liable for the assessment, tenants and occupiers under £5 of rent being exempted. A further rate of twopence sterling on each pound of the rental of all dwelling houses, shops, warehouses, or other premises situated in private streets which are now maintained and upheld by superiors, proprietors, &c., is to be levied from the tenants or occupiers, who are entitled to retain the same in making payment of their rents. This further rate to cease after fifteen years, and the owners may compound for the same by a single payment. In order to provide a fund from the income of which, along with the other funds provided for the maintenance of the streets, the trustees may be enabled to maintain the private streets after the lapse of fifteen years, the trustees are required within the fifteen years to set apart annually such amount as to them may seem proper, until the same amount to £10,000. Where private streets are not public carriage thoroughfares, the twopence rate may be reduced or modified. The causeway mail

is not to be levied from hearses of a certain description. The Act contains various clauses as to providing materials, preventing nuisance and injuries to roads and streets, repairing the streets, altering the levels, providing for repair of openings and drains, &c., &c., more detailed in their provisions than the corresponding clauses in the Act of 1835. The jurisdiction of the Dean of Guild Court is reserved, and the trustees may be compelled to repair the streets. The provisions in the Police Act of 1837, relative to the construction, repair, and maintenance of the carriage-way of the streets, are repealed.

Simultaneously with the passing of the Act of 1846, constituting "The City of Edinburgh Paving Board," another was passed exclusively applicable to Leith, proceeding on the preamble that it is expedient that the repair and maintenance of the roads and streets hitherto supported by the trustees belonging to the town of Leith, under the obligation imposed by the Middle District Act of 1835, and the levying of the necessary assessments for the same, should be disjoined from the Middle district. The Provost of Leith, the Master of the Merchant Company of Leith, and three members of the Town Council of Leith, to be annually elected by that body, are named trustees for carrying the Act into execution, with powers very similar to those of the Edinburgh Paving Board; in short, to do within the burgh of Leith what that board is empowered to do within the burgh of Edinburgh. Following out the old rule, that Edinburgh should maintain Leith Walk and the eastern road to Leith, this Act excepts these, and the connecting street called Duke Street, from the streets the obligation to maintain which is laid upon the Leith trustees.

It will have been seen that in 1834 and 1835 complaints were made by the Town Council of Edinburgh, that several toll-bars were situated within the Parliamentary boundary of the city, and that this point was not adjusted when the Acts of 1835 were passed. In 1853, circumstances occurred which again directed attention to this question; and the debts owing by the county road trusts in 1835 having, in the intervening period, been very greatly reduced in amount, negotiations were set on foot between the Town Council and the Paving Board on behalf of the city, and the County Road Trustees on behalf of the county, which happily ended in the amicable adjustment of the question on a basis at once just in principle, and satisfactory to all parties. To carry this adjustment into effect, an Act was passed

in 1854, "for removal of toll-bars beyond the Parliamentary boundaries of the city of Edinburgh, and for other purposes."

This Act proceeds on the following preamble:—

"And whereas under authority of the first-recited Act (the Turnpike Road Act of 1835), the trustees of the several districts of turnpike roads of the said county have erected, and continue to maintain, toll-bars on their roads within the Parliamentary boundaries of the city of Edinburgh, and on certain of their roads beyond the said boundaries, but adjacent to the said city, which has been found to be inconvenient, and it would be attended with public advantage if the said toll-bars were removed; those within the said boundaries to sites on the line of the said boundaries, or beyond the same; and those beyond the said boundaries to other sites at greater distances from the said city; and it is also expedient that further regulations should be made for the repair and maintenance of the roads, streets, and bridges within the said Middle district, and the assessments payable in respect thereof, and for other purposes relating thereto, and that some of the provisions in the said Acts should be altered, amended, or repealed, and other provisions be made, and other and further powers be granted."

The Act provides that the powers of the county road trustees to erect and maintain toll-bars and check-bars, and to demand tolls thereat, shall, from and after Whitsunday 1855, not be applicable in so far as regards the whole district included within the Parliamentary boundaries of the city. Accordingly the trustees, at or before the said term, shall remove all existing toll-bars and check-bars, and cease to levy tolls within the district aforesaid. The position of certain toll-bars within the Cramond district, at the extremity of the Parliamentary boundary, is regulated. On the removal of the Whitehouse toll-bar no other shall be erected on the same road nearer to the city than the east side of the road leading to Dalry Mills, near to the village of Coltbridge. In the event of a public park being formed on the farm of Dean, although beyond the Parliamentary boundaries, in that case the toll-bar at Dean Park shall be removed to its former position at Blinkbonny, near to Craigleith Quarry, and thereafter there shall be no toll-bar on the turnpike road leading from the city by Dean Bridge to the said former position of the toll-bar at Blinkbonny. From and after Whitsunday 1855 the Paving Board shall levy from the persons whose dwelling houses, by the removal of the toll and check-bars, will come to be included within the bounds of the Middle district, the same assessment in respect of the conversion of statute labour as is leviabie under the Act of 1846 from the occupiers of dwelling houses within the present bounds of the Middle district. From and after Whitsunday 1855 the Paving Board shall make payment yearly to the trustees of the

county districts whose toll and check-bars shall have been so removed, excepting the trustees of the Corstorphine district of roads, of the free proceeds of the assessment in respect of the conversion of statute labour which may be received in each such district, the said free proceeds to be applied by such trustees in repairing, maintaining, and improving the respective roads under their care, including the portions from which the bars shall have been removed; or, the county trustees may appoint a collector of the assessment, who shall account to them for the proceeds of the same, after payment of the charges incurred in imposing the assessment, &c.; or, in lieu of such free yearly proceeds, the Paving Board shall make payment of such fixed annual sum as may be agreed on by them and the trustees of any such county district; or, in lieu of such free yearly proceeds or fixed annual sum, the Paving Board shall make payment of such a sum in commutation and redemption of the same as may be agreed upon by the Paving Board and the trustees of any such district. The Paving Board shall retain for the purposes of their own trust the assessments to be levied within that part of the Corstorphine district of roads which, by the removal of the said toll-bars, will come to be included within the bounds of the Middle district; and, in respect thereof, shall undertake the repair and maintenance of that portion of the street or roadway presently upheld by the Corstorphine district trustees, extending along Maitland Street and Shandwick Place from the west end of Princes Street to the east end of Atholl Crescent, which portion of street or roadway shall be transferred to, and included within, the Middle district. In the event of the trustees of any other county district preferring an arrangement similar to that made with respect to the Corstorphine district, and of the Paving Board agreeing thereto, the Paving Board may levy and retain the assessments, for the purposes of their own trust; and in respect thereof, undertake the repair and maintenance of such portions of roads belonging to such district nearest to the roads of the Paving Board as may be mutually agreed on. In the event of any differences arising between the Paving Board and the trustees of any county district of roads, or between the trustees of any such district and the trustees of any other district, in reference to boundaries or assessments, the Sheriff shall determine the same in a summary manner, and his decision shall be final. The Paving Board are empowered to carry out, with the trustees of any county district, such arrangements for the care, repair, maintenance, and improvement, of portions of road

in any of the said districts, and to make changes from time to time on such arrangements, as shall be expedient. The Paving Board are empowered, from time to time, to make arrangements with the trustees of any county district for the yet farther removal of toll-bars, under terms and conditions similar to those before mentioned. Nothing in this Act shall prevent the trustees of the turnpike roads from exercising the power conferred by the Turnpike Road Act of 1835, of declaring any of the existing parish roads in their several districts, so far as within the Parliamentary boundaries of the city, presently maintained by statute labour, to be turnpike; but they shall continue to be empowered to declare such roads turnpike, and may maintain any such existing roads, as now laid out, as turnpike accordingly. The provisions of the Paving Board Act of 1846 as to private streets are extended to all private streets which now are, or hereafter may be, within the Parliamentary boundaries of the city. The Paving Board may assume or refuse to assume the charge and maintenance of such private streets within any county district, which by the removal of the toll-bars will come to be included within the bounds of the Middle district. The other provisions of this Act need not be detailed.

The following is a comparative state of the debt of the several districts of turnpike roads in the county at Whitsunday 1853, and Whitsunday 1854:—

DISTRICTS.	1853.			1854.			DECREASE.		
	£	s.	d.	£	s.	d.	£	s.	d.
Lasswade and Wright's Houses united . . . . .	4779	18	11	3222	5	5	1557	13	6
Dalkeith and Post-road united . . . . .	3862	6	10	3383	7	0	478	19	10
Cramond . . . . .	500	0	0	...			500	0	0
Corstorphine . . . . .	3823	16	3	3462	9	0	361	7	3
Calder and Slateford united . . . . .	1129	7	6	971	8	8	157	18	10
Totals,	14,095	9	6	11,039	10	1	3055	19	5

The debt is understood to have been still further reduced since Whitsunday 1854, but the particulars will not be known until the accounts for the year ended at Whitsunday 1855 be published.

In the year ended 15th May 1854, the Paving Board received:—

Nett produce of assessments—	
1. On householders, . . . . .	£6038 0 7
2. On owners in private streets, . . . . .	1469 6 11
Nett produce of causeway mail, . . . . .	881 18 10
Other sources of revenue, including interest on the special fund for private streets, . . . . .	484 15 1
	<hr/>
Total revenue of the year, . . . . .	£8874 1 5
The expenditure of the year was . . . . .	£6818 14 5
Payment towards special fund for private streets, . . . . .	500 0 0
Interest accrued this year, applicable to special fund, . . . . .	140 14 2
	<hr/>
	7459 8 7
	<hr/>
Surplus on the general fund for the year, . . . . .	£1414 12 10

Taking into account the balance in favour of the board at 15th May 1853, the total balance at their credit at 15th May 1854 was . . . . . £6994 18 2

Whereof at the credit of

The general fund, . . . . .	£1698 12 4
The special fund for private streets, . . . . .	5296 5 10
	<hr/>
	6994 18 2

From the accounts of the Paving Board, for the year ended 15th May 1855, which have not yet been printed, it appears that, in consequence of the assessment on householders having during that year been one penny per pound less than in the preceding year, the produce of this branch of revenue was reduced from £6038, 0s. 7d. to £4922, 5s. 5d. The total revenue of the year 1854–55 from every source, including the Town Council's contribution of £292, 12s. 8d. towards the expense of obtaining the new Act, amounted to . . . . . £8188 8 3

And the expenditure to . . . . . 8096 2 0

Surplus on the general fund for the year, . . . . . £92 6 3

The total balance at the credit of the board at 15th May 1855 had increased to . . . . . £7792 17 6

Whereof at the credit of

The general fund, . . . . .	£1790 18 7
The special fund for private streets, . . . . .	6001 18 11
	<hr/>
	£7792 17 6



## 8. THE PARLIAMENTARY BURGH.

The Parliamentary boundary contains within its limits the entire population of Edinburgh. The line itself cannot well be described, excepting by reference to a map. It has been already explained that the Police limits very nearly coincide with the Parliamentary boundary. The district over which the powers of the Paving Board extend does not materially differ. The City proper, the Canongate, Portsburgh, Calton, and the Southern districts, are all comprised within the Parliamentary boundary. It will afterwards be shewn that it was the intention of the Legislature, in passing the Reform Acts of 1832 and 1833, to deal with the whole population of the Parliamentary burgh as one community. Circumstances have hitherto delayed the entire amalgamation. In the meantime, the following particulars may be stated, as shewing the gradual working-out of this intention:—(1.) The registration of voters within the Parliamentary burgh is conducted by the town-clerks, without reference to the boundaries of the city. The registers are kept and the ward lists made up and deposited in their office for the inspection of all concerned. (2.) The Prison Acts transferred the whole prisons within the county from the management of the respective local authorities to that of the County Prison Board. The latter board consists of nineteen members, whereof four are chosen by the Commissioners of Supply for the county, eleven by the Town Council of Edinburgh, two by the Town Council of Leith, one by the Town Council of Musselburgh, and one by the Town Council of Portobello. In the year 1854–55 the sums raised by assessment for prison purposes within the county of Edinburgh, including the burghs before mentioned, amounted to £6618, 5s. 5d., whereof £4138, 13s. 8d. fell to the share of Edinburgh, exclusive of the expense of assessment and collection; but, in raising this fund, the Prison Acts deal with the population of the Parliamentary burgh as one community, abolishing the old system by which the expense of supporting the burgh jails was borne entirely by the royal burghs. The Town Council is the party on whom the statutes impose the obligation to raise the money; and it has been seen that the expenditure of the entire sum raised within the county and the burghs is entrusted to a board, the majority of whom are chosen by the Town Council, the result being, in so far as the population of Edinburgh is concerned, that the 93,568 inhabitants beyond

the royalty have no direct voice in raising the funds for prison purposes, or in managing the prisons, these duties being devolved on the representatives of the 66,734 inhabitants within the royalty. (3.) The recent Act for the Registration of Births, Deaths, and Marriages deals with the population within the Parliamentary boundary, as one community. In virtue of the powers of that Act, the Parliamentary burgh has been divided by the Sheriff into registration districts, and registrars have been appointed by the Town Council irrespective altogether of the old boundaries. The assessment under the Act for the purpose of paying the registrars will be levied by the Town Council on all lands and heritages within the Parliamentary burgh. (4.) The recent Act for the Valuation of Lands and Heritages in Scotland is another case in point. Under this Act the Town Council are intrusted with the making up annually of a valuation roll, shewing the yearly rent or value for the time of the whole lands and heritages within the Parliamentary burgh, and separately within each parish or part of a parish situated within such burgh. They appoint the assessor under the Act, and constitute the court of appeal against his valuations, and the expenses of the valuation will be ascertained and fixed by them. This Act has but recently come into operation, and hence the important bearing it will have on the interests of the inhabitants is but little known. The valuation roll to be made up under its provisions will fix the rental according to which all local assessments are to be levied within the Parliamentary burgh, and yet its machinery is to be worked by the Town Council, the representatives of considerably less than one-half of the population whose interests are to be so materially and directly affected by the operation of the statute. (5.) Not to refer to various other statutes on subjects of minor importance, as evidences of the same intention, the Education Bill of the Lord Advocate may be mentioned as a measure under which, if passed into a law, the management of the whole public schools to be erected within the Parliamentary burgh, and the raising of the requisite funds by assessment, will be devolved entirely on the Town Council. Persons acquainted with Edinburgh are aware that any want of schools is felt in the suburban districts, and not within the royalty; and thus it will come to pass, that that portion of the population for whose behoof the schools are to be erected, and who must bear a share of the consequent burden, will have no direct voice in their management. No doubt, the inhabitants

of the royalty will be called on to pay for schools erected chiefly for the benefit of their suburban neighbours, but the Bill makes no account of these intraburghal distinctions, and wisely deals with the entire population as one community, possessing a common interest in the important matter of the education of the people.

#### IV. DISADVANTAGES OF THE EXISTING MUNICIPAL ARRANGEMENTS.

One obvious disadvantage is the great number of persons required in order to work the existing municipal system. There is—

1. The Town Council, numbering . . . . .	33
2. General and resident Commissioners of Police, . . . . .	96
3. Members of the Paving Board, not such <i>ex officio</i> , . . . . .	19
4. Resident Magistrates of Canongate, . . . . .	3
5. Resident Magistrates of Portsburgh, . . . . .	2
6. Commissioners of Southern Districts, . . . . .	40
	193
In all, . . . . .	193

To some extent the same persons are members of more than one body, but even after making full allowance for this, it is apparent that the number required is unnecessarily great, and that thus a formidable difficulty exists in the way of procuring the services of citizens possessing the requisite qualifications, and willing to devote a portion of their time to the public good. It is scarcely necessary to add, that a considerable number of officials is required by the present system, as each independent board must possess its own separate staff of office-bearers.

Another disadvantage is, the constant necessity for mutual communication between different boards charged with the superintendence of separate departments of municipal duty, and the consequent risk of collision between them. An example of this arises at the present time in reference to the proposed public park. The Town Council are the owners of the Meadows, and the Commissioners of Police are their tenants,—the latter being bound, by the terms of the lease, to form the park according to a plan to be concerted between the two bodies, and executed under the superintendence of a joint committee. Competing designs were advertised for, and after these were exhibited to the public, the joint committee awarded to Mr Davies, the author of one of the designs, the first of two premiums which had been offered, and agreed to recommend that, without holding them—

selves committed to the details, so much of the design preferred for the first premium as proposes the formation of a carriage-drive from west to east should, in the meantime, be adopted, and authorised to be made, and that the requisite drainage should also be executed; it being understood that the line of the drive, as laid down in the design, is open to alteration if any improvement may be suggested, and that, before any part of the drive is formed, the line should be staked out, so that an opportunity may be afforded for judging of any proposed alteration, and that the Town Council and Commissioners of Police should respectively be requested to give their concurrence to these portions of the plan being now executed. The Commissioners approved of this report, and thereby committed themselves to the formation of the drive through the centre of the Meadows, "the line being open to alteration, if any improvement may be suggested." When the report was laid before the Town Council, instead of suggesting alterations on the line, there was a general expression of opinion against a central drive at all, and in favour of one on the south side of the park. The Council therefore appointed a committee of their own body to consider the subject and to report. There can be little doubt that, in a case such as this, where all parties desire only the public good, the best line will ultimately be adopted; but, in the meantime, negotiations will be requisite, meetings will be held, and discussion take place at the two boards, which might have been avoided if there had been only one governing body instead of two.

Again, the Police and the Paving Boards necessarily come much into contact with each other. The duty of compelling proprietors to make and maintain foot-pavements belongs to the former board; the latter maintains the carriage-way; while the former cleanses the streets and takes charge of the drains under their surface. To some extent the same persons are members of both boards, and thus the risk of collision is greatly lessened; but it is apparent that the necessity of formal communication between the boards themselves, and between their respective officials, must cause much unnecessary labour.

The system according to which public houses are licensed, is obviously disadvantageous to the interests of the community. The Magistrates dispose of all applications for licences in respect of premises situated within the royalty, while the Justices of the county deal with those from the suburbs of the city and the rural districts of the county. The Police Court having no jurisdiction

under the Public-house Acts, cases of contravention by publicans of the terms of their certificates, and of persons selling spirits without licences, are regularly reported by the officers of police to the Fiscals of the city and county respectively, that they may deal with them in their respective courts. The cases from within the royalty are brought before the Magistrates in the Council Chamber and summarily disposed of; but it is well known that the Fiscals of the Sheriff and county Justice of Peace Courts, decline to prosecute cases reported to them from the suburban districts of the city. While the Acts were strictly enforced within the royalty, they were allowed to remain a dead letter (in so far as offences against their provisions were concerned), within the other portions of the police bounds; the community generally were deprived of the advantage which the Legislature intended they should receive from the operation of the latter of the Acts; and injustice was also done as between the publicans themselves, one man being punished for an offence, while his neighbour guilty of a similar offence, but whose shop chanced to be on the other side of an imaginary line, was not interfered with. This state of matters led to complaints, and ultimately, through the interference of the Police Commissioners, a special machinery (necessarily experimental) was temporarily established, whereby cases from without the royalty are brought before the Sheriff, irrespective of the legitimate public prosecutors. Most of the county Justices reside in the rural districts, or are connected with them by property, and are therefore well fitted to work the whole provisions of the Act, applications for licences and complaints alike, in these localities; but this very circumstance renders them not so well fitted for dealing with applications from the suburban population within the Parliamentary boundary. The Magistrates, who reside in the city, and are accustomed from day to day to hear cases of complaints for contravening the Acts from within the royalty, and, in the Police Court, to judge parties accused of offences committed in the public houses, seem to be the natural parties to dispose of applications for licences, and to enforce the provisions of the Acts in all the districts of the Parliamentary burgh.

In like manner, the arrangements as to weights and measures are by no means satisfactory. For the royalty, embracing a population of 66,734, the Magistrates maintain two inspectors; one to adjust and stamp weights and measures within doors, and another to go from shop to shop, checking those in use in the

daily transactions between the shopkeepers and the public. For the discharge of both classes of duties in the whole county of Midlothian beyond the royalty (exclusive of the burgh of Leith, but including Musselburgh, Portobello, and Dalkeith), the Justices of the county maintain one inspector, with an office in the County Buildings, and an in-door inspector at Dalkeith. As the Magistrates of the city will not be charged with keeping an undue number of servants, it follows that this important department of public duty must be comparatively neglected within the bounds of the county Justices, embracing as these do a population of 161,782, spread over an area of nearly 397 square miles. It is believed, indeed, that in many suburban districts there are shops which have not been entered by the county inspector for years together, doubtless to the great loss of the lieges. The different inspectors come occasionally into collision with each other. If an ironmonger on the South Bridge, who makes a trade of selling weights, desires to have some adjusted and stamped, he must send to the inspector at the Council Chamber; but if his brother in trade in Nicolson Street desires to have the same thing done, he must send to the inspector at the County Buildings; and as the official there may perhaps be absent on a tour of inspection in a remote part of the county, delay and inconvenience are the unavoidable consequences. The law imposes penalties on the inspectors for trespassing on the territory of each other, and more than once these have been enforced by the authorities of the one jurisdiction against the official of the other.

The intermixture of the different boundaries is a constant source of annoyance and inconvenience. As already stated, the limits of the Police and Paving Acts do not materially differ from those of the Parliamentary burgh; but within these there is the irregular boundary of the royalty, which, at some points, as, for example, at St James' Square, actually surrounds districts which are *without* the royalty in law, but *within* it in fact; and the separate boundaries of the Canongate, Portsburgh, Calton, and the Southern districts. Again, the Parliamentary burgh is divided, under the Reform Acts, into eleven electoral districts; the Police limits into thirty-two wards, for police purposes, the rate-payers in each electing the general and resident commissioners; the royalty into five municipal electoral districts; and, more recently, disregarding altogether the previously existing divisions, the Parliamentary burgh has been divided into seven

districts under the Act for the Registration of Births, Deaths, and Marriages. None of these divisions coincide; all are separate and distinct; and there is perhaps not one inhabitant able, without special inquiry, to state to what district, for all the purposes mentioned, his dwelling house belongs.

If any sufficient reason existed for this complex system, it might be tolerated; but there is really none. The inhabitants within the Parliamentary burgh are interested alike in the good government of the city; all of them now contribute equally for strictly municipal purposes; the College and High School, though governed exclusively by the Town Council, are open to all who choose to attend; the public markets, although the property of the municipality, are resorted to by all the inhabitants; one establishment of slaughter-houses is maintained by the Town Council for the convenience of the fleshers in all parts of the city; the Calton Hill, the Meadows, the Links, and East Princes Street gardens, all belonging in property to the Corporation of the city, are open to every inhabitant; one system of cabs is maintained for the whole city, under the management of the Magistracy; public meetings of the inhabitants are called and presided over by the Lord Provost; the old class system of burghal government, under which the Town Council consisted of seventeen merchants, elected substantially by themselves, and of sixteen tradesmen, representing and chiefly elected by the trades incorporations, to the exclusion of all the other inhabitants, has been abolished; every ten-pound elector within the royalty is now eligible to be chosen as a town-councillor; the members of the College of Justice, who were formerly excluded from the municipal system, are eligible along with their fellow-citizens, and take no inconsiderable share in the government of the city; and even the inhabitants of the suburban districts do so indirectly, many of them carrying on business within the royalty, thus being municipal electors and finding their way into the Town Council. In truth, were it not for this last circumstance, and the fact that a popularly-elected body, such as the Town Council, cannot govern otherwise than in accordance with the opinions and wishes of the inhabitants generally, there can be no manner of doubt that long ere now the present municipal system must have been extended, so as to embrace the entire body of inhabitants within the Parliamentary boundary.

The inhabitants of the suburbs are excluded from being burghesses of the city—a term which necessarily implies that the per-

sons proposing to become such are either resident or carry on business within the royalty. The effect of this is to limit the benefits of such charitable institutions as Trinity Hospital and Heriot's Hospital to a section of the inhabitants. Every one admits the value to the community of the out-door schools connected with the latter hospital, where two or three thousand children of the humbler classes receive a sound education; but from these the inhabitants of the suburban districts, excepting the small number of them who happen to be burgesses, are necessarily excluded.

The present system requires two sets of Judges in the Police Court—the Magistrates of the city for cases occurring within, and the Sheriff of the county and his Substitutes for cases beyond the royalty, but within the limits of the Act. Surely it is of no importance in judging of a case whether the offence is committed on the South Bridge or in Nicolson Street, in Princes Street or on the Lothian Road, in Forrest Road or in Teviot Row. If a Magistrate of the city be qualified to judge in the one case, why should it be necessary in the same court to have a different judge in the other? We have only to step across from the Police Court to the Council Chamber, in order to find the Magistrate, whom the law does not permit to judge of some petty police case in the former, dealing in the latter with numerous cases as to cabs from all parts of the police bounds, with cases from the cattle-market and slaughter-houses, both of which are beyond the royalty; and, in his character of a justice of the peace, with a multifarious description of cases, equally important with any that occur in the Police Court, as to which his jurisdiction is not limited to the royalty. There is really no good reason for this distinction. Let the jurisdiction of the Magistrates be extended over the Parliamentary burgh, and the Sheriffs might be relieved of the duty of officiating in the Police Court, and so have more time to devote to their own proper courts, the powers, and consequently the business, of which are increased by almost every Act of Parliament relating to Scotland that is passed.

#### V. PROPOSED MUNICIPAL SYSTEM.

It will not be disputed that all the inhabitants within the Parliamentary boundary form in reality one community, and partici-



pate in the same common advantages, and it is therefore proposed that they should be united under the same burghal rule to the support of which, as matters now stand, they contribute equally. The following may be stated as the leading features of a measure for this purpose:—

1. The Municipal boundary to be enlarged, so as to be co-extensive with the Parliamentary boundary.

2. The powers of the Town Council to extend over the Parliamentary burgh, and the Police and Paving Boards to be merged in the Council, so that there shall be only one governing municipal body to discharge the various duties now performed by the three bodies. This body to consist of thirty-three councillors, whereof three to be chosen by the electors in each of eleven wards, being the present number of electoral districts within the Parliamentary burgh. One of these to be Lord Provost, and six (instead of four, the present number) to be Bailies. The Dean of Guild and Convener of the Trades to be added as at present, making a council of thirty-five, or two more than the existing number. As the numbers of the trades incorporations are decreasing yearly, and several of them are nearly extinct, it might be considered whether, instead of the thirteen deacons choosing their convener, as at present, it would not be an improvement to devolve the election on the members of the incorporations met together as one body.\* The Parliamentary burgh to be divided of new into eleven districts for both parliamentary and municipal elections. In this way, instead of two registers, as at present, one would suffice.

3. The Town Council, as thus constituted, to possess the powers and be subject to the liabilities of the Town Council as now constituted, and of the Police and Paving Boards. Separate

\* The clause in the Burgh Reform Act, by virtue of which the Dean of Guild and Convener of the Trades, in certain of the larger burghs, are members of council *ex officio*, formed no part of the Bill as it passed the House of Commons, but was introduced in the House of Lords. The Municipal Corporation Commissioners (*General Report*, p. 93) object to this "extraordinary privilege as an anomaly the expediency of which we feel ourselves compelled to question," and state that "the practical result must be to bestow on the members of these corporations a double share of representation in the general council of the burgh. This we cannot but regard as an evident departure from the general principle and spirit of the Act; and we therefore beg leave to recommend that those seats *ex officio* should be taken away, and that these councillors should be replaced by election. But, of course, the Council must choose, either out of their own number, or otherwise, as they may think fit, a Dean of Guild, or other functionary, to discharge the duties pointed out for that officer under the head of Jurisdiction." There is much force in this, and in the case of Edinburgh the recommendation is strengthened by what is stated above, and by the fact that there is no security for the continuance of the large body of guild brethren which owes its existence to accidental circumstances. On the other hand, it may fairly be questioned whether it is worth while to interfere with the privilege further than is suggested in the text, for the present at least.

accounts of the various funds administered by them would, of course, be kept, as at present, in terms of the different Acts of Parliament regulating these respectively.

4. The Magistrates and Dean of Guild to possess the same judicial powers, and no more, within the extended boundaries as they now exercise within the present limits of the burgh. The Magistrates to be sole judges of police within the Parliamentary boundary, and the subordinate magistracies of Canongate and Portsburgh to be abolished. Some arrangement might, perhaps, be made whereby the jurisdiction of the Dean of Guild should be modified in suburbs such as the lands of Dean, Greenhill, Grange, and others.

5. The one per cent. impost assessment, at present leviable from the inhabitants of the royalty (other than members of the College of Justice), the collection of which has for some years been suspended, to be abolished. The municipal revenues of the city being sufficient for the purposes to which they are at present applicable, no substitute for this tax seems requisite; but if experience should shew that these are insufficient under the new arrangements, it would, of course, be open to the Town Council, at any future period, to consider in what manner any deficiency was to be provided for; and as this could not be done without Parliamentary powers, the inhabitants would have ample opportunity to watch over their interests, which, however, could scarcely fail to be in safe keeping in the hands of a representative body chosen by the whole community. The chance of any deficiency arising is greatly lessened by the recent arrangement as to the expense of criminal prosecutions already mentioned.

6. The exemption from the billeting of soldiers, at present enjoyed by the inhabitants within the royalty, to be abolished, and the burden borne by the inhabitants within the Parliamentary burgh in common.

7. The existing parochial arrangements not to be interfered with. The affairs of the poor, and the levying of the poor-rates in the different parishes, to continue to be managed by the parochial boards as at present; and the annuity tax in the City and Canongate not to extend to the suburban districts, where it is not now leviable, or to any persons not now chargeable with the same. The land tax not to be extended beyond the limits within which it is at present leviable, and the *rate* of that tax to

be fixed by the Town Council for the Southern districts and Canongate, as well as for the royalty.\*

8. The portion of the police bounds lying within the parliamentary and municipal boundaries of Leith to be disjoined from the Edinburgh Police, and annexed, for police purposes, to that of Leith. Whether the Town Council of Leith would object to this proposal, as the Commissioners of Police of that burgh did to the same proposal when made in 1848, remains to be ascertained. It need not now be insisted on without their consent.

9. If required by the inhabitants of Canongate, some equitable arrangement to be made in regard to the future appropriation of the funds at present belonging to that burgh, so far as these might be available under the extended system.

10. The vesting of any charitable trusts affected by the new arrangements would fall to be regulated. The application of the principle contained in Clause XX. of the Burgh Reform Act of 1833, under which the Town Council annually elect one or more of their number to supply the places of any official trustees whose offices have ceased to exist, would meet every possible case. The same principle would necessarily be applied to the discharge of any function incumbent on an official whose office might be abolished.

## VI. WHY WAS THE PROPOSED MUNICIPAL SYSTEM NOT INTRODUCED LONG AGO ?

This is a question which may very naturally be asked. The answer is twofold. *First*, The management of the royal burghs of Scotland formed the subject of lengthened inquiry by a committee of the House of Commons, which sat in 1819, 1820, and 1821, and was presided over by Lord Archibald Hamilton. The only immediate result, however, was the passing, in 1822, of the

* The total land tax payable by the city of Edinburgh is	.	.	£2600	0	0
Add, salaries of clerk and officer of the stentmasters,	.	.	16	16	0
			<hr/>		
			£2616	16	0

Which sum for the year 1854-55 was allocated thus:—

The Royalty,	.	.	.	.	£1683	18	2
South Leith,	.	.	.	.	235	16	8
Canongate, as before stated,	.	.	.	.	141	14	0
North Leith, as before stated,	.	.	.	.	45	6	9
The eight Southern districts, as before stated,	.	.	.	.	510	0	5
					<hr/>		

£2616 16 0

Act, known as Sir William Rae's Act, to regulate the mode of accounting for the common good and revenues, and to guard against the undue alienation of the heritable property, of the royal burghs. The discussions arising out of this inquiry were still fresh in the minds of that portion of the public who took an interest in such matters when the agitation for reform arose in the end of 1830 ; and, not content with wresting the privilege of electing the members of Parliament for the royal burghs from the unreformed town councils and conferring it on the ten-pound electors within the Parliamentary boundaries, no sooner was the Reform Bill passed than a demand was made for an immediate measure of burgh reform. Lord-Advocate Jeffrey had, so recently as 1831, when the Town Council for the last time elected a representative in Parliament, been rejected as a candidate for the city ; while, in 1832, he was triumphantly returned at the first election under the Reform Act. It was difficult for him to resist such a demand, and therefore, in the session of 1833, the first of the Reformed Parliament, he carried through the Royal Burgh Reform Act, the preamble of which is in the following terms :—

“ Whereas the right of electing the common councils and magistrates of the royal burghs of Scotland appears to have been originally in certain large classes of the inhabitants of such burghs, by the abrogation of which ancient and wholesome usage much loss, inconvenience, and discontent have been occasioned, and still exist ; for redress and prevention whereof it is expedient that an immediate remedy be applied, and that the close system of election now practised in these burghs should be forthwith abolished, and their ancient free constitutions substantially restored.”

Lord Jeffrey could not fail to see that a measure limited to the existing boundaries of the royal burghs was necessarily incomplete ; and therefore, simultaneously with the passing of the Act, a royal commission was appointed to inquire into and report upon the condition of the several burghs and towns in Scotland, whose instructions, as well as the terms of their report, will be adverted to immediately. Pending this inquiry, which embraced the conditions under which the suburban districts of the burghs should be incorporated with the municipal system, it was of course impossible for Lord Jeffrey so to frame the Reform Act for the royal burghs as to include these districts at once. It cannot be doubted, however, that if his Lordship had been in office in 1835, when the commissioners presented their report, he would have framed and carried through a measure embracing the entire population within the Parliamentary boundaries of these

burghs. This is proved by the fact, that, simultaneously with the Royal Burgh Reform Act of 1833, he carried through another "Act to Provide for the Appointment and Election of Magistrates and Councillors for the several Burghs and Towns of Scotland which now Return, or contribute to Return, Members to Parliament, and are not Royal Burghs,"—a class of burghs as to which previous inquiry was not so necessary as in the case of the royal burghs. By this Act—the provisions of which apply to thirteen different towns, including Paisley, Greenock, Leith, Portobello, Kilmarnock, Musselburgh, &c.—the right of electing the councillors in each of the said burghs and towns is vested in all the persons qualified to vote for a member of Parliament for such burgh or town, whose names shall be on the register directed to be kept by the Parliamentary Reform Act, which register shall be deemed to be the register of electors of the councillors for such burghs or towns respectively; and it is enacted, "that the Magistrates and Town Council to be elected for the said burghs or towns, under the authority of this Act, shall have such and the LIKE RIGHTS, POWERS, AUTHORITIES, AND JURISDICTION AS IS OR ARE POSSESSED BY THE MAGISTRATES AND COUNCIL OF ANY ROYAL BURGH IN SCOTLAND; and such rights, powers, authorities, and jurisdiction SHALL EXTEND EQUALLY OVER ALL AND EVERY PART OF THE LIMITS OF SUCH BURGHS AND TOWNS AS DESCRIBED IN THE" Parliamentary Reform Act: "Provided always, that the Magistrates and Council of such burghs or towns shall not have the power of trying for crimes punishable by death or transportation; and that the rights, powers, authorities, and jurisdiction hereby conferred shall in no case be exclusive of the authority and jurisdiction of any Admiralty Court or Dean of Guild Court now lawfully established, or of the Sheriff or Justices of the Peace of the county, over the territory within the boundaries of such burghs or towns respectively." It is not to be supposed that, when Lord Jeffrey carried through an Act conferring such powers on the Magistrates and Town Councils of the class of burghs last referred to, he did not contemplate a similar measure for the royal burghs as the result of the inquiry of the commissioners. This explanation affords in part the *first* answer to the question, Why was the proposed municipal system not introduced long ago? It has been seen that the answer has reference to matters affecting, not *one*, but *all* the royal burghs. There is a *second* answer, however, having special reference to

the case of Edinburgh. Simultaneously with the Burgh Reform Act of 1833, an Act was passed sequestrating the whole property and revenues of the city, so far as legally liable for its debts, and attachable by the diligence of the creditors, and appointing trustees to administer the same for their behoof. A variety of difficult questions arose as to what property was thus attachable, and what was strictly municipal and not attachable, and these led to actions in the Court of Session, involving principles of municipal law the discussion of which was likely to last for years. The city was largely indebted to Government for advances on account of Leith docks. A contest, too, had for many years been carried on between the Town Council of Edinburgh and the inhabitants of Leith, their feudal vassals. The latter had long struggled for independence in their municipal affairs, which they finally secured by the Act of 1833; but this was only a portion of the grievances of which they complained. These related also to the management of the harbour and docks—which belonged in property to the city—to the amount of the dues levied on the shipping and goods, and to the appropriation of the revenue thence derived. Much litigation, and no small amount of bad feeling, arose in the course of this contest. At length, matters having arrived at the worst, the various parties interested moderated their views, and desired an amicable settlement of their respective claims. The interference of Government was obtained, and an agreement was come to, which was sanctioned by Parliament in the well-known Edinburgh and Leith Agreement Act of 1838, already referred to, the provisions of which have now worked to the satisfaction of all parties during a period of seventeen years. Although, therefore, the commissioners reported in 1835, it was of course impossible to carry through any measure founded on their report, which should embrace the case of Edinburgh, until the Agreement Act was passed, and some time had elapsed to shew how it operated. When this period arrived, men's minds, and specially those of men high in office, were directed to other objects more urgent, and perhaps deemed more important, than that of Scotch Burgh Reform; and, no pressure being applied from without, the mass of valuable information contained in the reports of the commissioners was allowed to lie dormant in the blue books; their recommendations were practically disregarded; and, although Bills were framed for the purpose and introduced, no serious effort was made to carry through a comprehensive measure of municipal

government for Scotland. The recommendations of the commissioners on two points have, however, received effect; a short Bill, abolishing the exclusive privilege of trade within burgh, having, in 1846, been carried through Parliament, at the instance of some of the traders of Edinburgh, who had felt the oppressive nature of the former law;\* and the present Lord-Advocate having, in 1852, carried through a Bill to limit the number of councillors in certain burghs,—a measure pressed on his Lordship by the Convention of Royal Burghs, in consequence of the impossibility in some of them, in which the electors are few in number, of finding as many qualified persons as, under the old law, were required in order to constitute the town council.

It may be proper now to refer to the instructions given to the commissioners, and to the recommendations contained in their reports. The commission is dated 15th July 1833, and addressed to John Boyd Greenshields, Thomas Thomson, Robert Bell, James Campbell, Robert Græme, Andrew Skene, John Cuninghame, Robert Jameson, James Ivory, Robert Hunter, Cosmo Innes, and Robert Handyside, Esquires, advocates. They are appointed “to make a general inquiry into the state and condition of the several cities, burghs, and towns of Scotland, and particularly,

\* \* \* \* \*

“3d, As to the boundaries or territory over which the municipal authority and jurisdiction ought to extend, and as to the best method of uniting and consolidating contiguous subordinate burghs or adjacent districts lying within the Parliamentary boundaries of such cities and burghs, in respect of their municipal government, local jurisdiction, and otherwise.”

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The commissioners presented a general report, and also local reports as to the separate burghs. Throughout the general report various remarks are interspersed bearing on the subject of this statement. The following chapter is so important as to be worthy of being quoted at length:—

#### “UNION OF BURGHS AND CONTIGUOUS DISTRICTS.

“In our inquiries ‘as to the boundaries over which the municipal autho-

\* The abolition of this law was recommended in the Report of the Commissioners, dated in 1835. A similar recommendation was made about the same period in reference to the similar privilege in the English burghs. In the latter, it was abolished by the Municipal Corporation (England) Act of 1835; while, in Scotland, the traders were subjected to the grievance until 1846, when they were relieved from it, not as part of a comprehensive Government measure, but solely in consequence of their own exertions, directed to a particular point.

city and jurisdiction ought to extend, and as to the union and consolidation of contiguous and subordinate burghs or adjacent districts, in respect of their municipal government, local jurisdiction, and otherwise, the difficulties of the investigation have been greatly diminished by the conclusions at which we have already arrived.

“The important interests which the inhabitants of a town have in common render it expedient that they should be placed under one local government, with regard to matters of police and jurisdiction. To all it is essential that the peace of the town be preserved, that there should be functionaries constantly ready to repress petty disorders, and that uniform measures should be enforced for protecting the health and safety of the inhabitants. Their constant dealings with each other, and the collision of rights and interests occasioned by the contiguity and intermixture of small properties, seem also to render it desirable that there should be one judicatory to which all should be equally subject, and may equally appeal.

“These considerations could not be overlooked in the constitution of burghal communities; and we may assert, without danger of error, that in early periods the royalties of burghs not only comprehended the whole territory and population which, with any degree of correctness, could be styled urban, but, in many instances, considerable portions of land which belonged to the inhabitants either in their private or corporate capacities. It would have been, indeed, adverse to every principle of sound policy, to have divided those who possessed the same character of a town population, and had substantially the same common interests, into two distinct and separate classes; the one bearing burdens, and enjoying privileges and immunities, because accident had placed them on one side of an arbitrary line; and the other exempted from these burdens, but, at the same time, having no part in the relative privileges and immunities, because a similar chance had placed them upon the opposite side.

“But that which would have been unwise, and even preposterous, in the formation of burghs, has been often the result of the progressive increase of towns in this part of the island. Extensive suburbs have, in many instances, been built, and in some they are equal to, or even exceed in magnitude, the burghs to which they are contiguous. They are, in popular understanding, parts of the burgh, and are undistinguished, in their aspect and the character of their inhabitants, from the royalties. But they are quite distinct in relation to privileges, burdens, and jurisdiction.

“The evil effects of the disunion of the burghs and their suburbs are, in general, such as might be anticipated; and they have been increased, in many instances, by the irregular, and sometimes doubtful, boundaries between royalties and the contiguous districts. Edinburgh may be taken as an example. Within the royalty, and, in some instances, almost in its centre, there are numerous streets, and parts of streets, squares, and even houses, which, though surrounded on all sides by the royalty, are under a different jurisdiction. In several instances, the boundaries are so ambiguous as scarcely to admit of accurate ascertainment.

“To lessen or remove the inconveniences now stated, it has not unfrequently happened, especially in the larger and more important burghs, that, as the town population expanded, a corresponding extension of the royalty was made by local statutes. Thus, in Glasgow, the royalty was extended, in 1800, over a part of the Barony parish, and, in 1830, the criminal and civil jurisdiction of the burgh was extended over the lands of Blythswood and others. In Edinburgh, the royalty received successive enlargements, by statutes passed in 1767, 1785, and 1809.

“In regard to Police more particularly, whenever it has been found necessary to apply to the Legislature for additional powers, it has seldom, if ever, been deemed expedient to confine the operation of local statutes to the mere limits of the ancient royalties. On the contrary, the natural boundaries that comprise the town population have, in most instances,



been regarded. And even where, from the proximity of jurisdictions more or less independent, separate systems of police have at one time been resorted to, the progress of opinion has generally been in favour of a junction; as, for example, in Edinburgh, where the Southern districts, the Canongate, the Calton, and the two Portsburghs, are now all united under one common police statute with the ancient and extended royalties of the city. It is true that, in Glasgow, there has not hitherto been a similar amalgamation of the police jurisdictions, and that, at this moment, opposite opinions are entertained on the subject; but the existence of so many separate and independent establishments of police, as at present exist in Glasgow and the contiguous districts, is attended with great practical inconvenience.

“Hitherto, however, the adoption of a general measure of extension was opposed by powerful obstacles. One of these was the monopoly of trading corporations, and another was the imperfect or faulty structure of burghal judicatories.

“But we have submitted to your Majesty, that the exclusive privilege of trading corporations ought to be abolished, and that the judicial functions of burgh magistrates should be limited to matters of police. We have, farther, arrived at the conclusion that, as the Councils now truly represent the inhabitants, there should not be any separate boards or commissions for the administration of police.

“If our suggestions are adopted, no material difficulty remains to be combated; and we are of opinion that, in such case, it is expedient that, under certain limitations, there should be an union of the burghs, and those districts adjacent to them, of which the inhabitants can with propriety be regarded as *town population*.

“Of course, in fixing upon any line as that which shall be considered the limit of a town and its population, the choice must always, more or less, partake of an arbitrary character. But, as we consider it of importance that the principle of classification should be clear and simple, it appears to us that no better lines of demarcation can be suggested than those which have already been adopted, and are now familiar to the public as the parliamentary boundaries which separate the constituency of the burghs from that of the counties.

“In general, these boundaries comprehend the whole territory of every burgh, with such parts of the contiguous district as it was expedient to unite to the burgh. But in some instances the burghal territory stretches beyond the parliamentary boundaries; and for these cases we mean to suggest a special provision.

“The individuals who compose the population within these limits are already united by one of the most powerful ties that can bind a community together. They have the same representative in Parliament, chosen by their common suffrages, bound to support and defend their common interests, and responsible to all of them alike for the discharge of his public duties.

“If the inhabitants, though united in parliamentary representation, in other respects remain separated, subject to different jurisdictions, entitled to different privileges, and with local interests not unfrequently conflicting, their demands upon their representative would often be incompatible, and a struggle for supremacy between two classes of the constituency would be the unavoidable consequence.

“In the greatest number of burghs, the expediency of extending them to the parliamentary boundaries is admitted. The conflict of jurisdictions, the indistinctness and uncertainty, in many instances, of the boundary which separates one district from another, the collision of co-ordinate authorities, the injurious operation of local burdens and privileges, and the responsibility of those who have subordinate districts in charge, to the parties more immediately interested in the welfare of these districts, are

admitted on all hands to be evils which call for redress. Difficulties, however, have arisen in relation to some burghs, in consequence of the debts and taxes under which they labour. But we are inclined to think that the advantages of a consolidated system may be secured without in any material degree exposing it to those objections which have been urged against a change, otherwise in the highest degree expedient.

"We have the less hesitation on this subject, because the principle of extension has already been acted upon by the Legislature. By the recent Act, granting constitutions to certain towns and burghs, which, though not royal burghs, had by a previous Act been allowed to send members to Parliament, it is enacted that the Magistrates and Councils of these burghs 'should have such and the like rights, powers, authorities, and jurisdictions, as is or are possessed by the Magistrates and Council of any royal burgh in Scotland, and *such rights, powers, authorities, and jurisdiction shall extend equally over all and every part of the limits of such burghs and towns,*' as extended and defined for the purpose of parliamentary election.

"We therefore propose :—

"1. That in every royal burgh the Magistrates and Councillors shall possess the same rights and powers over the whole territory and inhabitants within the parliamentary boundaries, which they now or may hereafter possess within the limits of the present royalty.

"2. That the whole of the extended territory shall be subject to the same jurisdiction, criminal and civil; and all subordinate or separate magistracies and police establishments, within the said limits, shall cease and determine.

"3. That when a part of any royalty is beyond the parliamentary boundaries, it shall not be subject to the burghal jurisdiction, but be left to the jurisdiction of the Sheriff, the tenure of real property in such part of the royalty remaining unaltered.

"4. That the qualification of the electors of Town Councils shall be uniform throughout the whole united districts.

"5. That the inhabitants within the annexed districts shall not be liable to taxation for the purpose of discharging any debts, either principal or interest, contracted by the burgh prior to the period of the annexation.

"6. That the clear annual revenue of every burgh, and of the districts united to it, shall be applied to defray the expense of the common municipal establishment; and, if there be a deficiency after such application, it shall be supplied by an assessment on the whole inhabitants.

\* \* \* \* \*

"As it is not a necessary consequence of the junction now proposed that the existing parochial or ecclesiastical establishments be altered or affected, however expedient, in some instances, new arrangements may be deemed, we have refrained from including these in the plan of municipal union which we have found ourselves called upon to recommend."

The following quotations from the Local Report on Edinburgh (page 306) states the views of the Commissioners as to the practicability of merging the Police Board in the Town Council :—

"We have made some inquiry as to the practicability of merging the Police Board in the Town Council. In Edinburgh, as in all other burghs, the Town Council were the original managers of the police, as well as of the other common affairs of the town; and it was only when statutory assessments became necessary for purposes of police that the inhabitants refused to place such powers in the hands of a body in whose appointment

they had no voice. The Town Councillors are now, however, chosen by the same class of persons who elect the Commissioners of Police; and that objection being removed, it remained to inquire whether the duties of both offices were incompatible, or too laborious to admit of being discharged by the same individuals.

“The result of the evidence taken on this subject was, that a diligent commissioner of police may be employed in the duties of the office three or four hours a-week, and there is reason to expect that the duty may in future become less laborious. Witnesses well qualified to judge of the matter were of opinion that the duties of both offices were compatible, and would not be too oppressive upon the persons on whom they should be imposed.

“It is difficult to find a sufficient number of fit persons willing to undertake the offices of Town Councillors and Police Commissioners, and it will therefore be a relief to the community to conjoin these. We are further of opinion that the Police Commission, as at present constituted, is considerably too numerous for efficiently discharging its duties.

“On the whole, after the maturest consideration, we have to recommend that the duties at present imposed upon the Commissioners of Police of Edinburgh should in future be discharged by the Town Council, provided the municipal boundaries shall be extended, so that the Councillors shall be elected by the whole body of persons who now vote in the election of Police Commissioners.”

The Report appears to have been written previously to the passing of the Road Acts of 1835, to which it does not even allude as measures in progress. Referring to the road-money, and the then constitution of the Middle District Trust, the commissioners state:—“As the Magistrates are neither ostensibly nor virtually the preponderating part of this board, the management of the tax may not seem to fall within the compass of the inquiry prescribed by the commission. But it is important, as it may bear essentially upon other subjects of inquiry, to ascertain every local burden which affects the city and its inhabitants.” The opinion of the commissioners as to the propriety of merging the Paving as well as the Police Board in the Town Council, can therefore only be inferred from the general principles enunciated in their Report.

On the subject of a junction of districts the local Report (page 333) contains the following statement:—

#### “JUNCTION OF DISTRICTS.

“The boundaries of the ancient royalty of Edinburgh were extremely irregular, and the enlargement of it by successive statutes, instead of curing, increased the irregularity. Within the extended royalty, and in some instances almost in its centre, there are numerous streets, squares, and gardens, such as St James’ Square and some adjoining streets, the Regent and Royal Terraces, Queen Street gardens, &c., which form portions of the parishes of St Cuthbert’s and South Leith, and to which the jurisdiction of the burgh does not reach. On all sides the royalty is surrounded by extensive suburbs or districts, which are popularly regarded as parts of Edin-

burgh, and undistinguished in aspect from the city, strictly so called, several of which, as has been noticed, are under peculiar and dependent jurisdictions, while the rest are under the jurisdiction of the magistrates of the county alone.

“Those considerations of obvious expediency, which led to the successive extensions of the royalty, have in other respects tended to produce, and to a certain extent have produced, an union or community of rights and burdens, between the city and several or all of the districts above enumerated. Thus the cess and impost of Edinburgh are borne not only by the royalty, but by the districts of Canongate, Calton, and Portsburgh; and the cess even reaches over other parts of the surrounding territory. The burden and benefit of the police establishment of Edinburgh are common to the inhabitants of a great portion of the contiguous districts. What is termed the improvement tax is not confined to the royalty alone. And lately the common right of electing representatives to Parliament has been conferred on the inhabitants legally qualified not only of the city, but of the subordinate burghs and suburbs, and a portion of the adjacent territory, which the probable increase of population may cover with buildings. The boundaries of this, which may be termed the Parliamentary burgh of Edinburgh, are clear and well defined by the late statute of 2 & 3 Will. IV., c. 65.

“After such advances have been made towards an intercommunication of burdens, rights, and interests, it seems very desirable to render the union more complete by combining the whole inhabitants within the Parliamentary limits into one political community or corporation, and for that purpose to place them under the same magistracy, and abolish all the peculiar or local jurisdictions. From such an union it may be reasonably expected that a more simple and efficient scheme of burgh magistracy will be obtained,—that the concentration of the various local establishments will diminish expense and give additional vigour to the system,—that the judicial and police establishments will be improved,—and that the hazard of uncertainty and disputes concerning the limits of jurisdictions will be obviated.

“The chief impediments which stand in the way of a measure of such general utility appear to arise either from the existence of the heavy debts now pressing on the property and ordinary revenues of the city, or from the inequality of the existing burdens in the districts proposed to be united.

“With respect to the former, we apprehend that wherever these liabilities may be ultimately found to rest, or to whatever extent they may now exist, there would be neither justice nor necessity in disturbing or embarrassing the arrangements for a general union by any transfer or diffusion of them over the extended districts.

“With regard to the inequality of existing burdens, we have ventured to recommend that the annuity, which forms the chief obstacle, should cease to be levied as a peculiar tax for the clergy. If the Church Establishment of the city be extended to embrace the whole town, the burdens connected with it will of course be equalised and lightened. If that measure be found impracticable, we have recommended, after the maturest deliberation, and with a strong feeling for the welfare of the Establishment, that the number of the city clergy should be reduced by uncollegiating the double charges. The proportion of tax necessary for their support will be somewhat further diminished by the abolition of the privileges of the exempted bodies.

“Some measure for alleviating the grievous pressure upon the ancient and extended royalty is obviously necessary, not merely to allay a popular discontent, but because there is reason to apprehend a progressive depreciation of the rental of the royalties, from a gradual but sensible tendency on the part of the inhabitants to remove to the suburban untaxed districts; and it may thus become, at no very distant period, impossible to support the clergy, even at the present rate of taxation.

“If, however, the difficulties which beset this subject, and which are undoubtedly much increased by the conflicting views of the persons who take a lead on either side, shall be found to be insuperable, and to prevent the full and complete amalgamation of the interests of the whole community of Edinburgh, it only remains for us to recommend that the junction of the districts included within the Parliamentary limits of the burgh should nevertheless take place as to municipal government and jurisdiction, and as to the burdens which it may be necessary in future to impose for purely municipal expenses, leaving them in their present state as to existing taxes, burdens, and immunities.”

The impost payable by vintners and publicans, referred to in the preceding quotation, it has been already explained, was, along with others of the city's customs obnoxious to the public, abolished by a local Act passed in 1840, under which the remaining customs were regulated and reduced in amount, and a new system was introduced, not limited to the royalty, but applicable to the police bounds, excepting that portion thereof within the burgh of Leith; and the one per cent. impost assessment leviable from the inhabitants of the royalty (the members of the College of Justice excepted), and which has for some years been suspended, is proposed to be abolished. The customs are therefore the only municipal tax to be exigible under the extended system; and these being leviable at the outskirts of the city, fall upon all the inhabitants alike. In so far, therefore, as municipal burdens are concerned, there is already no distinction between the city and the suburban districts. The cess or land tax payable to Government is leviable in the Canongate and Southern districts as well as within the royalty. It is not proposed to disturb the existing parochial arrangements, and therefore the poor-rates will continue to be leviable by the different parochial authorities as at present; though even in regard to these, it is worthy of observation that, partly because of the abolition, under the Poor Law Act of 1845, of the exemption from poor-rates in the city formerly enjoyed by members of the College of Justice, but chiefly because of the greater value of the property within the royalty, the poor-rates payable in the city parish are not greater than in some of the suburban parishes, and actually lower than in others. The annuity tax forms the real difference between the city and the suburbs in the matter of taxation, and with it the contemplated measure does not propose to intermeddle. As for the city debt, that, as already explained, has been amply provided for from the property and revenues of the city under the Agreement Act of 1838.

The following table exhibits the rates of the local taxes on house property actually levied in the different districts within the Parliamentary burgh of Edinburgh for the year 1854-55:—

	ROYALTY.	ST CUTHBERT'S.	CANONGATE.	SOUTH LEITH.
	s. d.	s. d.	s. d.	s. d.
<b>I. FROM THE TENANTS.</b>				
1. Police Assessment, per pound, . . .	1 7	1 7	1 7	1 7
2. Prison Tax, ditto, . . .	0 1	0 1	0 1	0 1
3. Paving Board, ditto, . . .	0 4	0 4	0 4	0 4
4. Water Duty, ditto, . . .	0 10	0 10	0 10	0 10
5. Locality-money, in lieu of quartering } soldiers, per pound, . . . }	...	0 1	0 1	0 1
	2 10	2 11	2 11	2 11
<b>PAROCHIAL BURDENS.</b>				
6. Poor Rate, per pound, . . .	0 8	0 11½	0 10½	1 2
7. Annuity Tax, or Ministers' Stipend, } 6 per cent., equal to, per pound, . }	1 2½	...	1 2½	...
Together, . . .	4 8½	3 10½	4 11½	4 1
<b>II. FROM THE LANDLORDS.</b>				
8. Prison Tax, per pound, . . .	0 1	0 1	0 1	0 1
9. Poor Rate, ditto, . . .	0 8	0 9	0 10½	1 2
10. Land Tax, ditto, . . .	0 1½	0 2	0 2	...
11. Assessment for Manse Rent, per ditto, ... }	...	...	0 1	...
Together, . . .	0 10½	1 0	1 2½	1 3
<b>TOTAL—Landlords and Tenants,</b>	<b>5 7</b>	<b>4 10½</b>	<b>6 2½</b>	<b>5 4</b>

## NOTES.

3. The assessment for the Paving Board is not leviable on shops and warehouses.
4. The above is the rate of water-duty payable on dwelling houses to which water is conveyed by pipes.
5. The royalty is exempted from the quartering of soldiers.
6. In St Cuthbert's the poor rate is nominally 9d. per pound, but being charged against the tenants on the full rent, the rate is equivalent to 11½d. per pound, as compared with other local taxes, which are generally charged on four-fifths of the rent.
7. The members of the College of Justice are exempted from payment of the annuity tax.
10. In St Cuthbert's parish the land-tax, so far as payable on house property, is limited to the Southern districts.
11. The assessment for manse rent is peculiar to the Canongate.

## VII. THE REJECTION OF THE MUNICIPAL EXTENSION BILL OF 1848.

It has been explained that no vigorous steps were adopted on behalf of Government to carry through an extended measure of Burgh Reform, based on the reports of the commissioners, and

that, in the case of Edinburgh, there were special reasons why such a measure should have been delayed for some years. Similar reasons did not exist in regard to some other burghs, and the Government of the day was not unwilling that they should, by special local Acts, procure for themselves the advantages, which, from whatever cause, had not been extended to all the burghs. Accordingly, in 1846, and with the concurrence, it is believed, of the then Lord Advocate (M'Neill), an Act was passed "to extend the Municipal Boundaries of the City of Glasgow; to amend the Acts relating to the Police and Statute Labour of the said City and adjoining Districts; and for other purposes relating to the Municipality and Police of the said City." Under this Act, a measure of the same nature as that above proposed for Edinburgh was brought into operation within the city of Glasgow. In the following year a similar Act was passed for Inverness. The Town Council of Edinburgh, feeling the disadvantages of the existing municipal arrangements, and not unnaturally conceiving that what had been granted to Glasgow and Inverness might also be granted to Edinburgh, held an interview, in October 1847, with the then Lord-Advocate (Rutherford), and were encouraged by him to make the requisite application with that view. The Commissioners of Police concurred in what was proposed; and the approval of the whole constituency within the Parliamentary boundary, through their representatives in the Town Council and Police Commission, having thus been obtained, it was resolved to apply to Parliament for leave to bring in the requisite Bill in the following session. Experience had shewn that the police Acts were exceedingly defective, and the Commissioners were desirous that they should be amended and consolidated. Attention had recently been called to the important subject of the health of towns, and the then Lord Provost (Black) was alive to the fact that there was much need in Edinburgh of a measure of sanitary improvement. The Town Council, in addition to a Bill for the extension of the municipality and transference of police and paving, therefore resolved to promote a measure of police consolidation and sanitary improvement. The latter was an extensive and important measure, and materially affected the interests of various classes in the community. The owners of the irrigated lands to the east of the city, the mill-owners on the Water of Leith, the spirit trade, the owners of private slaughter-houses, the pawnbrokers, the brokers or dealers in second-hand goods, the proprietors of the class of houses to which sanitary

measures were proposed to be applied, and others, all either actively opposed the Police and Sanitary Bill or looked coldly on. The more active opponents to the Municipal Extension Bill were the Turnpike Road Trustees of the county and the Commissioners of the Southern Districts, the latter acting in concert with various proprietors of land in these and other suburban districts. The Faculty of Advocates and Society of Writers to the Signet likewise opposed, on grounds which shall be afterwards adverted to; and the Magistrates of Canongate stated various objections, specially applicable to that district. The Commissioners of Police, deeming it possible that the two Bills to be introduced by the Town Council, and which were necessarily dependent on each other, might not be successful, resolved to introduce a Police Bill of their own; not as a competing measure with that of the Town Council, but to be substituted in the event of its failure. According to the usage of that period, the three Bills formed the subject of a preliminary inquiry, conducted, in this instance, by Robert Macfarlane, Esquire, advocate, the surveying officer, as he was termed, appointed by the Commissioners of Woods and Forests under the Act of Parliament (since repealed), which directed such inquiries to be instituted. All parties were fully heard before that gentleman, whose reports were afterwards presented to the House of Commons. In that on the Municipal Extension Bill, Mr Macfarlane stated:—

“ I. Extension of the municipal boundaries.

\* \* \* \* \*

“ It appears to me that the promoters have satisfactorily established the expediency of the proposed extension:—

“ 1. The districts to be comprehended by the extension, and at present extraburghal, are, in regard to local situation, as much a part of Edinburgh as the royalty itself. The map produced in evidence proves this to demonstration.

\* \* \* \* \*

“ 2. The population of the extraburghal districts is much larger than that of the city proper, or royalty; the interests of all, however, are the same. The churches, schools, markets, and other public establishments in the royalty, are equally open to, and, it would appear, are indiscriminately resorted to, by all the inhabitants, without distinction in regard to the particular districts or localities in which they happen to reside. It would seem naturally and justly to follow, that all parties forming in reality the same community, and participating in the same common advantages, should be united under the same burghal rule, and contribute equally towards its support. All who participate in the benefits should share in the burdens, and bear a part of the duties and responsibilities.

“ 3. Nor does it appear to me that any well-founded objection has been shewn to the proposed extension, on the ground that those districts at present extraburghal will, under the Bill, if passed, be exposed to any



unfair taxation, from which they are now exempt. It has been shewn that the free unencumbered revenue of the burgh of Edinburgh at present exceeds £4000 a-year. To a participation in this revenue, the extraburghal districts are, under the proposed extension, to be admitted equally with the inhabitants of the royalty.\*

\* \* \* \* \*

“While these appear to me the leading considerations bearing on the extension of boundaries, as proposed by this Bill, it is proper to notice that the district known as the burgh of Canongate stands in a somewhat peculiar position. \* \* \* I have found it difficult to form, on the information submitted to me, any very decided opinion on this point; but I am disposed to think that the objection on the part of the Canongate has not been sufficiently substantiated, and ought not to be entertained, to the effect of excluding that district from the operation of the Bill. No practicable mode of adjustment of the difference between the parties on this subject, other than that proposed by the Bill, has been suggested.

\* \* \* \* \*

“II. Extension of the municipal franchise, powers and jurisdiction of the Magistrates and Town Council over the enlarged boundaries, and abolition of subordinate magistracies.

“This, as a general principle, is almost a necessary consequence of the extension of the boundaries. If districts, extraburghal at present, are to be brought into, and made part of the burgh, with equal rights and privileges, it would seem to follow that they ought to be subjected to the power and jurisdiction of the Magistrates and Council of the burgh. \* \* \* \* \* It is proposed to abolish all the subordinate jurisdictions and bodies of management, as they now exist in the burghal districts; and, in order that one jurisdiction and united administration may be efficiently exercised, it is also proposed to increase, to a moderate extent, the number of Magistrates and Council for Edinburgh. So far the principles of the Bill appear to me to be satisfactorily supported.

“But there are considerations arising out of the special provisions in the Bill, as to the extension of the jurisdiction of the Magistrates, both in civil and criminal matters, which, in my apprehension, are objectionable as they presently stand. And on this subject I cannot do better than refer to the printed statement or report, which was prepared by a committee of the Faculty of Advocates, approved of by that learned body, and submitted by them to me, as explanatory of their grounds of objection to the Bill. The same views were adopted and urged before me, on behalf of the Society of Writers to the Signet.

“By the Bill, the members of the College of Justice, including Advocates and Writers to the Signet, will be deprived of certain privileges of exemption from local taxation which they have hitherto possessed; but these bodies do not found their opposition on that ground, farther than to the effect of securing an alteration of the provisions of the Bill in the particulars noticed in the printed report or statement already referred to. It appears to me, that the objections stated on the part of the Faculty of Advocates and Writers to the Signet, in regard to the matter of jurisdiction and the extent to which the exercise of it should be carried, are well founded. In particular, I think it would be detrimental to the due administration of justice to increase the powers of unpaid Magistrates. No evidence, entitled to any weight, was adduced before me, to the effect that any enlargement of the jurisdiction of the Magistrates, as heretofore exercised, is desired by any portion of the community, or would be in any view expedient.

\* It is unnecessary to quote further from this part of the Report, as, from what has been stated above, it will have been seen that it is not proposed, as in the Bill of 1848, to ask power to levy a tax for municipal purposes.

"It appears to me, therefore, that the Bill ought to be modified and altered, so as to allow the Magistrates the same judicial power, and no more, over the proposed extended boundaries, as they now exercise within the present limits of the burgh.

"I have only, in addition, on this subject, humbly to suggest that the Bill, in so far as it relates to the administration of justice, both in civil and criminal matters, should be considered by the law-officers of the Crown, with a view to their taking care that no provisions of an objectionable nature, in relation to a matter of such general importance, should be allowed to pass into a law.

"III. Extension of the police boundaries.

"The object here is to make the police boundaries co-extensive with the enlarged municipal boundaries, and this object has not been opposed as objectionable in itself. Assuming that the municipal boundaries are to be extended as proposed by the Bill, it is evidently right and proper that the police boundaries should be made co-extensive with them.

"IV. Disjunction of a portion of the existing police boundaries of Edinburgh, and annexation of it to Leith.

"This object of the Bill was strenuously opposed by Mr Mann, on behalf of the Commissioners of Leith; but it appears to me that the promoters have instructed sufficient reasons in support of it. No doubt, an additional police burden will be thrown upon Leith; but, regard being had to locality and other circumstances, as brought out in evidence, it is manifest that the particular portion of territory in question ought to be disjoined from Edinburgh, and made to form part of the Leith bounds of police.

"V. Transference of the police powers to the Magistrates and Town Council.

"At present the administration of the police affairs in Edinburgh is vested in statutory Commissioners, who act independently of the Magistrates and Town Council. It is proposed to transfer the administration from the former to the latter. The present Commissioners approve of the measure, and no serious objection has been urged to it from any quarter. The proposed increase of the number of Magistrates and Councillors will enable the corporation to manage the police as well as other municipal matters, and there is a plain expediency in establishing a united management.

"VI. Transference of the powers of the Middle District Trustees or Paving Board to the Magistrates and Council.

"The streets and roads within the Parliamentary limits of Edinburgh are at present managed by what is called the Middle District Trustees or Paving Board, constituted by the Act 9 and 10 Vict. c. 365, passed so recently as 1846. Under that Act various pecuniary interests of an onerous description have arisen, and I am not satisfied that these have been sufficiently met or provided for in the present Bill. In particular, the objections which have been urged by Mr Logan White, of Kellerstain, on behalf of the Commissioners of Supply of the county of Edinburgh, and of several of the road trustees within the county, have not, in my opinion, been obviated.

"As all parties appeared to be desirous of avoiding, if possible, any expense, or protracted discussion in regard to this object of the Bill, and as it is probable that they may come to an arrangement, rather than engage in any Parliamentary contest, I deem it unnecessary to enter into farther details on the subject.

"Having now adverted to the leading features of this Bill, and more especially to such of them as have been made matter of controversy before me, I have, in conclusion, to report that, with the qualifications and exceptions which have been alluded to, my opinion is generally in favour of the measure."

It is not necessary, for the purpose of this statement, to enter into any details of the Report made by Mr Macfarlane, in reference to the Police Bills.

In ordinary course, the three Bills were brought before a committee of the House of Commons. Petitions against the Municipal Extension Bill had been presented by six several parties, or classes of parties :—

1. By the Faculty of Advocates and the Society of Writers to the Signet.

2. By the Heritors of the Parish of St Cuthbert's, the late Sir Thomas Dick Lauder, Baronet, and the Commissioners of the Eight Southern Districts.

3. By the Magistrates of the Burgh of Canongate.

4. By the Trustees for the Turnpike Roads in the county, and the Trustees of the Cramond District of Roads.

5. By the Commissioners of Police of Leith.

6. By the Edinburgh and Glasgow Railway Company; the North British Railway Company; the Edinburgh, Leith, and Granton Railway Company; and the Edinburgh and Northern Railway Company.

These petitions shall be adverted to as shortly as possible.

1. Those of the Advocates and Writers to the Signet.—On the face of the petitions, these law bodies objected to the imposition of the proposed municipal tax in substitution for the former one per cent. impost tax, as interfering with their privilege of exemption from local taxation. This question of privilege, however, was put forward merely in order to secure certain alterations on the jurisdiction clauses, detailed in a report by a committee of the Faculty, in which the Writers to the Signet were understood to concur. As these clauses were considered by the Lord-Advocate, and effect given to his Lordship's views, before the Bill went into committee, the objections of the two law bodies need not be further referred to. The following paragraphs are quoted from the Faculty Report, as containing their views on the measure, apart from the jurisdiction clauses, which were adjusted, as already mentioned :—

“Your committee assent to, and think the Faculty ought to approve of, the general principle upon which these measures are framed ; as they cannot doubt that the consolidation of all the districts of the city into one community, subject to the same regulations in all matters of police and of municipal government, must tend to uniformity and efficiency in the administration of the affairs of the city.

\* \* \* \* \*

“The Bill proposes to deprive the Faculty of the right with which it is now vested, of sending a representative to the Police and Paving Boards respectively; and as your committee have no doubt that it is necessary, for the proper execution of the plan contemplated by the Bill, that the powers of the Faculty, and of other bodies who possess similar rights in these respects,\* should cease, they would recommend that the proposal to vest the powers of the Police and Paving Boards solely in the Town Council should be acquiesced in.”

2. The Heritors of St Cuthbert's, the late Sir Thomas Dick Lauder, and the Commissioners of the Southern Districts.—The petitions from these parties presented the same leading objections, with the addition of one special to Sir Thomas, founded on the want of a road through the Meadows, to connect his property with the city. The St Cuthbert's petition complained that the property of the petitioners would be taken out of the county and placed within the city, by which the petitioners would be deprived of the advantages they enjoyed as belonging to the county. What these were, or how they were to be affected, was not stated. They considered the jurisdiction of the Magistrates inferior to, and less popular than, the county jurisdiction, and objected to their property being brought under the jurisdiction of the Dean of Guild. Much of their property consisted of agricultural farms and garden ground, and so was not calculated to be treated as burgh property. The extension would tend to depreciate the value of their property. The royalty never had been, and ought not to be, extended against the wishes of the proprietors of the lands to be included. The petitioners objected to the proposed municipal tax on various grounds; among others, that while their property would thus be subjected to a city tax, its liability for county burdens was continued; and there was reason to fear that the Bill would lead to the amalgamation of the parish with that of the city in the management of the poor—a measure which would inevitably lead to higher assessments, as well as other injurious consequences to the parish. There was reason to apprehend that the proposed changes in regard to the proceedings in criminal matters would cause greater expense to the petitioners. The transfer of the powers of the Paving Board, it was stated, would, in all probability, be productive of bad roads and increased assessments; the petitioners apparently forgetting that the Paving Board had ceased to be a county trust and become a civic body, a majority of the members being persons elected by the Town

\* The powers of the different bodies referred to, including the Faculty, were taken away, in so far as the Police Board is concerned, by the Police Act of 1848.

Council, and other authorities in the city. Substantially the same objections were stated in the petition from the Commissioners of the Southern Districts. The inhabitants viewed with dislike and dissatisfaction the incorporation of the Southern districts with the royalty. The independence of the districts had been recognised and was guaranteed by Acts of Parliament, referring, doubtless, to the clauses in the South Bridge Acts of 1785 and 1786, already quoted. The royalty was burdened with debts and obligations, and no guarantee was, or could be, given that these would not be extended over the extraburghal districts, forgetting that the debts and obligations had all been provided for from the city's property by the Act of 1838, without any burden whatever, in respect of them, having been thrown even on the inhabitants of the royalty. The petitioners stated that no legitimate object could be attained by the incorporation of the bodies, and that they were quite satisfied with the jurisdiction of the Sheriff, and objected to the jurisdiction of the Dean of Guild and other courts being extended to the Southern districts. The corporation proposed to be brought into existence would be an unwieldy and unmanageable body, utterly incapable of performing the multifarious duties that would devolve upon it, and the Southern districts would be subjected to additional taxation, for which there was no cause, and in return for which they would receive no benefit. The present, too, was not a final measure, but only the first of a series of encroachments on the liberties of the Southern districts. Finally, these Commissioners stated, that, under the new system, there would be "no efficient control over the Town Council of Edinburgh on the part of the public." They surely forgot that the Town Council is elected by the ten-pound constituency, one-third of their number going out of office annually. Perhaps they imagined that the elections might come to be conducted in the quiet way in which the Commissioners themselves are chosen, as stated by one of their number, when adduced as a witness in the preliminary inquiry before Mr Macfarlane:—"So few turn out on those occasions, that there are seldom more than are required to make the election. Five voters, or electors, are required in the district I belong to, and seldom more than five turn out." This gentleman had been a Commissioner for ten or eleven years.

3. Clauses were adjusted to the satisfaction of the Magistrates of the Canongate, and their petition was withdrawn.

4. The County Road Trustees, in their petition, stated that

the proposed transfer of the powers of the Paving Board to the Town Council would exclude them from any share in the management of the roads in the Middle district; while in the Bill not only was there no provision taking away the right of the Magistrates and other official bodies to act as trustees under the County Road Act, but an addition was made to the number of *ex officio* trustees on the county roads, by adding the two additional bailies to be created under the Bill. The petitioners would not so much object to the county trustees being excluded from the management of the roads in the Middle district, provided the Magistrates and official bodies in Edinburgh were likewise excluded from the general county roads trust. It was also proposed to take powers to remove all the toll-bars on the roads lying within the extended boundary, and belonging to the general county road trust. To this proposal the petitioners decidedly objected; but as this point has been amicably arranged between the county and the city by the Act of 1854, it seems unnecessary to state the objections to it made in 1848. Finally, the petitioners maintained "as a just and equitable principle that all the streets and roads within the whole bounds of the municipality should henceforth be maintained and upheld by the Magistrates and Council of the city." The great question of the removal of the toll-bars having been adjusted, it is presumed that the County Road Trustees will not now insist on this principle, but on this point will abide by the agreements of parties ratified by Parliament in the Acts of 1835 and 1854, as already fully explained. The petition from the trustees of the Cramond district of roads referred exclusively to the question of the toll-bars in its special bearing on their district, which was then heavily burdened with debt. In the hope of obviating the objections of the County Road Trustees, it was intimated that the clause as to the removal of the toll-bars would be struck out of the Bill.

5. The petition from the Commissioners of Police of Leith objected to the disjunction from the Edinburgh Police of the portion of the Edinburgh Police bounds lying within the burgh of Leith, and to its annexation to the Leith Police, purely on the ground of expense. Considering the struggle which the inhabitants of Leith so long maintained to be independent of Edinburgh, it surely manifested a great want of spirit on the part of the Commissioners to seek to maintain such a boundary, which was fixed when Leith was the vassal of Edinburgh. Whether the Town

Council of Leith, who have since come in place of the Commissioners, will raise the objection now, remains to be ascertained. Perhaps, too, the question of expense may not stand now as it did in 1848. At the same time, as the Edinburgh Paving Board must continue to maintain the whole of Leith Walk, there seems an obvious propriety in the Edinburgh Police taking charge of the watching, lighting, and cleaning of the road throughout its whole length. On the other hand, there is an incongruity in bringing persons charged with offences committed within a portion of the burgh of Leith to the bar of the Edinburgh Police Court. Very plainly, this matter easily admits of mutual adjustment.

6. The Town Council, in defence of the public interests, had successfully opposed certain Bills promoted by the Railway Companies, and it is presumed that their petitions against the Municipal Extension Bill were framed on the principle of carrying the war into the enemy's camp. It was a new vocation certainly, and which they will scarcely pursue at this day, for these companies to undertake the office of protectors of the public interests. As for the criminal jurisdiction of the Magistrates, that was a point with which, surely, the Railway Companies were no way concerned. Their objection to the Dean of Guild's jurisdiction came not unnaturally from the Edinburgh and Glasgow Company, who had been recently defeated in the Court of Session in an attempt to resist the authority of the Dean when compelled to interfere with the works at the Railway station, on grounds affecting the safety of the public.

The opposition before the committee was maintained by the County Road Trustees, the Heritors of St Cuthbert's, and the Commissioners of the Southern Districts, the last two acting conjointly. A large and comprehensive measure, such as that contained in the Municipal and Police Bills, could not fail to affect a variety of interests, and to raise up a host of opponents. Prejudices had been excited on the question of jurisdiction, and a clamour raised in the suburban districts about increased taxation; and there was an absence of the cordial sympathy and support which the Magistracy had expected from the Government authorities. It was not wonderful, therefore, that the committee felt that more time was required for deliberation, and in order to adjust the conflicting rights of parties, and that on this ground they found the preamble of the Municipal Bill not proven, and rejected the measure. As a necessary consequence, the Police and

Sanitary Improvement Bill of the Town Council was withdrawn, and that of the Police Commissioners proceeded with, and carried through.

It is worthy of observation, that the same committee which rejected the Edinburgh Municipal Extension Bill, before its rising passed a Bill for Leith, promoted by the Town Council, and cordially supported by the Burgh Member (Lord-Advocate Rutherford), the leading object of the Bill being to abolish the then Commissioners of Police, and to transfer their powers to the Town Council. This Bill contained many of the provisions in Mr Black's sanitary measure, from which they were copied almost literally. Fortunately, the Leith Town Council did not require to ask for municipal extension, as their powers had all along extended over the entire Parliamentary burgh. As already mentioned, at a later date the powers of the Edinburgh Paving Board, in regard to Leith, were transferred substantially to the Town Council; so that the burgh of Leith at this moment enjoys all that is proposed to be now asked for its neighbour in Edinburgh.

During the seven years that have elapsed since 1848, various of the more prominent difficulties which led to the loss of the Bill of that year have been removed. Private slaughter-houses have been put down under the Act of 1850, and therefore no discussion can now arise as to their regulation. The spirit trade has been dealt with much more stringently by the provisions of Mr Forbes Mackenzie's Act of 1853, than was proposed to be done in the Town Council's Bill of 1848; and hence there is no necessity for further legislation as to that numerous body. The cleansing of the Water of Leith has been provided for under the Act of 1854, in a manner consistent with the rights of the mill-owners. The same Act also contains some of the regulations of a sanitary description which caused considerable dissatisfaction to proprietors of the humbler classes of dwelling houses. There is at present no necessity whatever for a new Police Act, the statutes referred to containing every regulation that appears to be necessary. And finally, the difficult question of the removal of the toll-bars, and the kindred question of the adjustment of the line of demarcation between the County Turnpike Trusts and the Middle District Trust has been arranged by the Act of 1854. Circumstances, therefore, appear to be favourable for the prosecution of a measure of municipal extension which



shall incorporate the Police and Paving Boards with the Town Council, and confer on the Magistrates the same jurisdictions within the extended, which they exercise within the present boundaries. Various matters of detail would require to be adjusted; but these are really so unimportant in themselves, that they might easily be arranged in a friendly spirit by communings between the different bodies interested. Let any one consider the objections stated in the petitions against the Bill of 1848, keeping in view the provisions of the various subsequent statutes, public as well as local, adverted to in the foregoing statement, and he can scarcely fail to see, that about the points which may still require adjustment there is no room for serious difference of opinion. Some modification of the powers of the Dean of Guild in districts not hitherto built on may easily be arranged; and there can now be no objection to that court on the score of expense, the fees chargeable by its clerk and officers having for nearly five years been the same with those charged on similar proceedings in the Sheriff Court; while the system of *ad longum* extracts, formerly in use, and which was justly complained of, was abolished on the introduction of the new table of fees. Any objection to the jurisdiction of the Magistrates in civil causes being extended to the suburban districts can be one only in name, all such causes having gradually passed from the Burgh court to that of the Sheriff,—one of the many changes of the times, and which has been much helped by the enlarged powers and improved forms of the latter court under various recent statutes. In so far as the jurisdiction of the Magistrates in matters of crime is concerned, it will not surely be argued that the Lord Provost and Magistrates of the city are not fitted to judge in the cases which are brought before the Police Court, or that, if they are entrusted by the Legislature with the disposal of those arising within the present royalty, there would be any impropriety in permitting them also to deal with those arising in the suburban districts. Similar remarks apply to a variety of cases, not cognisable in the Police Court, but which are disposed of by the Magistrates in the Council Chamber, and as to some of which their jurisdiction already extends over the entire Police bounds. With regard to the investigation by the Magistrates of more serious cases of crime, with a view to trial before the High Court of Justiciary, whatever abstract theories on the subject may be entertained, it will scarcely be alleged that these inquiries have not been well conducted, or that the