CHAPTER 55.

An Act for regulating the Police and Sanitary Administration of towns and populous places, and for facilitating the union of Police and Municipal Administration in burghs in Scotland. [28th June 1892.]

WHEREAS it is expedient to amend the laws relating to the police and sanitary administration of towns and populous places, and to facilitate the union of police and municipal administration in burghs in Scotland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and extent.

1. This Act may be cited as the Burgh Police (Scotland) Act, 1892, and shall apply to Scotland only.

Commencement of Act.

2. This Act shall come into operation, except so far as otherwise herein-after provided, on the fifteenth day of May one thousand eight hundred and ninety-three, which date is herein-after called the commencement of this Act.

Division into parts.

3. This Act is divided into parts as follows:—

Part I.—General.
Part II.—Constitution of Police Burghs.
Part III.—Police Force.
Part IV.—Police Administration.
Part V.—Rating and Borrowing Powers.
Part VI.—Offences and Penalties.

PART I.

GENERAL.

DEFINITIONS.

Definitions.

4. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

(1.) "Board of Supervision" shall mean the Board of Supervision for the relief of the poor and of public health:

(2.) "Broker" shall include any person dealing in second-hand goods or articles, or in yarn or waste, or in other unwrought material, or in old metals, bones, or rags: Provided always, that wholesale dealers in rags, ropes, and waste, purchasing only from licensed brokers or licensed marine store dealers, or in quantities of not less than half a ton, shall not be included in this definition:

(3.) "Building" shall include any structure or erection of what kind and nature soever, and every part thereof:

(4.) "Burgh," when used alone, unless otherwise expressed or inconsistent with the context, shall include royal burgh, parliamentary burgh, burgh incorporated by Act of Parliament, burgh of regality, burgh of barony, and any populous place or police burgh administered in whole or in part under any general or local Police Act or any burgh created under this Act:

(5.) "Carriage" shall include any coach, omnibus, tramway car, cab, chariot, fly, hansom, car, cabriolet, gig, brougham, waggon, timber-carriage, dray, truck, cart, hand-cart, wheelbarrow, hand-barrow, lorry, bicycle, tricycle, velocipede, or other vehicle used for the conveyance of persons, animals, or goods, and whether plying for hire or not:

(6.) "Cattle" shall include any horse, mare, gelding, foal, colt, filly, bull, cow, heifer, ox, calf, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine:

(7.) "Chief magistrate" shall mean the lord provost, or provost, or in his absence the magistrate present next in seniority, according to priority of election as such, and also the magistrate temporarily acting as chief magistrate in any burgh:

(8.) "Clerk," "treasurer," and "collector" shall mean the clerk, treasurer, and collector respectively, appointed by the Commissioners under the provisions of this Act:

(9.) "The Commissioners" shall mean the Commissioners for the purposes of this Act, in their collective capacity, not being Commissioners appointed by the Secretary for Scotland for holding local inquiries under this Act:

(10.) "Court," where by the context it applies to a space contiguous to buildings, shall mean a court or recess or area forming a common access to lands and premises separately occupied, including any common passage or entrance thereto:

(11.) "Court of session" shall mean either division of the Inner House thereof:

(12.) "General Police Acts" shall mean the Acts specified in Schedule I. of this Act:

(13.) "House," where not otherwise expressed, shall mean dwelling-house, and shall include out-houses and other erections, being pertinents of the house:

(14.) "Householder" shall mean any occupier or inhabitant occupier of lands or premises whose occupancy would qualify him to vote for a member of Parliament for a burgh; and shall include any female occupier of lands or premises who would be entitled under the Municipal Elections Amendment (Scotland) Act, 1881, to vote at municipal elections:

(15.) "Infectious disease" shall mean and include cholera, small-pox, typhus, typhoid, scarlet, relapsing, continued, and

puerperal fever, measles, scarlatina, and diphtheria, and such other disease as the Commissioners, with the approval of the Board of Supervision, or Her Majesty by Order in Council, may from time to time order, for the purposes of this Act, to be deemed infectious:

(16.) "Lands and premises" shall include all lands, springs, rights of servitude, dwelling-houses, shops, warehouses, vaults, cellars, stables, breweries, manufactories, mills, and the fixed or attached machinery therein, yards, places, and other heritages specified or included in the Acts for the valuation of lands and heritages in Scotland in force for the time being:

(17.) "Local Police Act" shall mean any Act other than the General Police Acts providing for the watching, lighting, paving, draining, cleansing, or improving of a burgh, or incorporating any portion of the General Police Acts, but shall not include any Act dealing exclusively with harbours, markets, or slaughter-houses, water supply, gas supply, sewerage, tramways, or financial arrangements, or such part of any Act dealing mainly with these subjects as relates exclusively to them:

(18.) "Lord Ordinary" shall mean any Lord Ordinary in the Outer House of the Court of Session:

(19.) "Magistrate" shall mean a magistrate or judge having jurisdiction under this Act:

(20.) "Magistrates" shall include the lord provost or provost:

(21.) "Occupier" shall mean tenant or sub-tenant, or any person in the actual occupancy; and shall not include a lodger, or a person in the occupation as tenant of a furnished house let for a less period than one year; but shall include the person by whom such furnished house is so let:

(22.) "Owner" shall include joint owner, fiar, life-renter, feuar, or other person in the actual possession of or entitled to receive the rents of lands, and premises of every tenure or description, and the factor, agent, or commissioner of such persons, or any of them, or any other person, who shall intromit with or draw the rents:

(23.) "Parliamentary burgh" shall mean a burgh having the right of sending or contributing to send a member to Parliament:

(24.) "Police Act, 1857," shall mean the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-two:

(25.) "Police burgh" shall mean a populous place the boundaries whereof have been fixed under the General Police Acts or under any Local Police Act or under this Act:

(26.) "Populous place" shall mean any town, village, place, or locality, containing a population of seven hundred inhabitants or upwards, not being administered under any general or local Police Act; and for the purposes of this Act, two or more

contiguous towns, villages, places, or localities, not being burghs, may be held to be a populous place:

(27.) "Private court" shall mean a court maintained or liable to be maintained by persons other than the Commissioners:

(28.) "Private street" shall mean any street maintained or liable to be maintained by persons other than the Commissioners:

(29.) "Public Health Acts" shall mean the Public Health (Scotland) Act, 1867, and any Act amending the same:

(30.) "Sheriff" shall include sheriff-substitute, except as regards (1) the duty of fixing and extending boundaries, (2) the compulsory acquisition of land, (3) any proceeding under section fifteen of this Act:

(31.) "Street" shall include any road, highway, bridge, quay, lane, square, court, alley, close, wynd, vennel, thoroughfare, and public passage or other place within the burgh used either by carts or foot passengers, and not being or forming part of any harbour, railway, or canal station, depôt, wharf, towing-path, or bank.

APPLICATION OF THE ACT.

5.—(1.) This Act shall apply—

(*a.*) From its commencement to every existing burgh, with the exception of the burghs named in Schedule II. of this Act, and

(*b.*) To every burgh created under this Act from the date when its creation is recorded in the sheriff court books.

Places to which Act shall apply.

(2.) In the burghs to which this Act applies, this Act shall, except as herein-after provided, supersede and come in the place of the general or local Police Acts, and all local Police Acts applicable to such burghs are hereby repealed, except such portions of the Acts mentioned in the first column of Schedule III. of this Act as are specified in the third column thereof: Provided that where any of the provisions of a general Police Act are incorporated in the portions so excepted, such unrepealed portions shall be read as if in lieu of the reference to such provisions of a general Police Act there were substituted a reference to the corresponding provisions of this Act; and where in any Act it is provided that any rates, assessments, or charges may be levied, collected, or recovered under any general Police Act repealed by this Act, such provision shall be read as if this Act were therein inserted instead of such general Police Act.

6. The general Police Acts enumerated and set forth in Schedule I. of this Act, except to such extent as they are incorporated by reference in portions of local Police Acts not repealed by this Act, are hereby repealed.

Repeal of general Police Acts.

BOUNDARIES.

7. The boundaries of any burgh, which at the commencement of this Act is administered wholly or partly under any general or local Police Act, shall, for the purposes of this Act, be the boundaries to which such Police Act extends.

Boundaries under any Police Act to be boundaries for this Act.

Boundaries of other burghs to which this Act applies from its commencement and division into wards.

8. The boundaries of all other burghs to which this Act shall apply from its commencement shall, for the purposes of this Act, be fixed by the sheriff or sheriffs of the county or counties in which the burgh is situated, on the application of the magistrates and council, or of any seven or more householders, and after such notice, by advertisement in the Edinburgh Gazette and in any newspaper published in such burgh, and if no newspaper is published therein, then in a newspaper circulating therein, and otherwise as the sheriff or sheriffs may direct; and after such investigation (if any) as he or they may deem necessary, the sheriff or sheriffs shall define, in a written deliverance, the boundaries of such burgh; and where the population is five thousand or upwards, the sheriff or sheriffs shall also in his or their deliverance divide the burgh into wards, and fix the boundaries thereof; and such deliverance, unless appealed against as herein-after provided, shall be final, and when recorded in the sheriff court books of the county or counties, as the case may be, shall determine the boundaries of the burgh for the purposes of this Act.

Boundaries of populous places.

9.—(1.) The boundaries of any populous place shall, for the purposes of this Act, be fixed by the sheriff or sheriffs of the county or counties in which such populous place as defined in the application is situated, on the application of any seven or more householders in such populous place; and where the population of a populous place as herein-after ascertained is five thousand or upwards, such populous place may, if the sheriff or sheriffs think fit, be divided into wards, and the sheriff or sheriffs shall fix the limits of each ward. The sheriff or sheriffs shall direct notice of the application to be given by advertisement for two successive weeks in the Edinburgh Gazette, and in some newspaper published or circulating in the county or counties in which such populous place is situated, and shall appoint a day not less than two weeks after the last date of such advertisement for hearing all parties interested, and shall also appoint and direct a proper person to ascertain and report the amount of the population of such populous place, and shall thereafter hear all parties interested, and determine whether the area included in the application, or any part thereof, considering the number of dwelling-houses within it and the density of the population, and all the circumstances of the case, is in substance a town, and is suitable for being formed into a police burgh, and if the sheriff or sheriffs are satisfied on these points, he or they shall define, in a written deliverance on such application, the boundaries of such populous place, and, where necessary, the limits of such wards.

In defining the boundaries of a populous place, it shall be lawful for the sheriff or sheriffs to include the whole area which in their judgment properly belongs to and forms part of the same town, with a reasonable margin for extension, if they think proper, but so as not to encroach on the boundaries of any other burgh or of any other county, unless the sheriff of such county concurs in the deliverance.

(2.) In the case of any populous place, the population of which shall be ascertained in manner foresaid to be less than two thousand, the sheriff or sheriffs may find and declare that such populous place is a burgh.

(3.) In the case of any populous place, the population of which shall be ascertained in manner foresaid to exceed two thousand, the sheriff or sheriffs shall find and declare that such populous place is a burgh.

(4.) Provided that before a populous place is declared to be a burgh under this section, if it is contiguous or closely adjacent to any burgh, the town council or Commissioners of such burgh shall have an opportunity of stating objections, which shall be disposed of by the sheriff or sheriffs, who shall take the whole circumstances of the case into consideration.

(5.) The deliverance of the sheriff or sheriffs, unless appealed against in manner herein provided, shall be final, and shall be recorded, along with the application on which it proceeds, in the sheriff court books of the county or counties wherein the burgh is situated, as the case may be.

Power to rectify accidental errors in defining boundaries.

10. In the event of any accidental error having been committed by the sheriff or sheriffs in defining the boundaries of any burgh or populous place, or of any of the wards thereof, under the powers hereby conferred, it shall be lawful for the Commissioners of such burgh or of such populous place, so soon as it has been declared to be a police burgh and has elected Commissioners, to bring the matter under the consideration of the sheriff or sheriffs, who shall have power to rectify any such error, and whose judgment thereon shall be final; and the boundaries as so rectified shall, in regard to all future acts, payments, and liabilities, be held to be the boundaries originally assigned by the sheriff or sheriffs under this Act: Provided always, that any acts done or payments made, prior to such rectification, shall be in nowise affected thereby; but the same, in so far as done or made in good faith, shall, notwithstanding such error, be as valid, final, and free from challenge as if such error had not been committed.

Revision of boundaries.

11. Upon the application of the Commissioners or of the council of any burgh, and after publication in the Edinburgh Gazette, and in any newspaper published in such burgh, and if no newspaper be published therein, then in a newspaper circulating in such burgh, and such other notice and inquiry as he may deem necessary, it shall be lawful for the sheriff, after hearing all parties interested, from time to time to revise, alter, extend, or contract the boundaries of such burgh for the purposes of this Act, but so as not to encroach on the boundaries of any other burgh, and where not divided into wards to divide the same into wards, and where divided into wards to revise the boundaries of such wards; and where in any burgh wards exist at present, the sheriff may increase their number or lessen their number by combination or re-arrangement, and the sheriff shall define, in a written deliverance on such application, the new boundaries of such burgh and wards, for the purposes of this

Act; and such deliverance, unless appealed against, in manner herein-after provided, shall be final; and when recorded along with the application on which it proceeds in the sheriff court books of the county, shall fix and determine the boundaries of such burgh and wards for the purposes of this Act. Where the burgh and the lands proposed to be included in any application for an extension of boundary lie in more than one county, the application shall be made to and disposed of by the sheriffs of all the counties concerned. The sheriff or sheriffs in revising the boundaries of a burgh shall take into account the number of dwelling-houses within the area proposed to be included, the density of the population, and all the circumstances of the case, whether it properly belongs to and ought to form part of the burgh, and should in their judgment be included therein. In the event of the sheriffs not being unanimous in opinion, the application shall not be granted subject to an appeal as herein-after provided.

Municipal boundaries may be extended to police boundaries, and police boundaries may be extended to municipal or parliamentary boundaries.

12. Where in any burgh the municipal boundary is either wholly or partly within the boundary for police purposes, it shall be lawful for the council at a meeting specially called for the purpose, of which a month's notice shall be given, to resolve that the boundary for municipal purposes, including the right to vote for town councillors, shall be extended up to the boundary for police purposes, and to fix the boundary for municipal purposes accordingly, and where in any burgh the police boundary is wholly or partly within the municipal boundary or royalty or within the parliamentary boundary, it shall be lawful for the Commissioners at a meeting specially called for the purpose, of which a month's previous notice shall be given, to resolve to extend such police boundary to the municipal boundary or the royalty or the parliamentary boundary respectively for police purposes, including the right to vote for Commissioners, but so as not to encroach on the boundaries of any other burgh, and to fix the date, not being less than fourteen days from the date of the said resolution, when such resolution shall come into operation. Upon any such resolution being adopted, the council or the Commissioners of the burgh may present a petition to the sheriff praying him to confirm the same; and the sheriff, after such intimation and service as he thinks proper, and after hearing all parties interested, shall dispose of the application, and upon any final judgment confirming the resolution being pronounced it shall be recorded in the sheriff court books, and such resolution shall come into force from the date of such recording or such later date or dates as may be specified in the resolution; and any Act of Parliament conferring police jurisdiction or any other authority within such extended boundary shall, in so far as it is inconsistent with the provisions of this section, be repealed.

Appeal.

13. In any proceeding for fixing, altering, extending, contracting, or revising the boundaries of a burgh or populous place, or of the wards of a burgh, it shall be lawful for any owner or occupier within the boundaries as fixed by the sheriff or sheriffs who considers himself aggrieved by the deliverance of the sheriff or

sheriffs, or the resolutions of the council or Commissioners, as the case may be, or for the county council or the standing joint committee of any county into which the said boundaries extend beyond the existing boundaries, within fourteen days from the date thereof, to present a petition against the deliverance of the sheriff or sheriffs to the Court of Session, setting forth the grounds on which they object to such deliverance; and the Court of Session may thereupon order answers, and, after answers have been lodged, may either pronounce a final order or remit to a Lord Ordinary, to direct inquiry into the circumstances of the case, and to issue such order thereupon as he may deem requisite to determine the boundaries of such burgh; and such order shall in either case be final, and when recorded in the sheriff court books of such county, shall fix and determine the boundaries of such burgh for the purposes of this Act. Where it is the duty of two or more sheriffs to fix the boundary, and they cannot come to a unanimous decision, they shall state a case for the Court of Session, and the same procedure shall with the necessary variations be followed as hereinbefore prescribed in the case of the petition against the deliverance of the sheriff.

Plan of new boundary to be sent to Board of Agriculture.

14. Where the boundary of a burgh is fixed for the first time or altered under the provisions of this Act, plans showing the new boundary, duly certified by the Commissioners, shall be sent within one month after the boundary is fixed to the Board of Agriculture.

ADOPTION OF THE ACT.

Adoption in burghs wholly administered under local Police Acts.

15. In any burgh named in Schedule II., this Act may be adopted in whole or in part, that is to say, in parts, sections, or subsections, by a resolution of the council where there is no separate board of Commissioners, and where there is such a separate board by such Commissioners, at a meeting called for the purpose after a month's previous notice in a newspaper published or circulating in the burgh, which notice shall specify the parts, sections, or subsections of this Act proposed to be adopted and the portions of local Police Acts proposed to be repealed: Provided that such adoption in part of this Act shall not affect any private interests which shall have been specially regulated by any local Act, and provided further that in every case where Part V. of this Act shall be adopted only in part, such adoption shall include the provisions of this Act relating to incidence of assessments.

Such resolution shall be reported to the sheriff, who shall pronounce a deliverance thereon declaring the parts, sections, or subsections of this Act specified in the resolution to have been adopted, and shall cause such resolution to be recorded in the sheriff court books.

From and after the recording of such resolution the parts, sections, or subsections of this Act so adopted shall come into force in the burgh, and all portions of local Police Acts inconsistent with or dealing with the same matters as the parts, sections, or subsections so adopted shall be repealed, which portions shall be specified in the resolution so recorded.

Where populous place not declared a burgh new application may be made after two years.

16. Where a populous place has not been declared a burgh by the sheriff, another application to have such populous place declared a burgh in manner herein-before provided may be made, but such application shall not be competent until after the lapse of two years from the date of the deliverance on the last preceding application.

MISCELLANEOUS.

Court of Session may make orders to facilitate adoption or execution of Act.

17. Wherever in any burgh in existence before the passing of this Act, and which thereafter continues to be a burgh, or in any burgh the boundaries of which have been determined in terms of this Act, it has, from a failure to observe any of the provisions of this Act, or any other Act, or from any other cause, become impossible to proceed with the execution of this Act, the following provisions shall have effect:

(1.) It shall be lawful for any seven householders within the burgh to present a petition to the Court of Session, or to the sheriff court, setting forth the failure which has taken place to observe the provisions of this Act, or any other Act, or other cause which has made it impossible to proceed with the execution of this Act, and praying the court to pronounce an order in terms of this Act as herein-after mentioned.

(2.) The petition shall be intimated in any newspaper published in such burgh, and if no newspaper be published therein, then in a newspaper circulating in such burgh, or in such other manner as the court shall appoint.

(3.) Upon resuming consideration of the petition, with or without answers, and after receiving such evidence as they shall require, the court may pronounce any order which, in their judgment, will enable the proceedings for the execution of this Act within such burgh to be continued as nearly as possible as if the said failure to observe the provisions of this Act, or any other Act, or other cause, had not taken place; and such order shall be final, and shall be recorded in the sheriff court books of the county within which such burgh is situate.

(4.) As soon as any directions contained in the said order of the court shall have been complied with, the proceedings for the execution of this Act within such burgh may proceed as nearly as possible in the same manner, and with the same incidents, as if the said failure to observe the provisions of this Act, or any other Act, or other cause, had not taken place.

(5.) The court may pronounce any order as to the expenses of the petition, and the proceedings following thereon, and as to the persons against whom or the assessments against which they shall be chargeable; and such order shall be final.

Statutory provisions as to fixing of boundaries, &c. to be deemed to be complied with.

18. All statutory requirements and provisions applicable to the fixing of the boundaries of any burgh or place under the General Police Acts or this Act, or to the adoption of any of the said Acts or of this Act, or to the election of Commissioners for any such burgh, shall be deemed and taken to be duly complied with, and

shall have effect accordingly, unless the same shall have been or shall be challenged in a competent court of law within three years from the date of the alleged non-compliance with the said statutory requirements and provisions: Provided always, that nothing herein contained shall prejudice or affect the pecuniary rights, liabilities, or interests of any person which shall have been finally decided by or are under the consideration of any court of law at the time of the passing hereof.

Saving of contracts.

19. When this Act shall apply in any burgh which has previously been wholly or partly administered under any general or local Police Act, or shall be applied in whole or in part by being adopted in any burgh so administered, all bonds, contracts, covenants, agreements, and securities made and entered into, and obligations incurred, and all assessments imposed under and by virtue of such Acts, in so far as regards anything done under such Acts, or any of them, previous to the commencement of this Act, shall remain in full force and effect, and shall continue available and binding on all concerned; and nothing herein contained shall be construed to affect the debts, rights, or claims of any creditor, or any special interest provided for under such Acts; and the officers appointed under and employed in the execution of such Acts shall continue to exercise their offices, until they are respectively superseded, or legally removed therefrom, under the authority of this Act.

And where any local Act contains provisions embodying or giving effect to or saving any contract or agreement with any private individual or public body, such provisions shall be saved and excepted from any repeal of such Act, and any such contract or agreement shall remain binding notwithstanding anything contained in this Act.

All complaints and prosecutions raised or pending at the passing of this Act shall continue and be followed forth to a conclusion in the same way and with the same jurisdiction, remedies, penalties, and powers as if the Act had not passed.

Property vested in Commissioners under this Act.

20. In all cases where the management for the purposes of this Act of any burgh is by the application of this Act transferred from any existing Commissioners of Police or other persons acting under any of the general Police Acts or any local Police Act to Commissioners under this Act, the whole lands, heritages, assessments, claims, demands, and effects of every kind belonging to or vested in the Commissioners of Police, or other persons, from whom such management is so transferred, or in any person on their behalf, and all powers, rights, and privileges conferred on or vested in such Commissioners of Police, or other persons, by any Act of Parliament, charter, or writing, in so far as not inconsistent with the provisions of this Act, shall be, and are hereby transferred to and vested in the Commissioners under this Act, and they shall be liable for the whole debts and obligations of the Commissioners of Police, or other persons, from whom such management is transferred.

And where by any Act of Parliament any powers and duties are conferred or imposed upon the Commissioners under the general

Police Acts, such powers and duties shall now be vested in and discharged by the Commissioners under this Act.

Powers, &c. of local authorities under Public Health Act to be transferred to Commissioners.

21. Wherever the boundaries of any burgh have been determined in terms of this Act, the whole powers and duties (including the rights to levy assessments) exerciseable by any local authority acting under the Public Health (Scotland) Act, 1867, and Acts amending the same, within the district or districts comprehended within such burgh shall cease and determine, and the same shall be transferred to and vested in the Commissioners under this Act, and all drainage, water, and other works executed in such district or districts by such local authority in the performance of its powers and duties under the said Acts shall be taken over by the Commissioners under this Act, who shall be liable for the whole debts and obligations of such local authority applicable to such district or districts; and in the case of difference of opinion as to such debts or obligations, the sheriff shall determine the dispute, and his decision shall be final.

Where burgh extended Commissioners to pay county council proportion of expenses of register of voters.

22. Where by the extension of the boundary of a burgh under the Boundaries of Burghs Extension (Scotland) Act, 1857, and any Act amending the same, or this Act, any area of any county is annexed to such burgh, the Commissioners of such burgh shall pay annually to the county council of such county from which such area is taken such proportion of the expenses payable by the county council for the preparation of the register of parliamentary voters for such county or division thereof, as the case may be, as the number of voters in the said area shall bear to the total number of voters in such county or division thereof.

PART II.

CONSTITUTION OF POLICE BURGHS.

Establishment of new authority in burghs having magistrates and councillors, and in new burghs.

23. In any burgh having magistrates or a magistrate, and councillors, or other municipal authority under whatever name, at the commencement of this Act—

(1.) The magistrates or magistrate and councillors, or other municipal authority, shall, subject to the provisions of the immediately succeeding sections, be the Commissioners under this Act.

Provided that where there are already Police Commissioners under any general or local Police Act, such Police Commissioners shall be the Commissioners under this Act until the first annual election of magistrates and councillors, or other municipal authority, after the commencement of this Act.

(2.) After the commencement of this Act—

(*a.*) In burghs in which the magistrates and councillors are elected in manner provided by the Acts third and fourth William the Fourth, chapters seventy-six and seventy-seven, and other Acts amending the same, the magistrates and councillors shall be elected as heretofore, except in so far as the said Acts are modified or amended by this Act:

(*b.*) In all other burghs the magistrates and councillors or Commissioners shall be elected under the provisions of the two immediately succeeding sections, as the case may be.

Present Commissioners to remain in office till their successors are appointed.

24. In burghs wholly or partly administered under any general or local Police Act, the Commissioners and magistrates at the commencement of this Act shall continue to hold and exercise their office and to perform all the duties appertaining thereto till their successors are appointed under this Act, and the order of the retirement of such Commissioners shall be the same as if this Act had not been passed; but as vacancies occur the election of their successors shall take place under this Act, and where an increase or decrease in the number of the Commissioners in such burghs falls to take place in virtue of this Act, the sheriff shall, on the application of the existing Commissioners or of any seven electors of the burgh, ascertain the extent of the population of the burgh, and thereupon fix the number of Commissioners to which the burgh is entitled under this Act; and it shall be lawful for the sheriff to determine when, and in what manner the increased or decreased number of Commissioners, and the consequent increase or decrease in the number of magistrates, shall take place in the burgh, and if it is divided into wards, in the different wards thereof, and he shall fix the order in which they shall vacate office; and the sheriff shall also determine in a summary manner all questions that may arise in reference to these matters, and he shall forthwith cause his deliverance to be recorded in the sheriff court books of the county, and in the books of the burgh (if any) to which it specially applies, and such deliverance by the sheriff shall be final.

First election of Commissioners in certain burghs.

25. In burghs other than those referred to in the immediately preceding section, an election of Commissioners shall take place as soon as may be after the commencement of this Act, and the householders whose names are in the assessor's list in this section mentioned shall be entitled to vote.

The sheriff shall, preparatory to the said election, require the assessor under the Valuation Acts to furnish him within fourteen days with a list of the householders in the burgh; and where the burgh is divided into wards the assessor shall state separately the householders in each ward respectively; and the list shall be subscribed by the assessor, and be returned by him to the sheriff, who shall hold the same as the list of householders entitled to vote in the election.

Sheriff to conduct the election.

26. The sheriff shall conduct the election, and shall give due intimation thereof, and of the time within which the nomination of candidates for the office of Commissioner shall be made to him; and he shall be the returning officer, with power to appoint presiding officers, assistants, and clerks, and all other persons necessary to preside and officiate at the polling places in the burgh, or if it is divided into wards, in the several wards thereof.

The election shall be conducted by ballot, and as nearly as circumstances will permit in the manner herein-after prescribed for the annual election of Commissioners for the purposes of this Act; and the sheriff shall determine in a summary manner all

questions that may arise in reference to the election, and his decision shall be final; and in cases of equality of votes, either in the burgh or in the several wards thereof, if it is divided into wards, the sheriff shall have a casting vote; and he shall preside at the first meeting of the Commissioners as herein-after provided for, or shall appoint some person other than a Commissioner to preside in his stead.

Saving of patrimonial rights.

27.—(1.) Where, by the operation of this Act, the right to elect the municipal authority is transferred and taken away from the existing body of electors, and any dispute arises as to whether any right or privilege exercised by all or any of such is a public or a private and patrimonial right, such dispute shall be decided by the sheriff, but an appeal shall lie to the Court of Session.

(2.) Nothing contained in this Act shall affect the patrimonial rights of any body of feuars at the passing of this Act administered by the town council of any burgh or barony.

ELECTION OF COMMISSIONERS.

Persons eligible to be elected.

28. At the election any male householder in the burgh who is not in arrear with any burgh assessment shall be eligible as a Commissioner for the purposes of this Act, and may be proposed and seconded by any two householders in the assessors list herein-after mentioned; or if the burgh is divided into wards, by any two such householders in the ward for which the election is to take place: Provided always, that the nomination paper shall be signed by the person nominated or his mandatory, and also by not less than five other such householders.

The same procedure with respect to the declaration of acceptance of office, and as to the election of magistrates, and as to resigning the office of Commissioner, and as to filling up any vacancy in the office of magistrate and Commissioner, shall take place under this Act as is by law provided with regard to such matters in burghs having to provide for the election of magistrates and councillors as aforesaid.

Number of Commissioners.

29. In burghs where the population is less than ten thousand the number of Commissioners elected shall be nine, unless on application to the sheriff by the existing Commissioners or by seven householders of the burgh, he shall see cause to fix the number at twelve; where the population is between ten thousand and twenty thousand the number shall be twelve; where the population is between twenty thousand and fifty thousand the number shall be fifteen; where the population is between fifty thousand and one hundred thousand the number shall be eighteen; where the population is over one hundred thousand the number shall be twenty-four. And the number of the Commissioners to be elected may from time to time be determined by the sheriff in conformity with this section.

Where the burgh is divided into wards, the number of wards, and the number of Commissioners to be elected, shall be settled and adjusted by the sheriff so that there shall be, as nearly as may be, three Commissioners for each ward.

Register of voters to be made similar to register of parliamentary burghs.

30. In all burghs where an annual election of Commissioners falls to be made under this Act, from and after the first election of Commissioners as above provided for, a list and register of the persons entitled to vote in such annual election shall be made up yearly, before the fifteenth day of September, and the procedure to be followed with reference to such list and register shall, as far as practicable, be similar to that prescribed by the Acts for the registration of parliamentary voters for burghs in Scotland, and for this purpose the clerk to the Commissioners shall come in room and place of the assessor and also of the town clerk; and the chief magistrate, or in his absence one of the magistrates, shall hold a court for correcting and revising the said list accordingly; and the county clerk, assessor, or other person in the possession of the valuation roll, shall, on or before the fifteenth day of August, exhibit and give reasonable access to the same without making any charge, to enable such list and register to be made up and completed in terms of this Act.

Persons who shall be entered in register of voters under this Act.

31. The persons who shall be entered in the said list and register shall be the same as if the burgh was a burgh having to provide for the appointment of magistrates and councillors in terms of the Acts thereanent, and such list and register, including the female voters (which need not be a separate list), when so made and completed, shall be called the register of voters under this Act; and there shall be included in the said list or register of voters the names of all persons within the burgh who are qualified for the parliamentary franchise as inhabitant occupiers under the third section of the Representation of the People Act, 1884: Provided always, that no person shall be placed on the said list or register who on the fifteenth day of July immediately preceding was in arrear with any burgh assessment; and such register shall be the register of persons entitled to vote at the next ensuing election of Commissioners under this Act, and be deemed and taken to be conclusive evidence that the persons therein named continue to have the qualifications which are annexed to their names respectively; and the said register may, if desired by the Commissioners, be printed, and copies thereof kept by the clerk to the Commissioners, and delivered to persons applying therefor on the same terms as is provided for by the Burgh Voters Registration Act, 1856, in regard to other burghs.

Future elections of Commissioners to be same as election of town councillors.

32. There shall be an annual election of Commissioners under this Act, on the first Tuesday of November; and such annual election in the burgh, or if it is divided into wards, in the several wards thereof, shall be conducted under the rules, regulations, and provisions applicable by law to the election of town councillors in burghs in Scotland; and for all the purposes of such annual election, first meeting of Commissioners, and election of magistrates, and other procedure consequent upon such annual election, a burgh under this Act shall be deemed a burgh having to provide for the appointment and election of magistrates and councillors therefor in terms of the Acts relating to the election of magistrates and councillors in royal and parliamentary burghs in Scotland which

may be in force for the time: Provided, that in the case of any burgh situated in any island of Scotland, it shall not be necessary in the event of a double return, or failure to nominate the requisite number for election, to carry through the whole election procedure of new, but instead thereof the Commissioners at a meeting to be held at twelve o'clock noon on the first Friday after the annual election shall, in the event of there being an equality of votes, determine by vote which of the candidates shall be preferred; and in the event of the whole or any part of the number of Commissioners not being elected, it shall be lawful for the Commissioners then in office, at such meeting, to supply the deficiency by such and the like proceedings as are provided for in the case of interim vacancies.

If returning officer declines to act, Commissioners to appoint one, or the clerk to act.

33. Where, in any burgh under this Act, the person entitled to act as returning officer at any annual election of Commissioners under this Act cannot competently act as such, or declines to act, and to discharge the duties devolving on him in that respect, it shall be lawful for the Commissioners to nominate and appoint one of their own number, or any other duly qualified person to be returning officer; and failing any such appointment, the clerk, or any qualified person to be appointed by him, shall be the returning officer; and such person so to be nominated and appointed, or the clerk, shall possess all the powers for the purpose of such election as if he had been the chief magistrate, or other person entitled to act as returning officer for such election.

Expenses to be defrayed out of assessments.

34. All reasonable charges and expenses incurred by the burgh in connexion with the election of Commissioners after the first election, as above provided for, shall form a charge against, and be defrayed out of, the assessments leviable under this Act, and may be apportioned among such assessments as the Commissioners think proper, and may be recovered from the treasurer of the burgh, who is authorised to charge the same against its funds.

Magistrates to be elected.

35. The Commissioners first elected under this Act shall, at twelve of the clock noon on the first Friday after the first election, hold their first meeting in the town hall, or other convenient place; and at such meeting, shall by a majority (the sheriff or the person appointed by him to preside having a casting vote in case of equality), elect from among the Commissioners magistrates of police, and the Commissioners first elected shall be entitled to act, although from any cause the full number of Commissioners may not be filled up; and all subsequent elections of magistrates shall take place at the same time and in the same manner as if the burgh was a parliamentary burgh, having to provide magistrates and councillors as herein provided for.

Number of magistrates.

36. There shall be elected in burghs:—Where the population is fifty thousand and upwards, a chief magistrate and six other magistrates; where the population is between ten thousand and fifty thousand, a chief magistrate and four other magistrates; and where the population is less than ten thousand, a chief magistrate and two other magistrates, and the chief magistrate shall be called provost and the magistrates be called bailies.

Commissioners to retire in the same manner as councillors in other burghs.

37. One third of the Commissioners shall, on the first Tuesday of November annually, retire in the order prescribed by law for the retirement of councillors in burghs having to provide for the election of magistrates and councillors as aforesaid; and the chief magistrate shall always remain in office for three years after his election to that office, in like manner as the provost or chief magistrate in such burghs.

Magistrates and Commissioners to have like powers as magistrates and councillors.

38. The magistrates and Commissioners elected in virtue of this Act shall, within the limits of the burgh for the purposes of this Act, possess such and the like rights, powers, authorities, and jurisdiction as are possessed by the magistrates and council of royal and parliamentary burghs in Scotland.

Intimation of candidates for town council at annual elections to town clerk. 31 & 32 Vict. c. 108.

39. Notwithstanding the provision in the ninth section of the Municipal Elections Amendment (Scotland) Act, 1868, it shall not be competent to elect any person to the office of town councillor at the annual municipal election on the first Tuesday of November in any royal or parliamentary burgh in Scotland unless the name of such person shall have been intimated to the town clerk of such burgh in the manner herein-after provided before four of the clock afternoon on the Tuesday immediately preceding the said first Tuesday of November, and the intimation to the town clerk shall be in the form of Schedule IX. hereunto annexed, or as near thereto as circumstances admit.

Power to withdraw candidature.

40. Any intimation so made to the town clerk of such burgh shall be competently withdrawn by giving notice of withdrawal to him before four of the clock afternoon on the Thursday immediately preceding the said first Tuesday of November, and such notice of withdrawal shall be signed by the person nominated and proposed for election and by his proposer or seconder, or shall be signed by both his proposer and seconder, and also by one of the five assenters to the intimation, and the said notice shall be in the form of Schedule X. of this Act, or as near thereto as circumstances admit: Provided, that no such withdrawal shall be competent where its effect would be to reduce the total number of persons nominated for the then ensuing annual election of town councillors in such burgh (or in a ward thereof where the burgh is divided into wards, and the notice applies to such ward) below the number necessary to supply the vacancies to be filled up in the burgh or ward, as the case may be, at that election.

Partial repeal of section 9 of 31 & 32 Vict. c. 108.

41. The ninth section of the last-mentioned Act is hereby repealed in so far only as it relates to the time and form of making the intimation of nomination to the town clerk, and wherever otherwise in that section, or in the said Act, reference is made to the said intimation, such reference shall be held to apply to the intimation of nomination to the town clerk referred to in the two immediately preceding sections of this Act, and the said last-mentioned Act shall be construed and read accordingly.

POLICE AND MUNICIPAL ADMINISTRATION.

Various municipal juris dictions to

42. In any burgh where various municipal or police authorities possess jurisdictions and powers within the area of such burgh in

cease and to vest in the provost, magistrates, &c.

police, water, gas, drainage, rating, matters of public health or otherwise, such several jurisdictions and powers, and the whole privileges, rights, and duties exercised in connexion therewith, other than those vested in, and possessed and exercised by the provost, magistrates, and town council or Commissioners, shall cease and determine, and such jurisdiction and all the powers and duties already existing or conferred by this Act in relation thereto, shall thereafter devolve on and be vested in, and be wholly exercised by the provost, magistrates, and town council or Commissioners: Provided always that where a royal burgh, or a police burgh, or part thereof is included within the parliamentary area of a burgh, this section shall not apply to the effect of uniting such burghs or amalgamating the administration thereof, but without prejudice to any application for such amalgamation under the provisions of section forty-five of this Act.

Provost, magistrates, &c. to be local authority under Public Health Act.

43. Notwithstanding the provisions of any general Act or local Police Act, the provost, magistrates, and town council or Commissioners in every burgh shall be the local authority under the Public Health (Scotland) Act, 1867, within the area of such burgh: Provided that nothing contained in this Act shall prejudice or affect the provisions of section eighty-one of the Local Government (Scotland) Act, 1889, and if any question shall arise under this proviso, the same, failing agreement, may be determined by the Secretary for Scotland after such inquiry as he shall think fit, and the provisions of section ninety-three, sub-section three, of the last-mentioned Act shall apply to such inquiry.

PROVISIONAL ORDERS.

Alteration of number of magistrates and council.

44. In any burgh where the magistrates and council are the Commissioners under this Act, it shall be lawful for the magistrates and council to make application to the Secretary for Scotland for a provisional order determining that the number of the magistrates and council, or either of them, may be altered to any number, which would be competent under this Act for the Commissioners of Police of such burgh, and for distributing the number of the magistrates and council so altered among the wards of the burgh, if it is divided into wards, and that such alteration shall come into effect either immediately at the next election or at successive elections by gradual increase or diminution of the number of the magistrates and council, or either of them.

If such order is made and confirmed by Parliament as hereinafter provided, it shall regulate the number of the magistrates and council of such burgh for the future, any charter, right, or Act of Parliament notwithstanding.

Special powers.

45. Whenever it shall appear to the Commissioners of any burgh to which this Act applies that they require additional powers for the better carrying out of the purposes of this Act, and specially powers relating to the supply of gas or water, or to the roads and streets, or to drainage or sewers or the utilisation of sewage in

addition to the powers conferred by the Public Health Acts, or for the repeal or amendment of any local Acts of Parliament relating to such subjects, or their adaptation and adjustment to the provisions of this Act, with such amendments as may be found necessary, or for the repeal of any exemption from rating derived from this or any general or local Act, or to other matters cognate to the purposes of this Act, they may apply to the Secretary for Scotland for a provisional order.

Or whenever it appears desirable to the magistrates and council or the Commissioners of contiguous or adjacent burghs that provision should be made for amalgamating the administration of such burghs for all or any of the purposes of this Act or both for municipal purposes and the purposes of this Act, or carrying on jointly such administration or any part thereof by joint committees or otherwise, or for executing jointly any conduits or main sewers, or any other drainage works necessary for the more effectually draining of such contiguous or adjacent burghs, such Commissioners or magistrates and council, as the case may be, may make joint application to the Secretary for Scotland for a provisional order.

Two drafts of the order proposed shall be transmitted with every application for a provisional order.

Procedure.

46.—(1.) Upon the receipt of any such application for a provisional order, the Secretary for Scotland may direct the sheriff or other Commissioner or Commissioners to hold a local inquiry in the district in respect to the several matters mentioned in the application, after giving at least fourteen days' notice of the time, place, and subject of the inquiry in two consecutive weeks in a newspaper published or circulating in the burgh.

The sheriff or other Commissioner or Commissioners shall hold such inquiry, and for the purposes thereof shall have power to take the assistance of valuators, accountants, engineers, or other persons of skill to such extent as they may find necessary, and shall make a written report to the Secretary for Scotland.

Thereafter it shall be lawful for the Secretary for Scotland to issue a provisional order either in accordance with the prayer of the application, or with such modifications or alterations as may appear to him to be requisite.

(2.) No provisional order shall be of any validity unless the same has been confirmed by Act of Parliament.

(3.) It shall be lawful for the Secretary for Scotland to make such order as he thinks fit in reference to the costs, charges, and expenses incurred in relation to such provisional order, including the costs of any party opposing the same, and to direct that the whole or any portion thereof shall be a charge upon the burgh general assessment, or any other assessment imposed under this Act in any burgh concerned in the application, and the Court of Session may interpone their authority to any order of the Secretary for Scotland under this section.

Who to preside where more than one sheriff.

47. When any investigation or other proceeding under this Act requires to be conducted by the sheriffs of more than one county, the senior sheriff shall preside, and the senior sheriff clerk shall

act as clerk of court in such investigation, and such senior sheriff clerk shall, after recording the deliverance in the sheriff court books of his own county, transmit a certified copy thereof to the sheriff clerk of the other county, and such certified copy shall be sufficient warrant to such sheriff clerk to record the deliverance in the sheriff court books of such county.

Expenses of sheriff how to be defrayed.

48. All expenses incurred by the sheriff in the fixing of boundaries of populous places which are formed into burghs, and in all other proceedings necessary for carrying this Act into execution, shall be defrayed out of the burgh general assessment herein provided, and where in any proceedings for defining the boundaries of a populous place the sheriff shall refuse to hold that the place is suitable for being formed into a burgh, or in the case of a populous place not having two thousand inhabitants, the sheriff shall refuse to find and declare it to be a burgh, the expenses incurred shall be paid and borne by the persons signing the application for the fixing of the boundaries.

Jurisdiction where burgh in more than one county.

49. Where any burgh is situated in more than one county the duties imposed by this Act on the sheriff of the county, except where such duties are expressly imposed by the Act on two or more sheriffs jointly, shall be performed by such one of the sheriffs of said counties as may, on the application of the Commissioners of said burgh, be appointed by the Secretary for Scotland.

MEETINGS OF COMMISSIONERS.

Commissioners to be summoned to attend meetings.

50. Meetings of the Commissioners shall be held at such times and at such places as may be fixed by them from time to time. All the Commissioners shall be cited to attend all meetings, such citation being given personally, or at their dwelling-houses or places of business, by notices issued by their clerk at least twenty-four hours before the time of meeting, which shall specify the matters to be considered at the meeting; but no proceeding of the Commissioners shall be invalidated in consequence of the omission to send such notice or the informality thereof, or in consequence of any vacancy among their number, or of any disqualification of, or objection to, any commissioner. And the chief magistrate, or, in his absence, the magistrate next in order of seniority, and in the absence of all the magistrates, such one of the Commissioners as shall be chosen by the meeting, shall preside; and the preses of the meeting shall have both a deliberative and, in case of equality, a casting vote in all matters which shall come before it: Provided always, that one third of the Commissioners (and in no case less than three) must be present at all meetings to constitute a quorum.

Quorum.

Power to grant leave of absence.

51. It shall be lawful to the Commissioners to grant leave of absence to a Commissioner on his application and on reasonable cause shown for any period not exceeding twelve months.

Commissioner not attending for six months shall demit office.

Any Commissioner who without leave of the Commissioners shall fail to attend any meetings of the Commissioners for a period of six months having been duly cited thereto shall ipso facto vacate

his office, and if he is a magistrate or town councillor, he shall ipso facto vacate such office also at the same time.

Special meetings may be called on requisition.

52. The clerk to the Commissioners, when required in writing by the chief magistrate, or on requisition being made to him, stating in writing the object of the intended meeting, and signed by one fifth, not being less than two of the Commissioners, shall cause special meetings to be called within forty-eight hours, and to be held within four days after such requisition, and shall cause all the Commissioners to be summoned to attend such meetings, by summonses, containing a copy of such requisition, or stating the purpose thereof.

Meetings may be adjourned.

53. The Commissioners may adjourn to any other day, hour, and place within the burgh.

Power to appoint committees.

54. The Commissioners shall have power to form committees of their number, either with directions to report to the Commissioners or for carrying the various purposes of this Act into execution, and to delegate to such committees the powers competent to the Commissioners under this Act, in whole or in part, with regard to the subject which may be remitted, to name the convener, and to fix the numbers of such committees which shall form a quorum, and, if they see fit, to allow any committee to appoint sub-committees with powers; and the convener who shall preside, or in his absence the person to be elected by the committee for the time, shall be entitled to a deliberative and, in case of equality, a casting vote, and to convene the members by notices in the way he shall think most convenient.

POWERS AND DUTIES OF COMMISSIONERS.

Powers and duties of Commissioners.

55.—(1.) The Commissioners shall be a body corporate having a common seal. The seal shall bear a device to be fixed on by the Commissioners at a meeting to be held for the purpose.

(2.) In all burghs to which this Act applies, with the exception of burghs having already a corporate name or title under any local charter or Act of Parliament, the corporate name of the Commissioners shall be "the Commissioners of the burgh of "[*here insert the name of the burgh*]." Excepting bonds for moneys to be borrowed as herein-after provided for, all deeds, contracts, and writs of importance shall be granted in the corporate name of the Commissioners, and shall be signed by three of the Commissioners and by the clerk, and sealed with the common seal of the Commissioners; and all such deeds, contracts, and writs so executed shall be binding on the property and funds of the Commissioners.

(3.) The Commissioners shall estimate, assess, levy, and apply the sums of money hereby authorised to be raised for the purposes of this Act.

(4.) The Commissioners shall have power to appoint, at such salaries as they think fit, to be paid out of the assessments leviable under this Act, in such proportions as the Commissioners may determine, clerks, treasurers, collectors, surveyors, inspectors, and

all other persons whose appointment is not herein otherwise provided for, to be employed in the execution of this Act, and to provide such offices as may be necessary, and to remove and suspend such clerks, treasurers, collectors, surveyors, inspectors, and other persons at pleasure, and to fix the number and description of officers to be employed in the execution of this Act, and the wages to be paid to them respectively, whether appointed by themselves or not, and to increase or diminish their numbers from time to time as they shall see cause, and to make orders and regulations for their government.

(5.) The Commissioners shall also have power from time to time to purchase or take in feu and build or to lease such lands and premises as shall be required, and to sell or feu and dispose of such lands and premises as may have become unfit or otherwise unnecessary for the purposes of this Act. The titles to all heritable property to be acquired in the execution of this Act shall be taken in favour of the burgh in its corporate name or of the Commissioners, as the case may be, and such titles shall be sufficient for vesting the subjects in the Commissioners and their successors in office.

(6.) The Commissioners shall also have full power and authority to make not only all necessary rules, orders, and regulations (which do not require to be confirmed by the sheriff), but also all byelaws they may deem proper (which require to be confirmed by the sheriff), in so far as the powers of this Act authorise the same; and to execute all the provisions of this Act, and otherwise to carry fully into effect all the objects and purposes by this Act committed to their charge: Provided always, that the rules, orders, and regulations, and the byelaws so to be made shall not be contrary to the law of Scotland, or to anything in this Act contained.

Actions by or against Commissioners, how to be brought.

56. Except as herein-after specially provided, all actions, suits or proceedings to be brought by or against the Commissioners shall be in their corporate name as Commissioners of the burgh, and it shall be lawful for the clerk to accept service on their behalf.

Two or more contiguous burghs may provide a hall and offices.

57. It shall be lawful for the Commissioners of two or more contiguous or adjacent burghs, for the better accommodation of such burghs for the purposes of this Act, and for the general benefit of the inhabitants of such burghs, on such terms as such Commissioners may agree, to purchase and acquire lands and premises, and to build thereon a hall and offices, with all conveniences thereto, and from time to time to repair the same, and to employ proper persons to take charge thereof, with power to make byelaws to regulate the use of the same; and all official business transacted therein shall be as valid and effectual as if it was transacted within the boundaries of each of such burghs respectively: Provided that the title to the said subjects shall be taken in the corporate names of the Commissioners of such burghs; and such title shall be sufficient for vesting the said subjects in the Commissioners of such burghs; and should the Commissioners of such burghs resolve at any time to sell and dispose of the said subjects, or any part thereof, it shall be lawful for them to do so, provided that all such

burghs, through a majority of their respective Commissioners, agree to dispose of the said subjects, or any part thereof, but not otherwise.

Commissioners may contract for execution of works.

58. The Commissioners, or any committee of their body thereunto specially empowered, may contract with any person for carrying into execution any of the operations hereby authorised; and such contract shall be made by the Commissioners in their corporate name, and signed and sealed as herein-before provided for.

Property vested in Commissioners.

59. The moneys arising from the assessments hereby authorised to be levied, and all other property acquired by the Commissioners in pursuance of the powers hereby granted, shall be, and the same are hereby vested in the Commissioners and their successors for the uses and purposes mentioned in this Act, and for no other purpose whatever.

Applications to sheriff for power under Lands Clauses Acts.

60. In every case in which the Commissioners are empowered by this Act to acquire land compulsorily under the Lands Clauses Acts with the authority of the sheriff, they may present a petition to the sheriff praying that they, with reference to such lands or premises, be authorised to put in force the powers of the said Acts with respect to the purchase and taking of lands or premises otherwise than by agreement, and along with the petition the Commissioners shall lodge a plan showing the road or roads or the street or streets to be improved, the lands or premises to be taken, and the contemplated improvement, and also a book of reference relative to the said plan specifying the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands or premises proposed to be taken, defining in each case the particular lands or premises to be taken; and the sheriff shall, upon any such petition being presented, direct intimation thereof, on fourteen days notice, to be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of the respective lands or premises to be taken as aforesaid, and otherwise as the sheriff may direct, and of the time, place, and subject of the inquiry to be held in reference thereto, and he shall, upon the expiry of such notice, make such inquiry into the several matters stated in the petition and relative plan, and shall have power to call for such information from the Commissioners and others as he may consider necessary, and to do all such matters and things as may be expedient for the purposes of the inquiry, and grant a deliverance in accordance with the prayer of the petition, or with such modifications or alterations as may appear to him to be requisite, or he may refuse to grant the prayer thereof; and if power be granted to put in force the Lands Clauses Acts aforesaid, the Commissioners shall have the same rights in carrying out these Acts as if powers to that effect had been herein specially enacted so far as regards the lands and premises specified in the plans and proceedings, and in the deliverance of the sheriff aforesaid.

It shall be lawful for any owner or occupier whose property may be affected, or for the Commissioners, if dissatisfied with the decision of the sheriff, to appeal to the Secretary for Scotland, who

may order further inquiry or take such other step or steps as he may think desirable in the circumstances, and he may thereafter issue an order either in accordance with the prayer of the application or with such modifications or alterations as may appear to him to be requisite, and may make such order as he thinks fit in reference to the cost, charges, and expenses incurred in relation to such order.

MINUTES AND ACCOUNTS, APPOINTMENT OF CLERK, TREASURER, AND AUDITOR.

Clerk to be appointed.

61. The Commissioners shall appoint a clerk for keeping the records of the proceedings of the Commissioners and their committees, and for performing the other duties required of him by this Act; which records shall contain accurate minutes of the proceedings and orders of the Commissioners and their committees, and they, being signed by the preses of each respective meeting, or any copy or extract therefrom authenticated by the signature of the clerk, shall be received as evidence in all courts whatsoever, in any case or matter concerning this Act.

Clerk not to be concerned as agent, &c. in any prosecution under this Act.

62. No such clerk, or the partner of any such clerk, or any person in the employ of such clerk or of his partner, shall act as agent or solicitor in the trial of any offence in the police court; and in the event of a contravention of this provision such clerk shall be thenceforth disqualified from holding any office whatever under this Act, and also from acting as a Commissioner under this Act.

Treasurer and collector to be appointed.

63. The Commissioners shall in like manner elect and appoint a treasurer and a collector to act during their pleasure; and such collector and treasurer, before they shall be permitted to take upon them the execution of their office, shall respectively grant bond, with sufficient sureties, to the Commissioners, for their intromissions, and for the just and faithful execution of their office, to such an amount as the Commissioners shall think reasonable; and any collector or treasurer who may be convicted of wilfully secreting or not accounting to the Commissioners for any sum of money received by him as collector or treasurer shall forfeit triple the amount thereof to the Commissioners, besides being liable to be punished according to law, and to be deprived of the office.

Collector to lodge all moneys received by him in bank.

64. The collector or treasurer shall be obliged to lodge all money received by him in a chartered or other bank, or in one of the branches of such bank in the burgh, to be fixed by the Commissioners, upon an account to be opened in the name of the Commissioners, in their corporate name, and to be operated upon by two of the Commissioners specially authorised to that effect, and the treasurer; and no drafts on the said account shall be made for any private purpose on any pretence whatever, nor for any other purpose than the payments which shall from time to time be authorised by the Commissioners or their committees for the purposes of this Act, as the same shall be certified by the clerk who shall countersign all cheques.

On insolvency of treasurers or collectors, deficiency may be assessed.

65. In case any treasurer or collector shall become insolvent, and the sums chargeable against him shall not have been paid by his cautioners or sureties, the amount deficient shall be chargeable against the next or any subsequent annual assessments.

Treasurer and collector may be the same person, but clerk and treasurer not to be the same person.

66. The Commissioners may appoint the same person to be both treasurer and collector; but shall (saving the case of persons appointed prior to the passing of this Act) not appoint their clerk, or the partner of such clerk, or any person in the service or employ of such clerk, or of his partner, to be the treasurer; or appoint any person who may have been appointed treasurer, or the partner of such treasurer, or any person in the service or employ of such treasurer, or of his partner, to be the clerk to the Commissioners; and if any person shall accept both the offices of clerk and treasurer, or if any person being the partner of such clerk, or in the service or employ of such clerk or of his partner, shall accept the office of treasurer, or shall act as deputy of the treasurer, or in any manner officiate for the treasurer, or being the treasurer, or the partner of such treasurer, or in the service or employ of such treasurer or of his partner, shall accept the office of clerk, or shall act as deputy of such clerk, or if any treasurer shall hold any place of profit or trust under the Commissioners other than that of collector, every person so offending shall for every offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same, to be recovered, with full expenses, in the same manner as any of the penalties imposed by this Act may be sued for and recovered.

Books of accounts to be kept by Commissioners.

67. Accounts of all property, heritable and movable, vested in the Commissioners, showing the nature of such property, and of all money received and disbursed, shall be kept in books by the treasurer or collector in such form as the auditor of the Court of Session shall prescribe; and all such books of accounts may at all reasonable times, and on payment of a reasonable fee be inspected and perused by any person assessed, and also by any person entitled to any money due and owing on the credit of the assessments; and such persons may take copies of or extracts from any such books and accounts, on payment of a reasonable fee, the amount of such fee to be fixed by the auditor of the Court of Session; and any person in whose custody or power any such books and accounts are, who shall refuse inspection thereof, or to permit copies or extracts to be taken as aforesaid, shall be liable in a penalty not exceeding ten pounds; and in case any person who shall be assessed shall be dissatisfied with any accounts which shall have been made up as herein provided, or with any of the items or articles contained in such accounts, such person may, at any time within three months after the accounts are approved by the Commissioners, complain against the same, by petition to the sheriff, in which complaint shall be specified the grounds of objection to such accounts, items, or articles; and the sheriff shall proceed to hear and determine the matter of such complaint, and his decision shall be final.

Account of receipt and application of

68. The Commissioners shall yearly cause to be made out a just and accurate account of all the moneys received and expended

moneys to be made out by Commissioners and printed.

in the execution of this Act, for the year ending on the fifteenth day of May immediately preceding, showing from what sources such moneys have been received, and to what purposes the same have been laid out and applied; which account, as the same shall have been audited, as herein-after provided, shall be laid before a meeting to be held on the second Tuesday in July in each year, or at a meeting to be held for the special purpose as soon thereafter as may be, and shall, if and as approved by the Commissioners, be signed by the preses of said meeting and the clerk, and shall be deposited with the clerk, who shall forthwith cause such account or an abstract thereof to be printed, and shall permit any person assessed under this Act to inspect and examine such account at all reasonable times, without payment of any fee or reward for such inspection.

Auditor to be appointed by sheriff.

69. The sheriff shall annually, on the application of the Commissioners, appoint an auditor, for the purpose of auditing their accounts; and in case the office of such auditor shall, before such accounts are audited by him, become vacant by death or from any other cause, the sheriff shall appoint an auditor to supply such vacancy.

Auditor to report.

70. The Commissioners shall deliver to the auditor, within one month after the said fifteenth day of May annually, all the accounts, together with their books and vouchers; and it shall be the duty of the auditor to audit such accounts, and either make a special report thereon, or simply confirm the same; and such report or confirmation shall be read at the foresaid meeting; and if any question arise in regard to any item in such accounts the matter shall be disposed of by the sheriff in the same manner as appeals from the auditor of the sheriff court are disposed of, and in all cases where the sum in dispute is less than the sum of twenty-five pounds, his decision shall be final, and where the sum in dispute exceeds the sum of twenty-five pounds there shall be the same right of appeal as in ordinary actions in the sheriff court: Provided always, that it shall not be competent to raise any such question before the sheriff after the lapse of three months from the date of the meeting at which the auditor's report is received.

Commissioners not to hold places of profit under Act.

71. No magistrate, town councillor, or Commissioner shall, directly or indirectly, derive any emolument or profit from any business or work performed by him under this Act; nor shall he be capable of enjoying any office of profit to be created or established by virtue of this Act, or of holding any share or interest in any contract relating to the execution thereof, or of standing as a candidate for any such office, or of being a competitor for any such contract, save and except contracts entered into with any chartered or joint stock company of which such Commissioner may be a partner; and any Commissioner who shall act in contravention of this section shall, ipso facto, cease to be a Commissioner, and the sheriff, at the instance of any householder within the burgh, may declare the office of such Commissioner to be vacant, and may inflict a fine upon him not exceeding one hundred pounds.

Commissioners vacating office to vacate other municipal offices.

72. Where any councillor or Commissioner vacates his office as such either voluntarily or under any statutory provision, such councillor or Commissioner shall cease to hold any office, whether that of magistrate or otherwise, which he may hold or has been appointed to in virtue of his being a councillor or Commissioner; and the place of such magistrate or officer shall be filled in the manner provided in section twenty-five of the Act third and fourth William the Fourth, chapter seventy-six, and section twenty-three of the Act third and fourth William the Fourth, chapter seventy-seven.

SURVEYOR, INSPECTOR, AND MEDICAL OFFICER OF HEALTH.

Surveyor.

73. The Commissioners shall from time to time appoint a person duly qualified to act as a surveyor of the paving and drainage and other works authorised under the provisions of this Act, and who shall be called the burgh surveyor.

Inspector of cleansing.

74. The Commissioners may appoint an inspector of cleansing to superintend and enforce the due execution of all duties to be performed by the scavengers appointed under this Act, and to report to the Commissioners any breach of the provisions of this Act, or other Acts or byelaws herein referred to, and the Commissioners shall duly publish the name of any inspector of cleansing appointed by them, and shall require him to provide and keep a book, in which shall be entered all reasonable complaints made by any inhabitant of the burgh of any breach of the provisions of this Act, or of the byelaws made by the Commissioners, and the inspector of cleansing shall forthwith inquire into the truth of such complaints, and report upon the same to the Commissioners at their next meeting; and such report, and the order of the Commissioners thereon, shall be entered in the said book, which shall be kept at the office of the Commissioners, and shall be open at all reasonable times to the inspection of any householder, elector of the burgh, or other person interested, and the Commissioners may also appoint an inspector of lighting.

Sanitary inspector.

75. The Commissioners shall appoint a sanitary inspector, subject to the provisions of the Public Health Acts, whose duty it shall be to superintend and enforce the sanitary provisions of such Acts and this Act.

Same person may be surveyor and inspector.

76. The Commissioners may, if they think fit, appoint the same person to fill any two or more of the offices in the three immediately preceding sections mentioned.

Medical officer of health.

77.—(1.) The Commissioners shall appoint a medical officer of health who shall be a registered medical practitioner, and who shall also, if appointed after the fifteenth day of May, one thousand eight hundred and ninety-four, be registered on the Medical Register as the holder of a diploma in sanitary science, public health, or state medicine, under section twenty-one of the Medical Act, 1886.

(2.) It shall be the duty of the medical officer to ascertain the existence of disease within the limits appointed to him, especially

of all infectious diseases, and to point out any local causes likely to occasion or continue such diseases, or otherwise injure the health of the inhabitants, and to point out the best means of checking or preventing the spread of such diseases, and from time to time, as required by the Commissioners, to report to them upon the matters aforesaid, and to perform any other duties of a like nature which may be required of him, as well as all duties pertaining to medical officers under the Public Health Acts.

(3.) The Commissioners shall make byelaws for regulating the duties of the medical officer of health and the sanitary inspector, subject to the approval of the Board of Supervision, in manner provided by the Public Health Acts. The burgh surveyor, inspector of cleansing, inspector of lighting, sanitary inspector, and medical officer of health shall hold office during the pleasure of the Commissioners, but as regards the two last-mentioned officers subject to the provisions of section fifty-four of the Local Government (Scotland) Act, 1889.

PART III.

POLICE FORCE.

CHIEF CONSTABLE AND CONSTABLES.

Appointment of chief constable and of constables.

78. The Commissioners of burghs which, at the date of the last census, had a population of not less than seven thousand, and at the date of the passing of this Act maintain a separate police force, and of burghs which, at the date of the last census, had a population of not less than twenty thousand, and of any burgh with respect to which it shall be at any time proved to the satisfaction of the sheriff on the application of the Commissioners of such burgh that it has a population of not less than twenty thousand, shall from time to time appoint a chief constable, at a fixed annual salary, who shall not be removable or subject to have his salary diminished by the Commissioners, unless with the approbation of the chief magistrate of the burgh and the sheriff, or, in case of their differing in opinion, of the Secretary for Scotland, but may be suspended by the magistrates with consent of the sheriff for a definite period pending any inquiry instituted with a view to his removal; and as often as such Commissioners shall fix the number of constables which they shall judge to be necessary for the burgh, and the rank and designation of such constables, the said chief constable shall appoint proper persons for the duty, subject (so long as any contribution is made from public funds towards the expenses of the police force of the burgh) to such regulations as may be made from time to time by the Secretary for Scotland, and shall have power to direct their distribution within the burgh, and to suspend or remove them at pleasure; and the chief constable may also be appointed to any one or more of the offices of burgh prosecutor, burgh surveyor, inspector of cleansing, inspector of lighting, sanitary inspector, and fire master.

It shall be lawful to appoint the same person to be chief constable for two or more adjoining burghs, whether situated in one or more counties, if the Commissioners of such burghs shall agree to join in such appointment; and the chief constable of a burgh may, if the Commissioners shall agree to join in such appointment, be appointed, by the standing joint committee of the county, chief constable of the county in which such burgh is wholly or partly situated, or of any county closely adjacent; and the chief constable of a county or any superintendent of a division of the county may, if the standing joint committee of the county shall agree to join in such appointment, be appointed chief constable of any burgh situated within or closely adjacent to such county or division of a county; and in like manner it shall be lawful for the chief constable of a county, with the sanction of the standing joint committee, to appoint the chief constable of any burgh, situated within or closely adjacent to any division of the county, to be superintendent at the head of the constables of such division of the county, if the Commissioners of the burgh shall agree to join in such appointment.

Provided that nothing herein contained shall be taken to prevent the consolidation of county and burgh police establishments in terms of the Police Act, 1857, and the provisions of the said Act as regards consolidation shall apply to all burghs which, at or after the passing of this Act, have, or are entitled to have, a separate police force.

If the Commissioners fail of their own accord, or on the requisition of the sheriff of the county, within three months after such requisition, to appoint a chief constable, or to fix the number of constables for the burgh, or should the chief constable, if appointed fail from any cause to appoint a sufficient number of constables for the burgh, the sheriff shall in any such case make a representation to the Secretary for Scotland, who shall inquire and report thereon to Her Majesty in Council; and it shall be lawful for Her Majesty, with the advice of Her Privy Council, by Order in Council, to ordain the Commissioners of such burgh to appoint a chief constable, and to fix the number of constables for the burgh, and otherwise to give effect to this enactment. The police of the burgh, so long as it is reported efficient by Her Majesty's Inspector of Constabulary for Scotland, shall be certified and treated as an efficient police force under the Police Act, 1857, and for the purposes of that Act the burgh shall not be deemed to form part of the county in which it is situated.

For the purposes of this section the burgh of Renfrew, and the police burgh of Lerwick, shall be deemed each to have had at the date of the last census a population of not less than seven thousand.

79. The chief constable and other constables so appointed shall before a magistrate make the following declaration, videlicet, "I hereby do solemnly, sincerely, and truly declare and affirm "that I will faithfully discharge the duties of the office of "constable." Declaration by constables.

Powers of constables.

80. The chief constable and constables shall have all the powers and privileges which any constable or police officer duly appointed has, by virtue of the common law or by statute, in the burgh for which they are so appointed, and in any county in which such burgh is wholly or partly situated, and in any burgh contiguous or adjacent to such burgh, and in any harbour, bay, loch, or anchorage within or adjoining such burgh or county.

Police arrangements for other burghs.

81. All other burghs shall be supplied with constables by the counties in which they are situated, under the provisions of the Local Government (Scotland) Act, 1889, or in the option of the commissioners of the burgh under the provisions herein-after contained, and in the latter case the chief constable of the county, in making his arrangements for distributing the constables within the county, shall, on the requisition of the Commissioners of such burghs, appoint as constables for the burgh all or any one or more of the county constables, who in virtue of such appointment shall, in addition to the powers of, and duties incumbent on them as county constables under the Police Act, 1857, have all the powers of, and shall perform all the duties incumbent on them as constables under this Act; and such chief constable shall also appoint one of the said constables to be stationed in the burgh, and to hold the position of chief officer of police in the burgh; and such chief officer of police shall, for the purposes of this Act, and subject to the control and orders of such chief constable, and of any officers having by special authority of such chief constable the duty of supervising the constabulary force stationed within the burgh (but only so long as his appointment by the chief constable continues in force), hold the position of chief constable in the burgh, and possess all the powers (except that of appointing, distributing, suspending, removing, or imposing fines on constables), and be entitled to act in all other respects as other chief constables appointed by the Commissioners under this Act, and all the powers and authority conferred on chief constables appointed by the Commissioners under this Act shall be held, and may at his pleasure be exercised by the chief constable of the county, and by any officers having special authority as aforesaid; and the expenses to be incurred in carrying out this arrangement shall be borne and disbursed by the county council of the county; and it shall be lawful for the Commissioners of such burghs from time to time during pleasure, with the consent of the standing joint committee of the county, to appoint such chief officer of police to any office in the burgh which it would be competent for the chief constable of a burgh to hold; and it shall also be lawful for the Commissioners of such burghs, and they are hereby required, to contract with and agree to pay out of the burgh general assessment to the county council of the county in which the burgh is situated, such sums as may from time to time be found requisite for the constabulary service within the burgh, as the same may be agreed on between themselves and the standing joint committee of the county, or failing such agreement as aforesaid as shall be fixed by the sheriff after hearing parties, and whose decision shall be final, and the expense defrayed by the county council under the

two heads of general expenditure and local expenditure for the police in the said burgh shall be paid to the county treasurer out of the burgh general assessment, which payment shall be regulated and determined in accordance with the provisions of section fifty-nine of the Police Act, 1857, and so long as the sums, either fixed by agreement or determined as aforesaid, are duly paid by the Commissioners of such burghs, all the powers to assess for the purposes of the said Police Act, 1857, within the burgh for which the same are paid shall be suspended; and the chief magistrate of such burgh shall be ex-officio a justice of the peace, and a Commissioner of Supply, of each and all of the several counties in which any part of such burgh may be situate; and so long as such contract or arrangement subsists, it shall be lawful to act upon it, although the population may, according to the last census for the time, amount to twenty thousand or upwards; but without prejudice, in that event, but in that event only, to the Commissioners terminating the contract, after twelve months' notice, and themselves appointing a chief constable, and having constables, as in the case of burghs having a population of twenty thousand or upwards, in which case all the powers of assessment within the burgh for the purposes of the said Act shall thereafter cease and determine.

Provided always that section seventy-three of the Police Act, 1857, shall from and after the commencement of this Act be read and construed as if after the words "any burgh being a royal or parliamentary burgh or burgh of barony or regality" therein occurring the words "or police burgh" were therein added.

Additional number of constables for burghs temporarily.

82. Where in any burgh there is, during part of the year, a large increase of the population, either for the purposes of trade or for recreation and health, whereby, or for any other reason, it is necessary or expedient to have an additional number of constables in such burgh, it shall be lawful for the chief constable of the county in which such burgh is situated, or of any other county, with the consent of the standing joint committee of the county, or the chief constable of any other burgh, with the consent of the magistrates, on the application of the Commissioners of such burgh, accompanied, if so required, with a satisfactory undertaking to pay the expenses after mentioned, to direct the constables of such county or burgh respectively to proceed to and act temporarily as constables in such burgh; and such constables, during the time they are so doing duty in such burgh, shall have all the powers and perform all the duties of constables in such burgh; and the expenses to be incurred in sending the constables to, and bringing them back from, such burgh, and the remuneration for the services of the constables, and all expenses incident to such services, shall form a charge against such burgh, and the Commissioners thereof shall pay the same out of the burgh general assessment of such burgh; and in case of dispute, the amount thereof shall be ascertained and fixed by the sheriff in a summary manner, whose decision shall be final. Provided that the chief constable of any burgh may, with the sanction of the chief magistrate, appoint additional constables to act within such burgh on any special occasion or for such period

for which such additional constables may be deemed by him to be necessary, and such additional constables so appointed shall have all the powers of police constables.

Power to detach constables to other places.

83. On the requisition of the sheriff of any county or chief magistrate of any burgh in Scotland, the chief constable of any burgh or chief constable of any county shall, if so directed by the magistrates of the burgh or the standing joint committee of the county respectively, or in case of urgency by the acting chief magistrate or the chairman of the standing joint committee respectively, detach constables to act in other counties or burghs, guarantee being obtained for outlay and expense, and also a reasonable sum for the services of the constables, and also for provision in case of constables being injured or killed; and during the time they are so doing duty in other counties or burghs, the constables shall have all the powers and perform all the duties of the constables in such counties or burghs respectively; and further, on the requisition or order of the Secretary for Scotland, the chief constable of any burgh or the chief constable of any county shall have power to supply a certain portion of the police force under his charge for any special or temporary duty or service elsewhere within Scotland, the proportion from any one force not to exceed ten per centum, and the expense to be defrayed by the force requiring the extra police assistance.

Constables may execute warrants.

84. All warrants and deliverances by any Lord Commissioner of Justiciary, sheriff, magistrate, justice or justices, court, or other lawful authority which may be issued in any criminal proceeding may be served and executed, and all services, citations, and executions in any such criminal proceeding may be made and given by the chief constable or by any constable appointed under this Act.

Constables to account for fees.

85. It shall not be lawful for any constable acting under this Act to receive for his own use any fee for the performance of any act done by him in the execution of his duty as such constable; but this enactment shall not extend to prevent the receipt by any such constable of any fee or other payment which he may be liable to account for or pay over to the Commissioners, or otherwise for the use of the burgh.

Duties of chief constable and constables.

86. It shall be the duty of the chief constable, and of the constables to be appointed by him, to guard, patrol, and watch within the burgh, according to the regulations to be prescribed by the chief constable, under the control of the Commissioners; and it shall be lawful for the said chief constable, or any constable of police, without any other warrant than this Act, to apprehend and to bring before the magistrates of police all persons actually committing any criminal, riotous, or disorderly act, or accused or suspected of having committed crimes, delinquencies, or offences, of whatsoever description, and at what place and period soever the same may have been or are suspected to have been committed, whether the same be of such a kind as can be competently tried before the magistrates of

police, or be of a nature requiring to be remitted for trial before another tribunal, or which, from having been committed beyond the bounds of the burgh, fall to be tried in another jurisdiction; and the chief constable and constables shall obey the orders of the magistrates, and at all times afford their aid and assistance to the magistrates, and to all other judges and magistrates having jurisdiction within the burgh, in all matters relating to the preservation of peace and good order, the suppression of nuisances, and the removal of obstructions within the burgh, and shall enforce the observance of all byelaws, orders, rules, and regulations made or to be made by the Commissioners, and they shall give attendance at the police courts of the burgh, and, when required, at all meetings of the Commissioners or their committees, and furnish them with all explanations relating to matters falling within their several departments of duty.

Penalty on persons obstructing constables in their duty.

87. Every person who shall at any time resist, obstruct, or molest any constable in the execution of his duty, or shall aid or incite any person so to do, shall for every such offence be liable to a penalty not exceeding five pounds, or to imprisonment without the option of a penalty for a period not exceeding sixty days; and if any person shall assault or strike any such constable employed as aforesaid, or rescue or attempt to rescue, or aid or incite any person to rescue or attempt to rescue any prisoner whom any such constable shall have in custody, or be aiding to secure, such person so offending shall for every such offence be liable to a penalty not exceeding ten pounds, or to imprisonment without the option of a penalty for a period not exceeding sixty days, without prejudice to any constable or other person on whom such assault or offence may have been committed to sue in any competent court for compensation, damages, or expenses for any injury or loss he may thereby have sustained.

Constables not to resign without leave or notice.

88. No constable shall resign his office, or withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the magistrates or by the chief constable, or until he has given to the chief constable one month's notice; and every constable who so resigns or withdraws himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him, and, on conviction before a magistrate, to a penalty not exceeding five pounds, or to imprisonment for a period not exceeding fourteen days without the option of a fine.

Commissioners to fix salaries of constables.

89. It shall be lawful for the Commissioners to fix and appoint suitable wages to the constables and other persons employed by them, to pay the necessary expenses incurred by them in the execution of the duty of their respective offices, and to reward them for meritorious services, and also to make provision for any chief constable, constable, or other servant of the establishment employed for any of the purposes of this Act to whom the Police (Scotland) Act, 1890, does not apply, and who may at any time be disabled in or after long service be unfitted for the execution of his duty, or for the widow or family of such constable who may lose his life in the execution of his duty.

Chief constable may appoint temporary substitute.

90. The chief constable, with the consent of the magistrates, may from time to time appoint any constable to act as chief officer of police in his stead during any temporary absence or any illness, with power to act in case of his death until the appointment of his successor, but the Commissioners may, if they think fit, supersede any constable so appointed and may appoint some other person.

Constables dismissed to deliver up accoutrements.

91. Every constable who is dismissed from, or ceases to hold or exercise his office, shall forthwith deliver over to the chief constable, or to such person, and at such time and place, as the chief constable shall direct, all the clothing, accoutrements, appointments, and other necessaries which have been supplied to him for the execution of his duty, under pain of imprisonment, for any period not exceeding one month; and the magistrate may grant warrant to search for and seize all such clothing, accoutrements, appointments, and other necessaries not so delivered over, wherever the same are found.

Penalty for unlawful possession of accoutrements, or for assuming the dress of constables.

92. Every person who, not being at the time a constable appointed under this Act, has in his possession any article being part of the clothing, accoutrements, or appointments supplied to any such constable, and who is not able satisfactorily to account for his possession thereof, or who puts on the dress, or takes the name, designation, or character of any person appointed as such constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he is liable for such offence, be liable to a penalty not exceeding ten pounds.

Penalty for neglect of duty.

93. Every constable who is guilty of any neglect or violation of his duty as a constable, and is convicted thereof before a magistrate, shall be liable to a penalty not exceeding ten pounds, the amount of which penalty may be deducted from the salary or wages due, or to become due to him, or payment thereof may be enforced like other penalties, or, at the discretion of the magistrate before whom he is convicted, he may be imprisoned for any period not exceeding sixty days.

Provisions relating to harbour police not affected.

94. Nothing in this Act shall alter or affect or interfere with the provisions relating to the harbour police contained in any Act authorising the construction or improvement or maintenance of a harbour, or any Act amending the same.

Saving of 53 & 54 Vict. c. 67.

95. Nothing in this Act shall prejudice or affect the provisions of the Police (Scotland) Act, 1890.

SPECIAL CONSTABLES.

Magistrates may appoint special constables.

96. For the purpose of aiding the police constables on occasions of emergency, and for suppressing or preventing tumult or riot, the magistrates may from time to time appoint any of the owners or occupiers of lands or premises, or other person residing within

the burgh, between the ages of twenty and fifty, to act as special constables for a period not exceeding six months, and may recall such appointment at pleasure, and the special constables so appointed shall have the same powers and privileges as constables of police appointed and acting under this Act.

Roll of special constables to be kept.

97. A roll of the names and addresses of all special constables shall be kept by the chief constable, and the expenses of providing them with batons, or otherwise equipping, training, and employing them, shall be paid by the Commissioners out of the burgh general assessment.

Special constables on duty to be under chief constable.

98. Every special constable shall, when on duty, be under the direction of the chief constable, but the magistrates may make such regulations for their organisation and training as they think proper.

PART IV.

POLICE ADMINISTRATION.

LIGHTING.

Streets to be lighted.

99. The Commissioners shall make provision for lighting in a suitable manner all the streets, and all other places within the burgh which in their judgment should be lighted at the public expense, and shall provide, erect, and maintain such a number of lamps, lamp posts, and lamp irons, and other appurtenances, as may be necessary for that purpose, and shall light, or shall enter into contracts for lighting, and cause to be lighted, such lamps by means of gas, or such other light of an improved kind, subject to the provisions of the Electric Lighting Act, 1882, or any Act or Acts amending or superseding the same, as they may find expedient: and the Commissioners are hereby authorised to order the lamp irons, lamp posts, and lamps to be fixed, either upon the sides of the causeways, streets, and roads, or upon the kerbstones of the pavements or footways, or at or upon the rails or in or upon the walls or buildings on the sides of the streets, as they shall think proper, without being liable to any claim for compensation thereanent. The Gasworks Clauses Act, 1847, the Gas and Water Works Facilities Act, 1870, the Gasworks Clauses Act, 1871, and the Gas and Water Works Facilities Act (1870) Amendment Act, 1873, and any Act amending the said Acts, shall, except in or so far as they are expressly varied by this Act, be incorporated with this Act; and the expression "the undertakers" in the said Acts shall mean the Commissioners.

Penalty for wilfully breaking lamps.

100. It shall be lawful for anyone who shall see any person take away, or wilfully break, throw down, or damage any lamp or lamp post, or wilfully extinguish the light, or damage the iron or appurtenances of any lamp, to seize and apprehend him, and for any person to assist in seizing the offender, and by the authority of this Act, without any other warrant, to convey such offender to the police office, or to deliver him into the custody of a police officer, watchman, or constable or other officer, in order to be secured and taken before a magistrate; and if the person accused of such offence,

whether apprehended as aforesaid or afterwards cited for the same, shall be convicted thereof, he shall forfeit a sum not exceeding ten pounds for every such offence, and moreover shall pay such further sum as the magistrate may assess as the amount of the damage done by him, and the payment of such damage shall be enforced in the same way as if it were an additional penalty.

Persons accidentally breaking lamps to repair the damage.

101. If a person shall, through negligence or accident, break any lamp set up in any street, or in any common stair or passage, or private court, and shall not, upon demand, make satisfaction for such damage, it shall be lawful for any of the magistrates, upon complaint thereof being established in the police court, under the summary procedure authorised by this Act, to order such sum of money to be paid as the damage proved shall amount to, which sum shall be recoverable as a civil debt.

Price to be paid for gas to be ascertained in case of dispute.

102. If the Commissioners and the owners of any works authorised by Act of Parliament to supply gas or other light within the burgh, and with whom the Commissioners shall be desirous of contracting, shall not agree as to the terms and conditions of the supply, and as to the price to be paid for such supply, then such terms and conditions and price shall be settled by arbitration; and for that purpose the clauses of the Lands Clauses Acts, with respect to the settlement of disputes by arbitration, shall be, and are hereby, incorporated with this Act, and the expression "the promoters" in the said Acts shall, in reference to this Act, mean the Commissioners: Provided always, that this enactment shall not apply to any burgh where the supply of gas for public lamps is regulated by a Local Act if the provisions of such Local Act are inconsistent with this enactment.

Gas to be tested.

103. In order to secure a uniform supply of good gas in the burgh, it shall be lawful for the Commissioners, where the gas is not supplied by them, after intimation to the manufacturers of the gas supplied within the burgh, to provide suitable places and instruments for testing the quality and illuminating power of the gas supplied within the burgh; and tests shall be made as often as may be necessary to obtain a fair and true test of the quality and illuminating power of the gas, and the results of such tests shall be final and conclusive of such quality and illuminating power when the tests were so made; and where the gas supplied within the burgh is manufactured by the Commissioners, they shall be bound to provide suitable places and instruments for testing the quality and illuminating power of the gas supplied by them within the burgh, and to publish the results at least once a month. Provided always that the person to make the tests shall be appointed by the sheriff on the application of the Commissioners, or any seven electors or ratepayers in the burgh, after such notice of the application and after such inquiry as to the sheriff shall seem proper; and the whole expense to be incurred in carrying out this enactment shall be defrayed by the Commissioners out of the burgh general assessment.

Lighting of common stairs, &c.

104. The owner or owners of common stairs or passages or private courts, or of lands or premises having a right of access by

any common stair or passage or private court, shall provide, fit up, and maintain, and renew, in such common stairs, passages, or private courts, all necessary lamps, brackets, and other means of lighting, and all necessary means of extinguishing the light, and shall provide the necessary supply of gas or other light therefor; and such owner or owners shall further, on being required by the Commissioners, within seven days next after the service of an order for that purpose, provide and fit up in such common stairs, passages, or private courts, such number of lamps, brackets, and other means of lighting, and all such means of extinguishing the light as the Commissioners may determine, and provide the necessary supply of gas or other light, as may be required by the Commissioners, and shall maintain, alter, repair, and renew such lamps and brackets to the satisfaction of the Commissioners, and in default of compliance with any order of the Commissioners under this section, such owner or owners shall, each only in respect of any act or default of his own, be liable to a penalty not exceeding forty shillings, and a daily penalty of a like amount: Provided always, that the owner or owners so providing a supply of gas or other light shall be entitled to recover the amount expended by such owner or owners in providing such supply from the occupiers of every such house or building in, or entering or having access by the common stair, passage, or court, each such occupier being liable to pay his proportionate part of such amount according to the rent payable by each such occupier respectively: Provided further, that the occupier or occupiers shall in all cases clean, light, and extinguish the lights, at such time or times as shall be ordered by the Commissioners by any resolution passed by them and published once weekly for at least two weeks in some newspaper published or circulating in the burgh; and any occupier failing to comply with any such order or resolution shall be liable to a penalty not exceeding forty shillings, and to a daily penalty of like amount.

Power to Commissioners to supply light and charge owner.

105. The Commissioners may at any time, and from time to time as they think fit, provide, fit up, and maintain and renew, in such common courts, passages, or private courts, as they may consider to be insufficiently lighted, all necessary lamps, brackets, and other means of lighting, and all necessary means of extinguishing the light, and provide the necessary supply of gas or other light therefor, and by their inspector of lighting, or any other officer or servant of the Commissioners, clean any lamps and brackets, and light and extinguish the same, and for all purposes aforesaid the inspector of lighting, or any other officer or servant of the Commissioners, shall be entitled to require and shall have access to and from all such commom stairs, passages, or private courts at all times, and the Commissioners may, in such cases as they think fit, recover the expense they may incur as a debt from the owner, or if there are more owners than one, then proportionately from each owner according to the rental of the properties of each owner in any house or building or part thereof, to which access is obtained by such common stair, passage, or private court, and such owner or owners shall be entitled to recover the amount expended in providing the supply of gas or other light from the occupiers, each such occupier being liable to pay his proportionate

part of such amount according to the rent payable by him: Provided always, that the said expense, recoverable by the Commissioners as aforesaid, shall not in the case of common stair lighting exceed twenty shillings per burner per annum, and in the case of all other lighting exceed twenty-five shillings per burner per annum.

Commissioners may remove, &c. lamp post, &c. where not lighted according to regulations.

106. If the Commissioners shall have given permission to any person to erect any lamp posts, lamp globes, gas fittings, or other articles, and if the same shall not be kept lighted, or otherwise disposed, according to the orders or regulations of the Commissioners, the Commissioners may take possession of or remove the same without compensation being made therefor: Provided always, that any such lamp posts, lamp globes, gas fittings, or other articles so removed shall be delivered up to the owner thereof, in the event of his claiming the same, within six months after such removal, and paying all costs and expenses attending the removal and preservation of the same.

CLEANSING.

Dust, &c. collected to be vested in Commissioners.

107. The dust, night soil, dung, ashes, rubbish, filth, and manure, including slaughter-house manure, whether such slaughter-house is or is not the property of the Commissioners (excepting always cattle dung, mill dust, and the ashes of any kiln, engine, furnace, baker's oven, or the clinkers of any stove, and the refuse of any breweries, tanworks, soap, or chemical or other work), within the burgh, shall be vested in the Commissioners, who shall have power to sell and dispose of the same as they think proper, and the money arising therefrom shall be applied to the general purposes of this Act; and the Commissioners shall cause all the streets and footpaths from time to time to be properly swept and cleansed, and all the dust, night soil, dung, ashes, rubbish, filth, and manure which is found on them, or in privies, sewers, cesspools, houses, or other premises, to be collected and removed at such convenient hours and times as they shall consider proper; and in all cases where there is insufficent access for a cart or wheel-barrow to the dungstead, ashpit, or privy, the owner shall be bound to provide such access to the satisfaction of the Commissioners, and, failing his doing so, he shall be bound to pay the extra expenses of the removal as the same shall be fixed by the Commissioners, and the same shall be recoverable as a private improvement assessment.

Commissioners may provide lands, &c. for deposit of soil and materials.

108. The Commissioners may from time to time provide places convenient for the deposit, treatment, and disposal of the dust, night soil, dung, ashes, rubbish, filth, and manure to be collected under the authority of this Act, and for stabling and keeping all horses, carts, implements, and other things required for the purposes of this Act; and for any of such purposes the Commissioners may purchase or hire any lands or premises by them considered necessary, either within or beyond the boundaries of the burgh, and may for this purpose acquire the said lands and premises otherwise than by agreement under the provisions of the Lands Clauses Acts with the authority of the Board of Supervision in the manner herein-before provided, or they may cause any new buildings, machinery, appliances, and plant to be erected and provided upon

any lands which shall be purchased or hired by them under the provisions of this Act.

Removal of dust, ashes, and other refuse.

109. The Commissioners may cause carts, having a covering proper to prevent the escape of the contents thereof, to pass through any street or district every morning between such hours as may be fixed by the Commissioners for the purpose of collecting and removing the dust, ashes, and other material composing the burgh refuse from the lands and premises in and adjoining such street or district; and may by public notice in one or more newspapers published or circulating in the burgh, or by handbills posted in such street or district, require the occupiers of lands and premises within and adjoining such street or district to cause all their dust, ashes, and other material composing the burgh refuse to be deposited in a suitable box to be approved of by the inspector of cleansing, and placed daily on the outer side of the foot pavement opposite the lands and premises occupied by them, or at such other place near thereto as the inspector of cleansing shall appoint, not later than the time fixed as aforesaid; and when such daily service is in operation in any such street or district, the Commissioners may direct any ashpit in connexion with the lands and premises in or adjoining such street or district to be shut up or removed; and every occupier failing to comply with such notice shall be liable to a penalty not exceeding ten shillings for each offence.

Public conveniences.

110. The Commissioners may erect or continue public water-closets or earth closets, and latrines and urinals, in suitable places, and may place movable or fixed boxes for the temporary deposit of street sweepings in any of the streets in such situations as shall, in the opinion of the Commissioners, cause the least inconvenience or nuisance, and may defray the expense thereof and of keeping the same in good order.

Streets to be watered, and wells, pumps, &c. provided.

111. The Commissioners shall, as often as in their opinion occasion requires, cause the streets to be watered, and they may contract with any water company or person for a supply of water for that purpose, and for cleansing the sewers and drains; and if necessary they may place pipes, conduits, and pumps in any such streets, or provide any other works and engines proper for that purpose, and remove and alter the same when and as they think proper.

Scavengers.

112. The Commissioners shall employ a sufficient number of scavengers, or contract with any person for sweeping, cleansing, and watering the streets, including the foot-pavements, and for removing all dust, ashes, rubbish, and filth therefrom, and for emptying privies and cesspools in the manner by this Act directed; and every such contractor who in any instance fails to discharge any duty imposed on him by his contract shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for obstructing scavengers.

113. Every person who refuses to permit the scavengers to remove such dirt, ashes, or rubbish as by this Act they are authorised to do, or who obstructs the scavengers in the performance of

their duty, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on persons other than scavengers removing dirt.

114. Every person other than the person employed by the Commissioners, or by some person contracting with the Commissioners for that purpose, who collects or carries away any dung, night soil, dust, ashes, rubbish, or filth by this Act directed to be collected or removed by the Commissioners, or by persons employed by them, shall be liable to a penalty not exceeding forty shillings for every such offence.

Sweeping and washing of common stairs.

115. The occupiers of every house, flat, or storey having entrance by a common stair shall cause the landing and the stair immediately below the flat or storey possessed by them to be kept clean to the satisfaction of the sanitary inspector. If any flat or storey of the tenement be unoccupied, the occupiers of the flats or storeys above shall cause the landings and stairs below, leading to such empty flat or storey, to be kept clean and washed downwards to the next house which shall be occupied, and if the top flat or storey be unoccupied, then the stair leading thereto shall be kept clean by the occupier of the flat or storey immediately below such top flat or storey; and any watercloset or other closet used in common, and any passage or continuation of a passage to any area, back green, or any ground used in common, shall be kept clean and washed by the occupiers of the several houses in such tenement in weekly rotation; and all areas and common passages leading to cellars shall be cleansed weekly by the occupiers of the cellars in the same, or by parties having a right to use such areas or passages, or who shall use such areas or passages. In cases where the common stair enters from or off a street (public or private) above, the occupiers of every house, flat, or storey shall keep clean the passage and stair from such street or flat immediately above them downwards to the house, flat, or storey possessed by them, and also cleanse any area or any passage leading to any ground or back green connected therewith; and if any flat or storey of the tenement be unoccupied, the occupiers of the flats or houses occupied shall keep clean the stair and passages upwards to such street, and clean the area, if there be one, or to the next house that shall be occupied; and owners or persons having charge of houses or buildings shall clean out unoccupied cellars and apartments. The occupiers of every house or building having entrance from a common passage shall, in weekly rotation, cause such passage and steps to the street to be kept clean: Provided always, that where there is no house or other occupied building having entrance from such passage, the duty of keeping clean the passage and steps to such street shall devolve upon the occupiers of the several flats above, in weekly rotation. Every person failing in any of the above matters shall for each offence be liable to a penalty not exceeding five shillings.

Sweeping and washing of common passages.

Foot pavements to be swept by occupier.

116. The Commissioners shall keep properly swept and cleansed the foot pavement of every street, so far as is reasonably practicable, and shall collect and remove from the said foot pavements,

so far as is reasonably practicable, all dust, ashes, rubbish, filth, and snow.

Common stairs and houses let for short periods to be cleansed by owners.

117. The owners of all common stairs and common passages shall whitewash or, at the option of the owner, paint the same once every year if required to do so by the sanitary inspector, and the owners of all premises occupied as dwelling-houses let for shorter periods than six months shall whitewash such premises, and every part and pertinent thereof, to the satisfaction of the sanitary inspector, once every year, if required to do so by such officer; and any such owner failing to do so shall be liable to a penalty not exceeding forty shillings.

Surveyor, medical officer, or inspector may enter and cleanse dwelling-houses, &c. at expense of owners.

118. It shall be lawful, at all reasonable times, for the burgh surveyor, inspector of cleansing, medical officer of health, and sanitary inspector, to enter all dwelling-houses and other premises, and their pertinents, where he has reason to believe that they are not in a cleanly condition, and to cleanse and purify the same, and to remove any filth therefrom, at the expense of the owner of such dwelling-houses and other premises if they are unoccupied, but if they are occupied then at the expense of the occupier: Provided always, that if the owner or occupier of such dwelling-house or other premises shall object to the entrance of such surveyor, medical officer, or inspectors as aforesaid, it shall not be lawful for such surveyor, medical officer, or inspectors, to enter without a warrant from the magistrate authorising him to do so, and the magistrate is hereby authorised to grant such warrant.

Penalty on keeping dwelling-houses in dirty condition.

119. Every person occupying any part of a building let out as separate dwelling-houses who shall keep the same, or any building or place appurtenant thereto, in a dirty, unwholesome, or unhealthy condition, after notice shall have been served upon him by the sanitary inspector to cleanse the same, shall be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding twenty shillings for every day during which such offence shall continue after conviction.

Areas, &c. to be cleansed by occupiers.

120. All private courts, yards, areas, roofs of outbuildings in the same, and other places which are not cleansed by scavengers appointed under this Act, shall be kept clean to the satisfaction of the inspector of cleansing or sanitary inspector, by or at the expense of the occupiers of such courts, yards, areas, or other places respectively; and if such courts, yards, areas, roofs therein, or other places shall not be so kept clean, the occupiers thereof, or such of them as in the judgment of the magistrate may be found to be the real offender, shall, in addition to the expense of cleaning the same, be liable to a penalty not exceeding ten shillings for every such offence: And the word "occupiers" in this section shall include all persons having a right to use such courts, yards, areas, or other places for any purpose whatever, or if the Commissioners think fit they may cleanse all such private courts, yards, areas, roofs therein, and other places, and charge the expense thereof to the burgh general assessment, or if the property is unoccupied may charge the expense thereof to the owners.

Stables and byres to be kept clean.

121. All stables and byres, and areas therewith connected, and roofs of outhouses, shall be constantly kept in a clean condition to the satisfaction of the inspector of cleansing or sanitary inspector by the occupier thereof, under a penalty not exceeding twenty shillings for each offence; and it shall be the duty of the inspector from time to time to examine the state of all such places, with a view to the enforcement of this enactment.

Horse and cow dung to be kept off the streets.

122. It shall not be lawful to deposit, except for the purpose of removal, any cattle dung upon the streets (mews or stable lanes excepted); and no cattle dung, wherever lawfully kept, shall be mixed with any dung, soil, dirt, ashes, or filth declared by this Act to be the property of the Commissioners; and where any cattle dung shall be found in any street (excepting as aforesaid), or shall be so mixed, the same shall be taken possession of by the inspector of cleansing, and sold, and the proceeds of such sale accounted for and applied to the police purposes of this Act.

Dungsteads, &c. to be cleaned out.

123. It shall be lawful for the Commissioners, after inspection and report by the chief constable or inspector of cleansing or sanitary inspector, to regulate and limit the time within which all common necessaries and dungsteads shall be emptied and cleaned out; and if any person, under obligation by contract or otherwise to empty or clean out such places, shall fail so to do within the time so limited, such person shall be liable in a penalty not exceeding twenty shillings, besides forfeiture of any dung in such place; which dung the inspector of cleansing, or sanitary inspector, or any officer authorised by the Commissioners, may remove or dispose of as aforesaid.

As to removal of dung.

124. Every person who shall lay, or cause to be laid, on any street any dung or manure, or any hay or straw, for the purpose of removing the same, shall remove and take the same away before eight of the clock of the morning of the day on which it shall be so laid in any street, from the first day of October to the first day of April, and before seven of the clock of the morning from the first day of April to the first day of October; and if dung or manure shall be allowed to remain on any part of such streets after the said hours, the person offending shall be liable to a penalty not exceeding forty shillings for each offence, and that over and above the forfeiture of the dung or manure, which shall be removed and disposed of as aforesaid.

Penalty for conveying offensive matter at improper times.

125. The Commissioners may from time to time fix the hours within which only it shall be lawful to remove any offensive matter or thing from any premises within, or into, or through the burgh; and when the Commissioners have fixed such hours, and given public notice thereof in such manner as they may deem proper, every person who removes any offensive matter or thing from any premises within, or into, or through the burgh at any time, except within the hours so fixed, and every person who at any time, whether such hours have been fixed by the Commissioners or not, uses for any such purpose any cart or carriage not having a covering proper for preventing the escape of the contents of such cart

or carriage, or of the stench thereof, or who wilfully or negligently spills any such offensive matter or thing in the removal or passage thereof, or who does not carefully sweep and cleanse every place in which any such offensive matter or thing has been placed or unavoidably spilled, shall for every such offence be liable to a penalty not exceeding forty shillings, and in default of the apprehension of the actual offender, the driver or person having charge of the cart or carriage employed for any such purpose shall be deemed to be the offender.

As to laying down dung on fields, nursery, or garden grounds.

126. Nothing in this Act contained shall have the effect of prohibiting any person laying down dung on any field, nursery, or garden ground, for the purpose of manuring the same; but if in any case the medical officer of health shall certify that the manure so laid down in any place within the burgh is offensive or prejudicial to health, the magistrate may order it to be removed or otherwise disposed of forthwith; and every person failing to comply with such order shall be liable to a penalty not exceeding five pounds, besides the forfeiture of such manure.

Commissioners may make byelaws.

127. The Commissioners shall have power to make byelaws for enforcing the provisions of the preceding sections with reference to cleansing.

PAVING AND MAINTAINING STREETS.

Carriageway of streets to be under control of Commissioners.

128. Subject to the provisions of this Act, and of the Roads and Streets in Police Burghs (Scotland) Act, 1891, the Commissioners shall have the sole charge and control of the carriageway of all the streets within the burgh maintained or which shall be maintained by the Commissioners and also of all foot pavements and footpaths.

Power to Commissioners to improve and form public streets.

129. The Commissioners may from time to time cause all or any of the streets, foot pavements and footpaths, or any part thereof, to be raised, lowered, altered, and formed in such manner and with such materials as they think fit, and they shall also maintain the streets, other than private streets: Provided always, that nothing in this Act contained shall interfere with any right to have applied to the streets, so far as applicable thereto, the assessment under the Roads and Bridges (Scotland) Act, 1878, or any local Act, and any fund by law applicable to the maintenance or repair of the streets.

Commissioners may place fences to footways.

130. The Commissioners may from time to time place and maintain such fences and posts on the side of the footways of streets as they may consider necessary for the protection of passengers, as also posts in the carriageways of the streets, so as to make the crossing thereof less dangerous for foot passengers, or may remove the same, or any obstructions to any such carriageway or footway.

Penalty on altering pavements without consent of Commissioners.

131. Every person who wilfully displaces or makes any alteration in the pavement, flags, or other materials of any street, without the consent of the Commissioners in writing, or without other lawful authority, shall be liable to a penalty not exceeding five pounds.

Commissioners may allow telegraph poles, &c. in or under the streets.

132. The Commissioners may allow any person on such terms and conditions as may be arranged :—

(1.) To erect telegraph or telephone poles in the streets :

(2.) To erect or place telegraph or telephone wires either over, in, or under such streets :

(3.) To make tunnels under or bridges over such streets :

Provided always, that the persons who erect such poles or wires, or make such tunnels or bridges, shall be responsible for their proper maintenance, and for any accident that may result from any default in that respect; and any person considering himself aggrieved by any such arrangement made by the Commissioners may appeal to the sheriff in manner after provided. But nothing in this Act shall take away or abridge or prejudicially affect any right, power, or authority of Her Majesty's Postmaster General under the Telegraph Acts, 1863 to 1889, or otherwise.

PRIVATE STREETS.

Private streets not properly formed.

133. Where any private street in which houses or permanent buildings have been erected on one-fourth of the ground fronting the same, or part of such street has not, together with the footways thereof, been sufficiently levelled, paved, or causewayed and flagged to the satisfaction of the Commissioners, it shall be lawful for the Commissioners to cause any such street or part thereof, and the footways, to be freed from obstructions, and to be properly levelled, paved, or causewayed, and flagged and channelled in such way and with such materials as to them shall seem most expedient, and completed with fences, posts, crossings, kerbstones, and gutters, and street gratings or gullies, and thereafter maintained, to the satisfaction of the Commissioners.

Private streets may be declared streets, as defined in this Act.

134. If any private street shall at any time be made, paved, or causewayed and flagged, together with the footways thereof, and put in good order and condition, to the satisfaction of the Commissioners, then, and on application of any one or more of the owners of premises fronting or abutting upon such street, or of the superior or owner of the ground on which such private street has been formed, it shall be lawful for the Commissioners to declare, and if such street has been paved and put in order, on their requisition, as herein-before provided, they shall declare the same to be vested in the Commissioners, and it shall be thenceforward maintained by the Commissioners.

Temporary works on private streets.

135. Where, in the judgment of the Commissioners, it is not expedient that any private street should be paved or causewayed and flagged and channelled to the full extent, as above provided for, it shall be lawful for the Commissioners to cause any such private street, or any part thereof, to be only temporarily put in order; and in carrying out this enactment the Commissioners may cause all or any of the following works to be executed, viz. :—

(1.) The carriageway to be properly levelled, and laid with road metal or such other material as they shall deem proper :

(2.) Lines of kerb to be laid in such position to such level, and of such size, shape, and material as the Commissioners may determine :

(3.) Channels or gutters with gratings or gullies to be made to carry off the water:

(4.) Temporary footways or crossings to be formed and made, using gravel, or road metal, or other material, to secure the public convenience:

And it shall be lawful for the Commissioners from time to time to cause such temporary works to be renewed: And provided always that the Commissioners may at any time after two years, subsequently to the execution of such temporary works, or any renewals thereof, cause the street, or any part thereof, to be permanently paved or causewayed and flagged and channelled in the manner herein provided for in regard to private streets, or to cause the footways to be permanently laid in the manner herein provided for in regard to foot pavements of streets, at any time they may deem proper, though the causeway and channels or gutters be not permanently completed till a subsequent time.

Carriageway of private streets may in certain cases be macadamised.

136. Where, in the judgment of the Commissioners, it is not necessary to pave or causeway the carriageway of any private street, as herein provided for, but only to macadamise the same, it shall be lawful for the Commissioners to cause the carriageway of any such street, or any parts thereof, to be macadamised in such manner and with such material as they shall deem proper, provided that the owners of two thirds of the frontage of the lands and premises in such street consent to such macadamising thereof; and where such macadamising of the carriageway is so agreed on, and completed, with all necessary fences, posts, crossings, kerbs, and gutters, to the satisfaction of the Commissioners, such streets, or parts thereof, shall be maintained by the Commissioners; and in such case the footpaths of such street shall be dealt with as the Commissioners shall deem proper;—that is to say, the Commissioners may cause the same to be paved in the ordinary way, as herein provided for in regard to foot pavements; or they may allow the same to be temporarily dealt with by the owners using gravel, or road metal, or other material, to serve the public convenience, for such time, and from time to time, as the Commissioners shall see fit; but all such owners shall be bound to lay and maintain foot pavements before their respective properties in the ordinary way, as herein provided for, whenever required to do so by the Commissioners.

Footpaths may for a time be laid with gravel, &c.

Expense to be paid by owners.

137. The whole of the costs, charges, and expenses incurred by the Commissioners in respect of private streets, including the footways, fences, posts, crossings, kerbs, gutters, and gratings or gullies thereof, shall be paid and reimbursed to them by the owners of the lands or premises fronting or abutting on each street, as the same shall be ascertained and fixed by the Commissioners or their surveyor, and the whole of such costs, charges, and expenses shall be recoverable as private improvement expenses.

In certain cases proportion of expenses to

138. Where one or more private streets, or parts thereof, serve for or lead to various premises adjoining the same, or where, from the peculiar nature of the locality, in the judgment of the Com-

be fixed by Commissioners.

missioners, the proportions of each owner cannot be regulated according to the frontage as above provided for, the Commissioners shall fix and determine the premises, the owners of which shall be liable for such costs, charges, and expenses, and the proportions leviable from each owner, as they shall consider, under all the circumstances of the case, to be just, and their determination shall be final.

Owners to be liable only for proportions of expenses.

139. Each owner shall be liable only for his own proportion of the said costs, charges, and expenses, and any owner who shall have well and substantially, and to the satisfaction of the Commissioners, levelled, made, paved or causewayed, or macadamised, and flagged and channelled, any part of such private street, or of the footways thereof, or done any of such works, shall be entitled to such relief as shall appear to the Commissioners to be just.

Right of relief, &c. not to be affected.

140. Nothing in this Act contained shall affect any right of relief in regard to the making, paving or causewaying, maintaining, or cleansing of streets which the owner or any other person may have by feu-contract or otherwise, or the right to claim repayment of any expense incurred by the Commissioners in making any street in terms of any local Act of Parliament; nor shall any liability attaching in law to any persons liable to make, pave, or causeway, maintain, or cleanse streets, or the footways thereof, be affected, altered, or abridged hereby.

FOOT PAVEMENTS.

Foot pavements.

141. The owners of all lands or premises fronting or abutting on any street shall, at their own expense, when required by the Commissioners, cause footways before their properties respectively on the sides of such street to be made, and to be well and sufficiently paved, or constructed with such material and in such manner and form and of such breadth as the Commissioners shall direct, and the Commissioners shall thereafter from time to time repair and uphold such footways: Provided always, that where the lands or premises of any owner front or abut on any street for a continuous length exceeding one hundred yards, and such lands or premises are unfeued or unbuilt on, or not laid out or used as a garden, or pleasure ground, or pertinent of a house, it shall not be lawful for the Commissioners to require such owner to construct such footway, but the Commissioners may themselves cause such footway to be constructed in so far as they think proper, and shall be entitled forthwith to recover from such owner one third of the expense thereof, and the remaining two thirds thereof whenever the lands fronting or abutting on the footway so constructed by them are actually feued or built upon, or laid out or used as a garden, or pleasure ground, or pertinent of a house; and all expenses to be incurred by the Commissioners, in so far as recoverable from the owners, shall be recoverable as a private improvement expense: Provided that nothing contained in this section shall apply to the footways of private streets.

When Commissioners undertake maintenance of foot pavements, owners to put same in a sufficient state of repair.

142. It shall be lawful for the Commissioners to resolve, at a meeting specially called for the purpose, to undertake the maintenance and repair of all the footways of the burgh. When the Commissioners shall undertake the maintenance and repair of the foot pavements in the burgh, they shall call upon all owners to have their foot pavements before their properties put in a sufficient state of repair, and failing their doing so within six weeks, the Commissioners may cause the same to be done at the expense of such owners, and thereafter the said foot pavements shall be maintained by the Commissioners: Provided that nothing contained in this section shall apply to the footways of private streets.

Right of appeal.

143. As regards the making, altering, paving, or causewaying and maintaining streets, and foot pavements, it shall be lawful for any person whose property may be affected, and who thinks himself thereby aggrieved, to appeal to the sheriff in manner herein-after provided.

NAMING THE STREETS AND NUMBERING THE HOUSES.

Houses to be numbered and streets named.

144. The Commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers, as they think fit, and shall put up or paint on a conspicuous part of some house, building, or place, in legible characters, at or near each end, corner, or entrance of every such street, the name of such street; and no name shall be given to any street except by the Commissioners or with their consent, and they shall have power to alter the name and the numbers of any streets; and every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up, or caused to be put up, by the Commissioners, shall be liable to a penalty not exceeding forty shillings for every such offence.

Numbers of houses to be marked and renewed by owners.

145. The owners of houses and other buildings in the said street shall mark their houses with such numbers as the Commissioners direct, and shall renew such numbers as often as they become obliterated or defaced; and every such owner who fails, within one week after notice for that purpose from the Commissioners, to mark his house with a number to the satisfaction of the Commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding forty shillings; and the Commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and charge the cost thereof to the burgh general assessment.

LAYING OUT NEW STREETS.

Notice of intention to lay out new streets to be given to Commissioners.

146. Every person who intends to form or lay out any new street shall give notice thereof to the Commissioners, and along with such notice he shall lodge a plan of the proposed street, with longitudinal and cross sections, showing the proposed levels and means of drainage thereof, in order that the level of such street may be fixed by the Commissioners; but where any such street is at the

time of the coming into force of this Act, in whole or in part, the subject of any contract then existing for the formation thereof, the same shall not be held or taken to be a new street within the meaning of this Act.

Levels to be fixed by Commissioners.

147. The level and gradient of every such new street shall be fixed by the Commissioners within one month after the delivery of such notice, and the level and gradient so fixed shall be kept thereafter by every person erecting any house or other building in such street.

If Commissioners fail to fix level, party may proceed without.

148. If the Commissioners do not fix such level and gradient within one month from the time of the delivery of such notice as aforesaid, the person giving such notice may proceed to lay out such street at any level or gradient which will allow of compliance with the other provisions of this Act, as if such level and gradient had been fixed by the Commissioners; and in such case every change of the level and gradient which the Commissioners afterwards deem requisite, and the works consequent thereon, shall be made by the Commissioners, and the expense thereof, and any damage which any person may sustain in consequence of such alteration, shall be defrayed by them out of the burgh general assessment.

Situation of gas and water pipes to be altered if required by Commissioners.

149. If the Commissioners deem it necessary to raise, sink, or otherwise alter the situation of any water pipe or gas pipe, or other waterworks or gasworks, laid in any such streets, they may from time to time, by notice in writing, require the person to whom any such pipes or works belong to cause forthwith any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the Commissioners may direct; provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing freely and conveniently; and the expenses attending such alteration shall be paid by the Commissioners out of the burgh general assessment, or other rates or assessments, as the case may be.

Commissioners may agree as to making of new streets.

150. It shall be lawful for the Commissioners to agree with any person for the making of new streets for the public use through the lands and at the expense of such person, and to agree that such streets shall become, and the same shall accordingly become, on completion, streets to be maintained and repaired at the public expense, and it shall be lawful for the Commissioners to agree with such person to advance any portion of the expense of making such streets out of the burgh general assessment by way of loan, and accordingly to advance the same: Provided that the expense so advanced shall be repaid to the Commissioners in such manner as they may fix.

Provided that such street shall be formed and made by the proprietor within two years from the date of granting such application, or within such reasonable time as may be fixed by the Dean of Guild Court or the Commissioners; and that no building shall be erected in such street until it is so formed and

made from its junction with another street as far as any proposed building may extend in such street.

Commissioners may make new streets.

151. Whereas it may happen that the whole or part of the ground on the line of a new street will remain for a time unfeued or unbuilt upon, and it is expedient to encourage the opening up of streets that might be or become main thoroughfares for the public use: Therefore, upon the approval of any new street becoming final, or at any time thereafter, and in the event of such new street not being opened up and paved, flagged, or otherwise made good to the satisfaction of the Commissioners by the owners or others interested, in whole or in part, it shall be lawful for the Commissioners to open up and make any such street in whole or in part according to its approved lines and levels, and that either temporarily or permanently as to the Commissioners may seem proper, and to advance and pay ad interim the expense of so doing in so far as effeiring to vacant or unfeued ground, subject to relief from the feuars or other persons erecting buildings along such street when and as the same are erected: Provided that so soon as buildings are erected along such street, the Commissioners shall be entitled to charge the expense advanced by them, without interest thereon, against the feuars or other persons erecting buildings thereon respectively, proportionally to the length of the frontages of their feus or properties along such street, as such proportions of expense, without interest thereon, shall be certified by the treasurer, and the said expense, without interest thereon, may be recovered in the same way and by the same means as any assessments levied under this Act: Provided further, that should any such street be only temporarily laid out by the Commissioners, the said feuars or other persons erecting buildings shall, in proportion to the length of their frontages respectively, be also bound to pave and flag or otherwise make good such street to the satisfaction of the Commissioners, as and when required by the Commissioners, and after such street shall have been paved, flagged, or otherwise made good as aforesaid, it shall be maintained and repaired by the Commissioners out of the assessments levied under this Act.

Width of new streets.

152. From and after the date when this Act comes into force within the burgh, it shall not be lawful to form or lay out any new street, or part thereof, or court, within the burgh, unless the same shall (measuring from the buildings or intended buildings therein at the level of the surface of the boundary of such street) be at least thirty-six feet wide for the carriageway and foot pavements; and no dwelling-house shall be built in any such street or court which shall exceed in height, from the level of the pavement to the roof of the highest habitable room, one and a quarter times the width of such street, measuring from the front wall of the buildings or intended buildings on each side thereof: Provided always, that where any road or street fronts any links or common, or other open area, or in other exceptional circumstances, the Commissioners may allow buildings of greater height; and provided also, that for the purposes of this enactment a street shall not include a mews or

other lane which may be made twelve feet and a half wide, or such other width according to the use to be made thereof, of which the Commissioners shall judge, and shall fix the width accordingly; but in no case shall the dwelling-houses fronting such lane exceed in height one and a half times the width of the lane: Provided also, that where a building shall be situated so as to abut on two streets or courts of different levels, the height shall be measured from the street which lies on the higher level.

Penalty for forming streets and courts contrary to Act.

153. Every person who shall, from and after the date when this Act shall come into operation in the burgh, form or lay out, or permit or suffer to be formed or laid out, any new street or court, or any part thereof, or who shall build, raise, or add to any house or premises, or permit or suffer the same to be done, contrary to the provisions of this Act, unless the same shall have been formally sanctioned by the Commissioners on a consideration of the special circumstances of the case, which sanction they are hereby empowered to give, shall forfeit and pay a sum not exceeding twenty pounds, and a further sum not exceeding five pounds per day for every day after the first during which he shall permit or suffer such new street or court, or part thereof, or such house or premises, to remain so formed, laid out, built, or added to as last aforesaid: Provided always, that the provisions of this Act relating to the width and construction of streets or courts shall not extend or apply to any existing streets or courts, which shall be proved to the satisfaction of the Commissioners to have been agreed to, or to have been formed previous to the application of this Act.

IMPROVEMENT OF STREETS.

Power to purchase houses, &c. for additional improvements.

154. The Commissioners may, at a meeting to be held for the purpose, resolve to acquire lands or premises within the burgh for the purpose of widening, enlarging, or otherwise improving any of the streets, and they may re-sell any parts of such lands or premises which shall not be required for such purposes; and they may also drain, repair, or otherwise improve courts and places where there may be doubts as to the liability of owners to execute such works; and in localities within the burgh, where houses or other buildings are, in the opinion of the Commissioners, built too close to each other, or have become waste and ruinous, or are liable to other objections on sanitary grounds, it shall also be lawful to the Commissioners to resolve to acquire lands or premises, for the purpose of reserving them as vacant spaces, or of improving or taking down the buildings, or of otherwise disposing of them so as to improve the sanitary condition of such localities, or for the purpose of widening streets and closes; and the expense of such acquisitions and improvements shall be a charge against the general improvement rate herein-after authorised to be levied.

In order to acquire such lands and premises, the Commissioners shall have power to purchase and take the same by agreement under the Lands Clauses Acts, and failing such purchase they may present a petition to the sheriff for authority to put in force the powers of the Lands Clauses Acts with respect to the acquisition

of lands otherwise than by agreement in manner herein-before provided; and the expense of such acquisitions and improvements and procedure shall be a charge against the general improvement rate herein-after authorised to be levied.

It shall be lawful for any owner or occupier whose property may be affected, or for the Commissioners, if dissatisfied with the decision of the sheriff, to appeal to the Secretary for Scotland, who may order further inquiry or take such other step or steps as he may think desirable in the circumstances, and he may thereafter issue an order either in accordance with the prayer of the application or with such modifications or alterations as may appear to him to be requisite, and may make such order as he thinks fit in reference to the costs, charges, and expenses incurred in connexion therewith.

OBSTRUCTIONS AND LINE OF STREETS.

Gates may be erected by Commissioners across any court.

155. The Commissioners may erect across the whole or any part of any court an iron gate or gates for the purpose of preventing the public from passing through the same during such hours as they consider expedient for the purposes of police, and may cause such gate or gates to be locked and the keys thereof to be kept during the said period by the constable on duty in the district, or by some other person residing in the neighbourhood; but such gate or gates shall be so placed and managed that free and uninterrupted communication shall at all hours exist between every land or heritage in such court and some street in the neighbourhood.

Commissioners may require dangerous openings in streets and courts to be built up.

156. The Commissioners may require any owner or occupier of a land or heritage to build up or cease to use any opening in the foot pavement, or in the causeway of any street or any court, which has been made or is used for the purpose of giving light or access to some apartment in a building adjoining such street or court, or to some cellar or vault underneath the said foot pavement, if such opening extends beyond the footway, or if it is not provided with a sufficient fluted iron grating or other sufficient covering, or if it is insecure or otherwise dangerous to the public; and if such owner or occupier shall not, within eight days after such notice, build up or cease to use any such opening, or to provide the same with a sufficient covering to the satisfaction of the Commissioners, he shall be guilty of an offence, and shall be liable to a penalty not exceeding forty shillings.

Houses may be set forward for improving line of street.

157. The Commissioners may allow, upon such terms as they think fit, any building within the burgh to be set forward for improving the line of the street in which such building or any building adjacent thereto is situated.

Houses projecting beyond line of street, when taken down, to be set back.

158. When any house or building has been taken down in whole or in part in order to be altered, or is to be rebuilt, the Commissioners may require the same to be set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, or such other line as may be fixed by the Commissioners in such manner as the Commissioners may direct, for the improvement of such street: Provided always, that the Commissioners shall

make full compensation to the owner of any such house or building for any damage he may thereby sustain, which compensation may be settled by mutual agreement, or in the same manner as compensation for land to be taken under the provisions of the Lands Clauses Acts is directed to be settled, and shall form a charge against the general improvement rate.

Future projections of houses, &c. to be removed on notice.

159. The Commissioners may give notice to the owner of any house or building requiring him to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign-post, sign-iron, show-board, window-shutter, wall, gate, or fence, or any other projection erected or placed, after the application of this Act, against or in front of any house or building within the burgh, and which is an obstruction to the safe and convenient passage along any street, public or private; and if such owner shall not, within fourteen days after the service of such notice, comply with such requirement, he shall be liable to a penalty not exceeding forty shillings; and no person shall erect any projection or make any erection whatever in any street, public or private, without the written consent of the Commissioners, under a penalty of forty shillings for each offence: Provided that in the event of the failure of such person to remove any such projection within three days after being convicted of a contravention hereof, the Commissioners may summarily remove such projection and recover the expense of doing the same from such person.

Commissioners may cause existing projections to be removed, and compensation to be made.

160. If any such obstructions, projections, or erections were erected or placed against or in front of any house or building in any such street before the application of this Act, the Commissioners may cause the same to be removed or altered as they think fit, provided that they give notice of such intended removal or alteration to the owner of the house or building thirty days before such alteration or removal is begun; and if such obstructions, projections, or erections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Doors in future to be made to open inwards.

161. All doors, gates, window-shutters, and bars put up after the application of this Act within the burgh, and which open upon any street, public or private, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the Commissioners allow such doors, gates, window-shutters, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, window-shutter, or bar be hung or placed so as to open outwards on any such street, the owner of the premises to which such door, gate, or bar is attached shall, within eight days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards; and in case he neglects so to do, he shall be liable to a penalty not exceeding forty shillings.

Doors opening outwards may be altered.

162. If any such door, gate, window-shutter, or bar was, before the application of this Act, hung so as to open outwards upon any street, public or private, the Commissioners may alter the same,

so that no part thereof, when open, shall project over any public way.

Coverings for cellar doors to be made by owner.

163. When any opening is made in any pavement or footpath as an entrance to any vault or cellar, a door or covering shall be made and maintained by the owner of such vault or cellar, of iron, or such other materials and in such manner as the Commissioners direct, but before such opening is made the consent of the Commissioners thereto shall be obtained in writing; and if such owner do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the directions of the Commissioners, or if he do not keep the same, when properly made, in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

Rain water to be conveyed from roofs of houses in pipes.

164. The owner of every house or building or covered way shall put up and keep in good condition shoots or rhones or gutters thereon, both at the front and back of such houses or buildings, as also at the sides thereof, in positions to the satisfaction of the Commissioners, and shall connect the same with a pipe or trunk or cistern to carry the water from the roof thereof to the adjacent sewer or drain; and for the latter purpose it shall be lawful for any such owner to take up so much of the pavement, causeway, or flagging of any such street as may be requisite, and to lay down such drains or tunnels, or fix iron drain gutters under the direction of the Commissioners; and all damage which may thereby be occasioned to the pavement, causeway, or flagging of the footpath or carriageway or the sewer or drain, shall be made good at the expense of such owner; and in default of compliance with this enactment such owner shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default, after being required by the Commissioners to comply therewith; and where any railway bridge, aqueduct, or canal crosses any footpath or public thoroughfare, the owner thereof shall erect and place an iron or zinc screen under such bridge, to carry off the rain water, or the moisture that flows from or percolates through the bridge, to prevent the same falling on persons passing along such footpath, or public thoroughfare; and any such owners failing to erect or place such screen shall be liable to a penalty of forty shillings for every day that default is made, after being required by the Commissioners to comply with this enactment.

Parties aggrieved may appeal to sheriff.

165. As regards the improving the line or level of any street and removing obstructions, or any other work to be executed by the Commissioners, under the provisions of this Act, for the improvement of any street, it shall be lawful for any person whose property may be taken or affected, and who thinks himself thereby aggrieved, to appeal to the sheriff in manner herein-after provided.

PLANS OF NEW BUILDINGS, AND REGULATIONS.

Petition with plans and sections to be lodged.

166. Every person who proposes to erect any house or building, or to alter the structure of, and to use for human habitation, any

existing house or building which had not been previously used for that purpose, or alter the mode of occupancy of any existing house in such a manner as to increase the number of houses or occupants, shall lodge with the clerk of the Commissioners a petition for warrant so to do, and such petition shall set forth a description of the intended house, or building, or alteration, and shall be accompanied by a plan of the site, showing the immediately conterminous properties, and also the position and width of any street, court, or footpath from which the property has access, or upon which it abuts; and also plans, sections, elevations, and such detailed drawings as are necessary to show the height and mode of structure and arrangement of the intended house or building or alteration, and the lines of the intended drainage thereof, and the levels thereof relatively to the street, court, foot pavement, or footpath, and to the sewer or drain with which the soil pipes and drains of the property to be built or altered are intended to be connected; and in regard to any building of a public character intended as a place of public resort, such plans shall show the arrangements for ventilation and the provision intended to be made for ingress and egress; and all plans to be lodged as aforesaid shall be drawn to a graduated scale as follows, viz., of one and one quarter inch to every ten feet for buildings under one hundred feet long; of one inch to every ten feet for buildings one hundred feet and under three hundred feet long; and of three quarters of an inch to every ten feet for buildings three hundred feet long and upwards; and such plans and sections, with such alterations thereon as may be made as after provided, shall be registered and indexed by the clerk of the Commissioners: and the said plans and sections and register and index shall be open to inspection by any owner or ratepayer upon payment of a fee of one shilling.

Notice of petitions to be given to Commissioners and proceedings thereon.

167. The clerk of the Commissioners shall, at their first meeting, after receiving such petition, give notice thereof to the Commissioners, who may decline to grant warrant for the erection of any new house or building, or for the alteration of the structure of any existing house or building, until satisfied that the plans provide suitably for stability, light, ventilation, and other sanitary requirements thereof.

Regulating existing buildings for places of public meetings, &c.

168. The Commissioners shall cause every existing building used or proposed to be used as a place of public amusement or entertainment, or for holding large numbers of people for any purpose whatsoever, to be inspected, and shall, in case of refusal, after hearing the persons interested, direct such means to be taken for providing proper means of access to and exit from such buildings, and for protection from fire and other dangers to the public, as to the Commissioners shall seem fit.

Penalty for erecting or altering any house or building without sanction of Commissioners.

169. Every person who shall erect or begin to erect any house or building, or who shall alter the structure of any existing house or building, or use for human habitation any building not previously so used, or alter the mode of occupancy of any existing house in such a manner as will increase the number of separate

houses or occupiers without a warrant, or otherwise than in conformity with a warrant of the Commissioners, and every person who shall, in the erection or alteration of any house or building, the erection of which has been sanctioned by the Commissioners, deviate from the plan or plans and section or sections so sanctioned, or shall otherwise contravene the building provisions of this Act, shall be liable to a penalty not exceeding five pounds, besides, being bound, if and in so far as required by the Commissioners, to take down and remove the said house or building, or to restore it to the state it was in previous to the alterations thereon, or to alter it in such way as the Commissioners shall direct, so as to make it in conformity with the warrant of the Commissioners.

Free space in rear of houses.

170. Every building erected for the purpose of being used as a dwelling-house, or any building not previously used as a dwelling-house when the same is altered for the purpose of being so used, shall have all the rooms sufficiently lighted and ventilated from an adjoining street, or other open space directly attached thereto, equal to at least three fourths of the area to be occupied by the intended building; and such space shall be free from any erections thereon other than waterclosets, ash-pits, coal-houses, or other conveniences, all which conveniences shall, as to height, position, and dimensions, be erected subject to the consent and approval of the Commissioners: Provided also, that in cases of conversion of a house into a building for business premises the Commissioners may sanction the erection of saloons upon such open space, of such height and construction as to them shall seem proper, such saloons to continue so long only as such building is so used for business purposes only.

Limit to number of houses in common stairs.

171. No new tenement of houses, except with the authority of the Commissioners, which in special circumstances the Commissioners may grant, shall have more than twelve dwelling-houses entering from one common stair or passage where the common stair or passage is within the tenement, but where there is an outside stair with balconies, twenty-four houses may be permitted to enter from said common stair or passage, and the width of such stairs, passages, balconies, and stair landings shall in no case be less than four feet, finished size.

Height of rooms.

172. In every new building to be used as a dwelling-house, and in every building not previously used as a dwelling-house, when altered to be used as a dwelling-house, every habitable room in the ground floor shall be in every part thereof nine feet six inches in height at least from the floor to the ceiling, and every other habitable room, except attic rooms, shall be in every part thereof nine feet in height at least from the floor to the ceiling, and every habitable attic room shall be at least eight feet in height from the floor to the ceiling, through not less than one third of the area of the room, and it shall at no part thereof be less than three feet.

Windows in rooms.

173. In every new or altered building to be used as a dwelling-house, every habitable room shall have at least one window, and the

total area of glass in the windows, clear of the frame and sash, shall be (unless in any case the Commissioners otherwise determine) at least one tenth of the area of the room, and the top of at least one of the windows shall not be less than seven feet six inches above the floor, and in case of a sash window the upper half at least shall be made to open the full width, and in case of a casement window one half at least shall be made to open.

Common stairs to be kept in repair.

174. The owners of premises in or entering from common stairs and common passages shall keep the steps, landing-places, and passages in a proper state of repair, and provide and keep in proper repair rails at the side of such stairs, landing-places, and passages, to the satisfaction of the surveyor, and when required by him, shall fence, in such manner as he shall direct, all windows in such common stairs and passages; and any owner who fails so to do, after notice served on him by the surveyor, shall be liable in a penalty not exceeding five pounds.

Lighting, &c. of public buildings.

175. Every public building, theatre, or place of public entertainment shall be supplied with means of lighting, and of sufficient ingress and egress for the protection of the public in cases of emergency, to be approved of by the Commissioners from time to time as they shall deem necessary.

Pipes to be approved by Commissioners.

176. No pipe for conveying smoke or heated air shall be fixed in any new building otherwise than in the wall thereof, except in a manner to be approved by the Commissioners.

Provisions regarding new buildings.

177. With regard to new buildings, the rules contained in Schedule IV. of this Act shall be observed, but such rules may be altered by the Commissioners with the approval of the sheriff.

Restriction as to steam pipes and funnels for conveying smoke.

178. From and after the commencement of this Act, all steam from high-pressure engines, in or connected with any building, shall be conveyed to and carried away by a high chimney, to the satisfaction of the Commissioners, or otherwise disposed of to their satisfaction, and no pipe or funnel for conveying smoke shall at any time be newly fixed against any building next to any street, public or private, or on the inside of any building, nearer than nine inches to any timber or other combustible material, nor shall any funnel built or made of brick or stone, or both, be newly placed on the outside of any building next to any such street so as to extend beyond the general line of the buildings in the street; and if any high-pressure engine shall be used and steam discharged therefrom, except as aforesaid, or if any pipe or funnel is fixed or placed contrary to this Act, the occupier, or in case of there being no occupier, then the owner of the engine or building, as the case may be, shall, with infourteen days after receiving notice from the Commissioners, cause such engine, or pipe, or funnel, as the case may be, to be removed, and on default shall be liable to a penalty of ten shillings a day for every day during which such default continues after the expiration of the time specified in such notice.

Preventing building on ground filled up with

179. It shall not be lawful for any person to erect any building upon any ground which shall have been filled up with any material impregnated with fœcal matter, or with any animal or vegetable

or other offensive matter, which, in the opinion of the medical officer or sanitary inspector, may tend by decomposition or otherwise to the prejudice of the health of any future resident or occupier of such building, or of any resident in the neighbourhood, except upon a certificate of such medical officer or sanitary inspector that proper precautions, in his opinion, have been taken to obviate any such result; and every person who erects or causes to be erected, either wholly or partially, any building on any such ground, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day during which such building, or part of a building, shall continue upon any such ground. Offensive matter.

180. The Commissioners or their surveyor may, at any reasonable time, inspect any buildings in progress of construction or alteration, or any work connected therewith, and within one month after any new house or building, or any alteration on the structure of any existing house or building, has been completed, or before such house or building or any portion thereof has been occupied, the owner or the builder shall give notice to the clerk of the Commissioners that the house or building, or any part thereof, is ready for inspection before being occupied, and the said clerk shall thereupon transmit such notice to the surveyor of the burgh, who shall forthwith proceed to survey such house or building or alteration; and if he is satisfied that such house or building is fit for occupation, and is in accordance with the provisions of this Act, he shall grant a certificate under his hand to that effect, and all such certificates shall be entered in the register of plans and sections; and every owner or builder who shall fail to give such notice aforesaid, or shall permit such house or building or altered building to be occupied before a certificate applicable thereto has been obtained, shall be liable to a penalty not exceeding five pounds, with an additional penalty of forty shillings for every day during which such occupation shall continue. New houses, &c. to be surveyed before occupation.

VENTILATION.

181. Any person before beginning to alter or erect any building intended to be used as a church, chapel, or school, or a place of public entertainment, or for holding large numbers of people for any purpose whatsoever, shall give thirty days' notice in writing to the Commissioners, and shall accompany such notice with a plan and description of its proposed construction, with respect to the supplying of fresh air, and removing vitiated air; and unless the Commissioners approve thereof they may cause such building, or such part of it as they consider necessary, to be altered at the expense of the owner, which expense may be recovered as a private improvement expense; but if the Commissioners fail to signify in writing their approval or disapproval of such proposal, within seven days after their first meeting, occurring after receipt of the notice, the person giving such notice may proceed to erect the building therein referred to in the manner proposed, provided that such building be otherwise in accordance with the provisions of Regulating construction of buildings intended as places for public meetings.

this Act; and with regard to such existing buildings as are at the application of this Act, or may thereafter be, used for any of the said purposes, the Commissioners may cause the same to be inspected, and may direct such means to be taken for their proper ventilation as to them shall seem fit.

Persons may appeal against determination of Commissioners.

182. Provided also, if the owner or other person so intending to build, or the owner of any existing building, be dissatisfied with the determination of the Commissioners as to the said proposed manner of construction, he shall have the same right of appeal against the determination of the Commissioners, and such appeal shall be conducted in the same manner as is herein provided in the case of appeals against any order of the Commissioners with respect to works to be constructed by or subject to the approval of the Commissioners.

Ventilation of habitable rooms.

183. Every habitable room built after the commencement of this Act of less area than one hundred superficial feet, and without a fireplace, shall be provided with special means of ventilation, to be determined by the Commissioners.

Ventilation of buildings.

184. Means of ventilation to be approved of by the Commissioners shall, on their order, after cause shown, be provided in or for every building, whether erected before or after the application of this Act, and in every case by the owner of such building; and any owner who fails to carry into effect the order of the Commissioners in respect to such means of ventilation shall be liable to a penalty not exceeding forty shillings for every day or part of a day during which such failure continues.

Common stairs, &c. to be properly lighted and ventilated.

185. The owners of all common stairs and common passages constructed or which may be constructed shall provide proper means of ventilating the same, where practicable, by means of windows or skylights, or otherwise ventilating the same to the satisfaction of the Commissioners or their surveyor or sanitary inspector; and any owner failing so to do when required by the Commissioners shall be liable to a penalty not exceeding forty shillings.

PRECAUTIONS DURING THE CONSTRUCTION OR REPAIR OF BUILDINGS AND STREETS, AND IN REGARD TO OLD AND RUINOUS TENEMENTS.

Bars to be erected across streets during repairs or alterations, and lights placed at night.

186. The Commissioners shall, during the construction or repair of any street, and during the construction or repair of any sewers, drains, or other public works, take proper precaution against accident, by shoring up and protecting the adjoining houses, and may prevent any such street from being used as a common passage or thoroughfare, while such works are carried on; and the Commissioners shall cause any sewer or drain or other works, during the construction or repair thereof, to be lighted, fenced, and guarded during the night, so as to prevent accidents; and every person who uses such street while so stopped as a common passage or thoroughfare, or extinguishes any light, without the authority or consent of the Commissioners, shall for every such offence be liable to any penalty not exceeding five pounds.

Hoarding to be set up during repairs.

187. Every person intending to build or take down any building or alter or repair any building, where any street or footway may be obstructed or rendered inconvenient by means of such work, shall obtain authority from the Commissioners to put up, and such authority being obtained, shall put up, and maintain to the satisfaction of the surveyor for such time as he may fix, hoarding or fences in order to separate the building from such street with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers outside of such hoarding or fence, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted from sun-setting to sun-rising; and every such person who puts up such hoardings or fences without previously obtaining the authority of the Commissioners so to do, or who, after such authority, fails to put up and maintain during the time aforesaid and keep lighted during the night such fence or hoarding, or platform with such handrail as aforesaid, or who does not remove the same, when directed by the Commissioners, within a time specified for that purpose, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued, and the Commissioners shall have power to make such charge for the occupation of such ground so enclosed as they shall consider just.

Penalty for not lighting deposits of building materials or excavations.

188. When any building materials, rubbish, or other things are laid, or any hole made, in the streets, whether by order of the Commissioners or not, the person causing such materials or other things to be so laid, or hole to be made, shall at his own expense cause a sufficient light to be fixed upon or near the same, and continue such light every night from sun-setting to sun-rising while such materials or hole remain; and cause such materials or hole to be sufficiently fenced and enclosed until they are removed, or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or enclose such materials or other things, or hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Penalty for continuing deposits of building materials or excavations an unreasonable time.

189. In no case shall any such building materials or other things, or such hole, be allowed to remain longer than may be fixed by the surveyor, under a penalty not exceeding five pounds, to be paid for every such offence by the person who causes such materials or other things to be laid, or such hole to be made, and a further penalty not exceeding forty shillings for every day during which such offence is continued after the conviction for such offence.

Dangerous places to be repaired or enclosed.

190. If any building, hoarding, or hole, or any other place, in or near any street be, in the opinion of the burgh surveyor, for want of sufficient repair, protection, or enclosure, dangerous to the passengers along such street, the Commissioners shall cause the same to be protected or enclosed so as to prevent danger there-

from, and shall be entitled to recover the expense thereof from the owner of such building or place and the persons who caused such hoarding or hole to be made respectively.

Ruinous or dangerous buildings to be taken down or secured.

191. If any building or wall, or anything affixed thereon, be deemed by the surveyor of the Commissioners to be in a ruinous state, or dangerous to passengers, or to the occupiers thereof or of the neighbouring buildings, he shall immediately cause such occupiers endangered thereby to remove from the occupancy of such buildings until the same are put into a safe condition, and shall cause a proper hoard or fence, or props, to be put up for the protection of passengers, and shall also cause, if he shall judge necessary, the neighbouring buildings to be properly shored up, and shall cause notice in writing to be given to the owner of such building or wall, if he be known, and shall also cause such notice to be put on the door of such building or on such wall, or on a conspicuous part thereof, or otherwise to be given to the occupier thereof, if any, requiring such owner forthwith to take down, secure, or repair such building, wall, or other thing, or as the case shall require; and if such owner do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs or taking down or securing as speedily as the nature of the case will admit, such surveyor may make complaint thereof to the sheriff; and it shall be lawful for the sheriff, after inquiry, to order the owner of such building, wall, or other thing to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same, or such part thereof as appears to them to be in a dangerous state, within a time to be fixed by the sheriff; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, the Commissioners shall, with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition and dangerous as aforesaid to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of enforcing such removal and of putting up every such fence, and of shoring up such buildings, and of taking down, repairing, rebuilding, watching, or securing such building, wall, or other thing, shall be paid by the owner thereof.

Expenses to be levied on owner.

192. If the owner of such building or wall, or thing affixed thereon, can be found, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, the sheriff shall, on a certificate of such demand and neglect or refusal, signed by the clerk, grant decree against such owner for payment thereof, on which decree all legal diligence may proceed, or the Commissioners may proceed against such owner for the recovery of the said expenses in terms of the general provisions for recovery of expenses under this Act, or otherwise as accords of law.

If owner cannot be found, Commissioners may

193. If such owner cannot be found, or if such expenses are not otherwise fully recovered, the Commissioners, after giving twenty-eight days' notice of their intention to do so, by posting a

printed or written notice in a conspicuous place on such building or wall, or on the land whereon such building or wall stood, and by sending through the post office to such owner's last known address a copy of such notice, may take such building or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Acts in the case of lands taken otherwise than with the consent of the owners and occupiers thereof, and the Commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Act.

take the house or ground, making compensation.

194. If any such building or wall as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such building or wall; and the Commissioners shall restore any surplus arising from such sale to the owner of such building or wall on demand; nevertheless, the Commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due, after the application of the proceeds of such sale, as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Commissioners may sell materials, restoring to the owner surplus arising from sale.

195. If any houses, buildings, or areas have become waste and ruinous within the burgh, and have become receptacles for filth and other nuisances, or unsafe and unfit for use and occupation, and which, being held by two or more joint owners, cannot be rebuilt or disposed of to advantage without the consent of all the parties interested therein, and the same are allowed to continue in a waste or ruinous or unsafe state in consequence of the parties being unable or unwilling or delaying to agree as to the sale or rebuilding thereof, it shall be lawful to the sheriff, upon the petition of the burgh prosecutor, or of the Commissioners, or their surveyor, or sanitary inspector, or of any owner or party interested in any such houses, buildings, or areas, to call all parties interested therein before the sheriff, in the usual manner and form followed in his court, and to order such houses, buildings, or areas, to be valued by not less than three men of skill, upon oath, who shall distinguish the portions of the subjects, and the corresponding proportion of the appraised value, which belong to the several parties interested, and thereupon to give each party the option to buy and acquire from, or to sell and convey to the others, their respective portions of or interests in such houses, buildings, and areas, agreeably to such valuation, or at such other price as shall be agreed on amongst themselves, and that within a reasonable time to be fixed by the sheriff, not exceeding six weeks.

Ruinous buildings belonging to two or more owners may be sold.

196. If any of the said parties fail to take advantage of the said option within the time so fixed, or shall not be able to agree as to which shall be the buyer and which the seller, it shall be lawful

How sale to be carried through

to the said sheriff to cause such houses, buildings, and areas to be exposed to sale by public auction at a price not being less than the appraised value, and in case of no offers to reduce the upset price from time to time, and to sell the same to the highest bidder, under such regulations, and upon such conditions, and after such public notice, by advertisement in the newspapers or otherwise, as the sheriff shall appoint, and the purchaser thereof shall be then bound within ten days after the sale, or within such time as may be fixed by the sheriff, to consign the purchase money in any bank to be named by the sheriff, upon a receipt or voucher subject to the orders of the sheriff, otherwise the sale to be void and null, and the money so deposited shall remain at interest for the behoof of all parties interested therein, and subject to the future orders of the sheriff.

Completion of purchaser's title.

197. Upon such deposit being so made, the sheriff shall pronounce his decree or warrant declaring the purchase duly completed, and authorising immediate possession of the tenements so sold to be given to the purchaser thereof; and such warrant or decree shall, upon being registered in the proper register of sasines, be a valid and sufficient title to such purchaser.

If purchaser do not fulfil conditions of sale, tenement may be re-sold.

198. In case the purchaser at any such sale as aforesaid shall fail to fulfil the conditions thereof within the time thereby prescribed, it shall be lawful to the sheriff to cause the tenements to be re-exposed and sold anew; and such sale shall proceed in like manner as the first sale; and the sheriff shall continue, in case of failure as aforesaid, to cause the said subjects to be re-exposed for sale, until the same shall be sold, and the price thereof consigned or deposited in bank as aforesaid.

Apportionment of price.

199. Upon the completion of any such sale, the sheriff shall, on the application of any of the parties concerned, after such inquiry as he may deem expedient, proceed to ascertain and determine the extent and value of the share of each party claiming interest in the tenements so sold, and to apportion the price and order payment thereof to the several parties accordingly, subject always to such finding or order in respect of costs as the sheriff may pronounce.

Ruinous tenements may be sold.

200. If any houses, buildings, or areas have become waste and ruinous, or have become receptacles for filth and other nuisances, or unsafe and unfit for use and occupation, the Commissioners may, by a notice addressed to the owner if his address shall be known, or if not known by a notice affixed to a conspicuous part of such houses, buildings, or areas, require the same to be rebuilt or otherwise put into a state of repair to their satisfaction, within three months from the date of such notice; and in the event of such requisition not being complied with, the Commissioners may apply to the sheriff for warrant to sell such houses, buildings or areas, and it shall be lawful to the sheriff to order the same to be valued, and exposed for sale by public auction, and to sell the same, and such sale shall be made and carried out, or re-sale effected, the price deposited and applied, and the purchaser's title completed, in

the way and manner herein-before directed with reference to waste and ruinous buildings, houses, or areas within burgh, held by two or more joint owners.

DEAN OF GUILD COURT.

Dean of Guild Court.

201. In burghs where there is a Dean of Guild Court at the commencement of this Act, or where such court shall be established as herein-after provided, the Dean of Guild Court shall come in room and place of the Commissioners for carrying out the provisions of this Act, in so far as they apply to new buildings or alteration of existing buildings, ventilation, and precautions during the construction, alteration, or repair of buildings and streets, and to old and ruinous tenements, and to the setting up of hoardings; and in that case all the powers and duties of the Commissioners in reference to these provisions, and also in reference to the inspection of buildings in process of construction or alteration, or any work connected therewith, and the surveying and certifying of buildings before occupation, shall devolve on and be carried out by the Dean of Guild Court and the officers thereof, as herein provided for, but nothing herein contained shall be taken to restrict or prejudice the jurisdiction or to alter the constitution of any Dean of Guild Court as existing at the commencement of this Act.

Dean of Guild Court may be established.

202. In burghs having no Dean of Guild Court at the commencement of this Act, it shall be lawful for the Commissioners to establish a Dean of Guild Court by resolution passed at a meeting specially called for the purpose, and it shall also be lawful for the Commissioners of any burgh having an existing Dean of Guild Court to resolve to discontinue the same as constituted at the commencement of this Act, and to pass a resolution at a meeting specially called for the purpose establishing a new court in terms of the immediately succeeding section of this Act: Provided always, that nothing herein contained shall alter, prejudice, or affect the existing constitution, rights, or privileges of any Dean of Guild Court existing at the commencement of this Act, the members, lyners, or assessors whereof are not, under the existing constitution, wholly appointed by the town council of the burgh.

Dean of Guild Court, how constituted.

203. The Dean of Guild Court so established shall consist of the Dean of Guild or of the provost of any burgh not having a Dean of Guild, and not less than two of the Commissioners, who may also be magistrates, and who shall be elected annually: Provided always, that it shall not be lawful for any member of the Dean of Guild Court to sit as a member of the said court when any matter in which he is personally interested is under consideration.

Commissioners may appoint master of works, who may also be the surveyor of burgh.

204. The Commissioners may appoint a master of works in connexion with the Dean of Guild Court, who may also be the surveyor of the burgh, at such salary as they shall deem proper, whose duty it shall be to report to the said court upon all plans lodged with petitions to the Dean of Guild Court, and to see that the orders made by the said court are duly carried into execution,

and from time to time to inspect the works in progress in execution of plans for which warrant has been given by the said court, and to report to the prosecutor in the said court any deviation therefrom, and also to perform any other duties which he may be required to perform by the Commissioners; and such master of works or surveyor shall not be connected directly or indirectly with or interested in any contract or works belonging to any branch of the building trade, nor give any assistance or receive any fees in connexion with plans to be submitted to the court.

Clerk and prosecutor of Guild Court.

205. In any Dean of Guild Court to be established after the commencement of this Act the clerk to the Commissioners shall be the clerk of the Dean of Guild Court, and the burgh prosecutor shall be the prosecutor in the Dean of Guild Court.

Courts to be held.

206. Dean of Guild Courts shall be held from time to time, and as often as may be necessary, in some convenient place in the burgh.

Guild Court to fix fees and charges.

207. The Dean of Guild Court shall have power from time to time to fix such fees as they may consider sufficient, according to a scale subject to approval by the auditor of the Court of Session, and they may apply such fees and charges in or towards payment of the salaries of the prosecutor in the Dean of Guild Court, clerk of Dean of Guild Court, master of works, or surveyor, or other officers; and any balance of such fees, and of the fines imposed by the said court, shall annually be paid to the credit of the burgh general assessment, and an account of such fees and fines shall be made annually to the Commissioners, and in the event of the amount of fees and fines recovered in any year being insufficient to meet the expenses of the year, such deficiency shall be made good out of the burgh general assessment.

Service of petitions, &c.

208. Any copy of a petition or any notice to be served upon any owner of lands and premises, or other person whom it is necessary to proceed against or make a party to proceedings before the Dean of Guild Court, may be lawfully and effectually served in the manner herein-after provided with regard to the service of any notice by the Commissioners.

Rules and regulations for building.

209. Every proceeding before the Dean of Guild Court shall be subject to the following rules and regulations:—

It shall commence by an application in writing or in print, or partly in writing and partly in print; and except where otherwise specially directed, the subsequent steps may be in writing or vivâ voce, as shall be ordered by the court:

In all other respects the proceedings before the Dean of Guild Court shall be such as apply to the proceedings before the Dean of Guild Court in Royal burghs in Scotland; and the judgments of the court shall be subject to review, as the judgments of such Dean of Guild are subject to review.

SURVEYS AND PLANS.

Commissioners to procure a map of the burgh, which is to be open to inspection.

210. The Commissioners shall procure as herein-after provided a survey and map or maps of the burgh on a scale of not less than twenty-five inches to a mile, and shall cause to be marked thereon the course of all the existing sewers and drains belonging to them or under their care or management, and, as far as can be ascertained, the lines of pipes or conduits for the collection and distribution of water, the course of the pipes for the distribution of gas, and such other works, with such other particulars as may be necessary in order to show the underground works within the burgh, and shall cause the said map or maps to be from time to time corrected, and such additions to be made thereto as may show the sewers and drains for the time being belonging to the Commissioners, and such other pipes and underground works as aforesaid; and such map or maps, or a copy thereof, with the date expressed thereon of the last time when it was so corrected, shall be kept in the office of the clerk of the Commissioners, and shall be open at all reasonable hours to the inspection of the owners or occupiers of any lands or premises within the burgh.

Board of Agriculture to furnish maps, or cause surveys to be made.

211. The Board of Agriculture shall, on the application of the Commissioners, and at their expense, furnish, for the use of the Commissioners, one or more copies of any map of the burgh or any part thereof which shall have been made by the Ordnance Survey Department, or shall cause a survey to be made of the burgh on a scale of not less than twenty-five inches to the mile, by the said Ordnance Survey Department, for such remuneration as shall previously be agreed upon between the said Board and the Commissioners of the burgh.

Level lines to be marked on map, and bench marks to be made for denoting the same.

212. The Commissioners shall cause to be marked on the map so procured by them a series of marks and figures at convenient distances on the said map, denoting the height of the ground at every such mark above or below the level of a particular spot within the burgh, which may easily be found and identified, the position of which spot shall be described on the map; and shall also cause to be drawn, wherever practicable, lines of equal altitude at every four feet of elevation, or at such other intervals as may appear upon due inquiry to be the best adapted for the guidance of works of sewage and drainage, for the collection and distribution of water, and for other purposes within the burgh, for which a knowledge of the levels of the burgh may be necessary, and shall also cause proper bench marks for denoting the levels to be inscribed and marked at convenient distances and places, at the corner of streets, public or private, on posts, houses, or other prominent objects within the burgh.

Commissioners may cause maps to be engraved, &c.

213. The Commissioners may cause every such map to be copied, engraved, or printed, and coloured, in such manner as appears to them most convenient, and may defray the costs of any such surveys and maps out of the burgh general assessment.

Commissioners to cause plans to be prepared of new works or alterations of existing works.

214. The Commissioners shall cause their surveyor to prepare plans of any new works, and additions to or alterations of existing works, that may be required for the effectual drainage of lands or premises within the burgh, including provision for properly trapped drains or channels for the removal of all waste water and refuse from such lands or premises and from the surface of the streets, and also to draw on such plans the lines that appear to him most advantageous for main sewers, and the best outfalls for clearing the whole burgh of surface moisture, and effecting the drainage of the subsoil, and to point out the most approximate means and sites for the collection and sale of filth and refuse for agricultural or other purposes, and also to set forth any other matters which may assist the Commissioners in carrying into execution, in an economical and effective manner, the several works required to be carried into execution under the provisions of this Act, or which appear to be necessary for the health and convenience of the inhabitants of the burgh.

PUBLIC SEWERS.

Sewers, &c. vested in Commissioners.

215. All sewers and drains within the burgh, whether existing at the time when this Act comes into force or made at any time thereafter (except private branch drains, drains made and used for the purpose of draining, preserving, or improving land, and sewers made under any local or private Act of Parliament), shall vest in and belong to and be entirely under the management and control of the Commissioners.

Power to purchase, &c. certain sewers.

216. The Commissioners may purchase the rights, privileges, powers, and authorities vested in any person for making sewers not hereby vested in the Commissioners, or contract for the use of any such sewers, or purchase any such sewers, with or without the buildings, works, materials, and things belonging or appertaining thereto; and any person to whom any such rights, privileges, powers, authorities, sewers, buildings, works, materials, or things belong may sell and dispose of the same to or otherwise contract with the Commissioners; and in case of any such sale the purchase money shall be settled and applied to the same uses and purposes to which the property purchased may have been subject at the time of such sale, and the property purchased shall vest in and belong to the Commissioners, any law to the contrary notwithstanding: Provided always, that notwithstanding any such purchase, any person who previously thereto may have acquired perpetual right to use any sewer so purchased shall be entitled to use the same, or any other sewer substituted in lieu thereof, in as ample a manner as he would have done if such purchase had not been made.

Private sewers or watercourses, &c. not to be used without consent.

217. Nothing in this Act contained shall be construed to authorise the Commissioners, contrary to any private right, to use, injure, or interfere with any sewers or other works already made or used for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating lands, or to use, injure, or interfere with any watercourse, stream, river, dock, basin, wharf, quay, or towing-path in which the owner or occupier of any lands, mills, mines, or machinery, or

the proprietors of any canal or navigation, shall have right and interest, without the consent in writing of the person legally entitled to grant the same; and nothing in this Act contained shall prejudice or affect the rights, privileges, powers, or authorities given or reserved to any person under any local or private Act of Parliament for the drainage, preservation, or improvement of land, or for or in respect of any mills, mines, machinery, canal, or navigation as last aforesaid.

Drainage districts to be formed, subject to approval of the sheriff.

218. The Commissioners shall form the whole burgh into one drainage district, subject to the following exceptions and provisions:—

(1.) Where at the application of this Act separate districts exist, they shall be maintained unless and until they are altered in the manner herein-after provided.

(2.) The Commissioners may divide the burgh into separate drainage districts with the approval of the sheriff, if special and exceptional circumstances exist to the satisfaction of the sheriff, making it expedient to make such division.

(3.) The Commissioners may unite or alter existing separate districts with the approval of the sheriff.

(4.) Any alteration of districts existing at the application of this Act shall be subject to such conditions as the sheriff may impose, having regard to the assessments which have been paid in the existing districts, so as to afford equitable relief to the properties in respect of which such assessments have been paid.

(5.) The Commissioners shall cause their surveyor to define and describe the several drainage districts, and any alterations that may from time to time be made thereof, upon a plan of the burgh to be made as herein provided for.

Power to Commissioners to construct sewers where none exist, making compensation to owners of property.

219. The Commissioners shall from time to time, subject to the restrictions herein contained as to the notice to be given and the plans and estimates to be prepared, cause to be made, under the streets, or elsewhere, such main and other sewers as shall be necessary for the effectual draining of the burgh, and shall also cause to be made all such reservoirs, sluices, engines, and other works as shall be necessary for cleansing such sewers, and if needful they may carry such sewers through and across all underground cellars and vaults under any such streets, doing as little damage as may be, and making full compensation for any damage done; and may carry the same into or through any enclosed or other lands, making full compensation to the owners and occupiers thereof, and they may cause the refuse from such sewers to be conveyed by a proper channel to the most convenient site for its collection and sale, for agricultural or other purposes, as may be deemed most expedient, but so that the same shall in no case become a nuisance: Provided always, that if in making any such main and other sewers, or in repairing, constructing, or enlarging the same or existing drains or sewers, the contents at present carried into any existing outlet shall be diverted therefrom to the prejudice of any actual existing legal right, the Commissioners shall be bound to make compensation therefor; compensation under

this section shall be settled in the same manner as compensation for land to be taken under the provisions of the Lands Clauses Acts is directed to be settled.

Commissioners to give notice of new levels or sewers.

220. Twenty-eight days at the least before making any new sewer where none previously existed, or altering the course or level of or abandoning or stopping any sewer, the Commissioners shall give notice of their intention, by posting a notice in a conspicuous place at each end of every such street through or in which such work is to be undertaken, which notice shall set forth the names of the streets and places through or near which it is intended that the new sewer shall pass, or the existing sewer be altered or stopped up, and also the places at the beginning and the end thereof, and shall refer to the plans of such intended work, and shall specify a place where such plans may be seen, and a time when and place where all persons interested in such intended work may be heard thereupon.

Meeting of Commissioners to hear objections.

221. The Commissioners shall meet at the time and place mentioned in the said notice to consider, in the presence of the surveyor of the Commissioners, any objections made against such intended work, and all persons interested therein, or likely to be aggrieved thereby, shall be entitled to be heard before the Commissioners at such meeting; and thereupon the Commissioners may, at their discretion, abandon or make such alterations in the said intended work as they judge fit; and no such work to which any objection is made at such meeting shall be executed unless the burgh surveyor, after the person making such objection, or his agent, has been heard, shall certify that the work ought to be executed, nor shall such work be begun until the end of seven days after an order for the execution thereof has been duly made by the Commissioners, and entered in their books.

Where works for sewage provided, streams not to be polluted.

222. Whenever the Commissioners shall have caused pipes or other works to be laid in or along any river, burn, or watercourse within the burgh for the purpose of intercepting and conveying away the sewage which would otherwise flow into and pollute the same, it shall not be lawful for any person to introduce into any part of such river, burn, or watercourse, along which such pipes are laid, any sewage or other offensive matter or thing from any source; and the Commissioners are hereby authorised and required to allow junctions to be made with such pipes or works for the purpose of drainage of any lands and premises which would naturally fall into such river, burn, or watercourse, on such terms as they may arrange with the persons requiring such drainage, and failing such arrangement, on such terms as may be fixed by the sheriff; and the sheriff is hereby required to hear and determine any questions affecting such drainage that may be submitted to him; and every person who shall infringe the provisions of this enactment shall be liable to a penalty not exceeding five pounds, and a further penalty not exceeding twenty shillings for each day during which such infringement shall be continued.

Throwing rubbish into streams.

223. Any person who shall lay or throw, or cause or procure to be laid or thrown, any rubbish, earth, ashes, corks, straw, soil,

filth, or refuse, or any other matter, whether offensive or not, into the channel or on the banks or on the sides of any river, burn, or watercourse flowing through or on the boundary of the burgh, shall, upon conviction of such offence before the magistrate, be liable to a penalty not exceeding forty shillings.

Commissioners may alter sewers from time to time.

224. The Commissioners may from time to time, as they see fit, repair, enlarge, extend, alter, arch, or cover over, and otherwise improve all or any of the sewers vested in them: and if any of such sewers at any time appear to them to have become useless, the Commissioners may demolish and discontinue such sewer, provided that it be so done as not to create a nuisance.

Commissioners not to destroy existing sewers, &c. without providing others.

225. If any person, by means of any alteration, or discontinuance of any sewer, or other proceeding of the Commissioners, be deprived of the use of any sewer or drain which such person was theretofore lawfully entitled to use, the Commissioners shall provide some other sewer or drain equally effectual for such purpose; and if the Commissioners do not within seven days after notice in writing served upon them begin, and thereupon diligently proceed, to restore to its former effective state such drain or sewer, or to provide such other sewer or drain as aforesaid, they shall forfeit to the person aggrieved a sum not exceeding forty shillings for every day after the expiration of such seven days during which he is deprived of the use of the drain or sewer to which he was so entitled, and is not provided with such other drain or sewer as aforesaid.

Commissioners to cause estimates to be prepared before execution of works.

226. Before entering into any contract for executing any such work as aforesaid, the Commissioners shall procure from their surveyor an estimate of the probable expense of constructing the same in a substantial manner, and of the yearly expense of maintaining the same in repair, and such surveyor shall accompany such estimate with a report as to the most advantageous mode of constructing such work, whether under a contract for constructing the same merely, or a contract for constructing the same and maintaining it in repair during a given term of years.

Penalty for making unauthorised drains.

227. Every person, not being employed or authorised for that purpose by the Commissioners, who shall make any drain from any lands or premises into any of the sewers vested in the Commissioners, shall be liable to a penalty not exceeding five pounds; and the Commissioners may cause such drain to be re-made as they think fit, and the expense incurred thereby shall be paid by the owner of the lands or premises, and that over and above a reasonable sum of money for the use of the sewers, which the Commissioners are herein-after authorised and required to exact for the use of the sewers.

Vaults and cellars under streets not to be made without consent of Commissioners.

228. No building shall be erected over any sewer belonging to the Commissioners, and no vault, arch, or cellar shall be made under the carriageway of any street, public or private, without the consent of the Commissioners first obtained in writing; and if such consent be obtained all such vaults, arches, and cellars shall be substantially made, and so as not to interfere or communicate with

any sewers belonging to the Commissioners; and if after this Act comes into operation in the burgh any building be erected, or any vault, arch, or cellar be made therein, contrary to the provisions herein contained, the Commissioners may demolish or fill up the same, and the expenses incurred thereby shall be paid by the person erecting such building, or making such vault, arch, or cellar.

Sewers, &c. to be trapped and ventilated.

229. All sewers and drains, whether public or private, shall be trapped and ventilated by the Commissioners or other persons to whom they severally belong.

Ventilation of sewers.

230. The Commissioners shall have power for the purpose of providing ventilation for the existing sewers or drains, or for such sewers or drains as may hereafter be constructed, to acquire, by agreement, lands and premises, and to construct all ventilating shafts, furnaces, and other means of ventilating the sewers and other works which may from time to time be found necessary, and if for completing any works required in the execution of this provision it be found necessary to carry them upon, into, or through any enclosed or other private premises, the Commissioners shall have and may exercise the like powers and be liable to the like conditions and restrictions which are by this Act provided with reference to the construction of sewers.

Commissioners may arrange with the occupier of any manufactory, &c.

231. The Commissioners may also arrange with the owners or occupiers of any manufactory, gaswork, or brewery, having furnace and chimney shafts so situated as to be available for the ventilation of the adjacent sewers and drains for such ventilation, or of other suitable premises, to lay and fix such ventilators, pipes, or shafts into, on, or against all such buildings or premises as to them may seem proper, and as may be agreed on, making compensation to the owners thereof.

Costs and charges.

232. All costs and expenses which may be incurred by the Commissioners in carrying the provisions for ventilating the sewers or drains into effect shall form a charge against the "general sewer rate" or against any "special sewer rate" which in their judgment may be properly chargeable therewith.

Distillers and others to construct reservoirs to deposit refuse.

233. Any owner or occupier of distilleries, manufactories, or other works who causes or permits any refuse, refuse water, steam, or other substance fitted to interrupt the free passage of a sewer or to be otherwise injurious thereto, or to be injurious to the health of persons living in the vicinity, to enter a public sewer, river, or inland loch, or public reservoir or dock from any such works shall be guilty of an offence, and shall, on conviction before the sheriff, be liable to a penalty of five pounds for every day or part of a day during which such offence continues, besides being liable for all damages, and for all expenses for taking out of the sewer any refuse or substance that may have entered it from his works.

Such owners and occupiers shall construct pools or reservoirs as near their works as possible, for receiving and depositing such refuse and other substances.

If it shall be impracticable, in the judgment of the Commissioners, to render such refuse or other substances inoffensive or

innocuous, or to prevent the same from interrupting the free passage of the sewer, or otherwise injuring the same, it shall be lawful for the Commissioners to prohibit and interdict such owner or occupier from permitting the same to run into such sewer from his works aforesaid; and while such prohibition and interdict are in force, or if and so long as the owner or occupier of such works makes no use of the sewers, in consequence of having before this Act came into operation made separate arrangements for the drainage of the works, such owner or occupier shall be entitled to be exempted from the sewer rates to the extent of seventy-five per centum thereof applicable to the whole building or such part or parts thereof as by such prohibition or previous separate arrangement are deprived directly or indirectly of any benefit from the sewer; provided that the sewer rates payable in respect of the other parts of such distilleries, manufactories, and other works, and all warehouses, offices, and other buildings connected therewith, shall still remain payable; and if the prohibition and interdict be at any time by the Commissioners withdrawn, or the owner or occupier having previous separate arrangements shall begin to use the sewers, then the exemption shall cease so soon as the owner or occupier avails himself to any extent of the withdrawal of the prohibition by permitting the substances prohibited to pass into the sewers, and if the owner or occupier is dissatisfied with the decision of the Commissioners as to the question of practicability aforesaid, or as to the part of the works for which such exemption ought to be made, it shall be lawful for such owner or occupier to appeal to the sheriff in manner after provided.

Sewers may be used by owners and occupiers of land or premises beyond limits of burgh.

234. Any person, being the owner or occupier of any lands or premises beyond the burgh, or not included in any drainage district thereof, and in respect of which he would not be liable for the payment of the rates authorised to be levied under this Act or the local authority of any district under the Public Health Acts, may, with the consent of the Commissioners in writing, upon payment to them of a reasonable sum of money, to be agreed upon between them, at his or their own expense, and under the superintendence of the surveyor of the Commissioners, cause to branch into and to communicate with any of the sewers belonging to the Commissioners any sewer or drain in respect of the said lands or premises or district which may be lawfully made therefrom, of such size and in such form of communication as the Commissioners approve of: but nothing in this Act contained shall affect any right theretofore acquired by such owner or occupier to use any of the sewers or drains belonging to the Commissioners.

Drains may be made to discharge below high-water mark.

235. If the Commissioners shall consider it necessary for public health that any drain should discharge itself below high-water mark they shall be entitled, with the consent of the Board of Trade, to construct the requisite works for that purpose under the regulations provided in regard to works authorised by this Act.

Power to borrow money for the construction of sewers.

236. It shall be lawful for the Commissioners to borrow, for the purpose of making, purchasing, enlarging, ventilating, reconstructing, and maintaining sewers, and on the security of the said special

sewer rates and general sewer rates, such sums of money, and at such times, as the Commissioners shall deem necessary for that purpose, and to assign the said special sewer rates and general sewer rates in security of the money to be so borrowed; and the provisions of this Act with respect to the borrowing of money and the granting of bonds therefor, and the transference and recording of such bonds, shall be applicable to the borrowing of money for such purpose; and the bonds to be granted for the money so to be borrowed shall, mutatis mutandis, be as near as may be in the form set forth in this Act for bonds to be granted for money borrowed under the general powers of this Act, and shall constitute a lien over the special sewer rates and general sewer rates thereby assigned, and shall entitle the creditors therein to recover the sums thereby due from the Commissioners and their officers out of the first and readiest of the said special and general sewer rates: and the money so borrowed shall be applied wholly to the purpose aforesaid, and to no other purpose whatsoever; and the special and general sewer rates shall not be liable for nor be assigned in security of the payment of any sums borrowed by the Commissioners for any other than such purpose.

Appeal by persons aggrieved by making, &c. sewers.

237. It shall be lawful for any person whose property may be taken or injuriously affected by the making, altering, and maintaining sewers, or who may think himself thereby aggrieved to appeal to the sheriff in manner after provided.

DRAINAGE OF HOUSES.

Commissioners may construct drains from houses, charging owners, &c. with the expense.

238. If any house or building and its pertinents be at any time not drained by a sufficient drain or pipe communicating with some sewer or with the sea, to the satisfaction of the Commissioners, and if there shall be such means of drainage within one hundred yards of any part of such house or building, the Commissioners shall construct or lay therefrom a covered branch drain or pipe of such materials, of such size, at such level, and with such fall as they think necessary for the drainage of such house or building, its areas, waterclosets, and offices; and the expense thereof shall be recoverable from the owner of such house or building, over and above any sum that may be charged for the use of the sewers as after provided for.

No house to be hereafter built without drains being constructed.

239. No house or building shall be built upon a lower level than will allow the drainage of the wash and refuse thereof to fall into some sewer belonging to the Commissioners, either then existing or marked out upon the map herein directed to be made by them; and if there be such means of drainage existing within one hundred yards of such intended house or building, the Commissioners shall cause a branch drain leading thereunto from the intended site of such house to be made of such materials, of such size, at such level, and with such fall as they think fit; or if there be no such means of drainage within one hundred yards of any part of the said intended site of such house or building, then such drain shall be made so as to lead into such covered cesspool

or other place as the Commissioners direct, not being under any dwelling-house or other occupied building, and shall be constructed and kept in complete repair to the satisfaction of the Commissioners, so as effectually to prevent any leakage or effluvium therefrom until such sewer as aforesaid is made by the Commissioners, when they shall make a drain to communicate with such new made sewer, and shall demolish and fill up any such cesspool; and all such expenses shall be recoverable from the owners as a private improvement assessment.

Where houses are rebuilt, the level shall be sufficient to allow a drain to be constructed.

240. Whenever any house is rebuilt, the level of the cellar or other lowest floor of such house shall be raised sufficiently to allow of the construction of such drain as is herein-before provided in the case of houses to be built after the application of this Act; and whenever any house is taken down to or below the ceiling of the floor, commonly called the ground or street floor, for the purpose of being built up again, such building shall be deemed a rebuilding within the meaning of this Act.

Ventilation of house drainage.

241. Proper ventilation shall, if required by the Commissioners, be provided in the drainage of every house or building by special pipe or shaft, or by such other method as they shall direct; and all other inlets to drains shall be properly trapped.

Drains and cesspools to be kept in good order by owners.

242. All branch drains, as well within as without the premises to which they belong, and all cesspools or reservoirs, shall be under the survey and control of the Commissioners, and shall be reconstructed or altered, repaired, and kept in proper order at the cost and charges of the owners of the premises to which the same belong, or for the use of which they are constructed or continued.

Inspection of drains and cesspools.

243. The surveyor of the Commissioners may, and when requested by the medical officer of health or the sanitary inspector shall inspect any drain or cesspool or reservoir, and for that purpose, at all reasonable times in the daytime, after twenty-four hours notice in writing to the occupier of the premises to which such drain or cesspool or reservoir is attached, may enter upon any premises with such assistants or workmen as may be necessary, and cause the ground to be opened where he thinks fit, doing as little damage as may be; and if such drain or cesspool or reservoir be found to be in proper order and condition, he shall cause the ground to be closed and made good as soon as may be; and the expense of opening, closing, and making good such drain or cesspool or reservoir shall in that case be defrayed by the Commissioners; and all branch drains which have been opened for repairs, or for any purpose whatever, shall not be covered up before they have been inspected and tested by the Commissioners or their surveyor, which inspection and testing shall be made within twenty-four hours after notice has been given by the owner of the branch drain; and any owner or agent or builder who opens or causes to be opened, and who covers up or causes to be covered up any branch drain without such notice to the Commissioners or their surveyor shall be liable to a penalty of five pounds; and the Commissioners may order such branch drain to be again uncovered for the purpose of inspection

and test at the expense of the owner or agent or builder who opened or caused the drain to be opened.

Penalty on persons making or altering drains, &c., contrary to orders of Commissioners.

244. If such drain or cesspool or reservoir be on inspection found to have been constructed after this Act came into force, contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or if any person, without the consent of the Commissioners, shall construct, rebuild, or unstop any drain or cesspool or reservoir, every person so doing shall be liable to a penalty not exceeding five pounds; and the Commissioners may cause such amendments or alterations to be made in any such drain or cesspool or reservoir as they think fit.

Parties aggrieved may appeal to sheriff.

245. It shall be lawful for any person whose property may be thereby taken or injuriously affected by the construction or use of house or branch drains, and who thinks himself thereby aggrieved, to appeal to the sheriff in manner herein-after provided.

SOIL-PIPES AND WATERCLOSETS.

Water and watercloseets.

246. Within one month after notice given by the Commissioners in writing for that purpose, the owner of every house or part of a house occupied by a separate family, into which water has not been already introduced, shall, subject to the provisions of any byelaws made by the Commissioners, introduce water thereto, and shall fit up in some window, recess, or other well-lighted and ventilated place, a sink sufficient to carry off the whole foul water; and after a like notice every such owner shall also, subject as aforesaid, provide for such house or part of a house occupied by a separate family, wherever practicable, a sufficient watercloset: Provided always, that if, in the opinion of the Commissioners, it is not advisable to introduce watercloseets into each house, or part of a house, they, after a like notice, may, subject as aforesaid, require the owners of a tenement to construct on each flat, or in some convenient place or places adjacent to such tenement, a sufficient number of watercloseets for the separate use of each sex of the inmates and occupiers of the said tenements: Provided further, that this enactment shall not be enforced by the Commissioners where, from water not having been laid under sufficient pressure, or from drains being still unmade, or from any other cause, such works shall be impracticable or inexpedient.

Owners of flats of houses to have supply pipe from water-pipe.

247. It shall be lawful for the owners of any one or more floors or stories of any house or other building to have a supply pipe from any water-pipe in the street brought up the common staircase, or along the back or side wall of the tenement on the outside, and either passing underground through the sunken story or lowest flat, or, where practicable, through any common entry: Provided always, that authority shall be first obtained from the magistrate, which may be granted summarily, on hearing the parties concerned, without written pleading, to lay and put up such pipe; and the expense thereof, and of keeping the same in repair, and the damage thereby occasioned to the street and otherwise, shall be defrayed by the person, owner or owners of the properties

for which such supply pipe has been provided; and no person shall have power to join the supply pipe to any main pipe without the sanction of the magistrate so obtained, and of any water company or other persons who may supply such water.

Soil-pipes may be carried through the different houses.

248. Where there are two or more houses in any tenement, the owner and occupier of each house shall permit soil-pipes, if unavoidably necessary, to be carried through the same; and the owner and occupier of the lowest story shall permit such soil-pipes, if necessary, to be carried through and under the same, and all such owners and occupiers shall at all reasonable times afford access to all such houses for the construction of the works, and for making all repairs necessary thereon, without any claim for compensation: Provided always, that the work shall be so executed at the sight of the burgh surveyor, and so as to occasion the least inconvenience to any such owner and occupier, and that any injury done to such houses in the execution of the works shall be forthwith repaired, and that the authority of the magistrate shall first be obtained, in the manner herein-before provided with respect to supply pipes from water-main

Penalty for introducing ashes into soil-pipes.

249. The occupier of any house or other place into the cesspool or soil-pipe of which any ashes, or other matter calculated to choke the same, shall be introduced or allowed to enter by him or others in his house, shall be liable in a penalty not exceeding forty shillings, besides being liable to repair any damage.

Owners of flats of houses may erect waste-pipes to communicate with drains.

250. In all streets and other places where common sewers are or may be constructed, it shall be lawful for any owner of one or more floors or stories of any house or other building divided into separate floors or stories (on obtaining authority for the purpose from the magistrate summarily, on the report and recommendation of the surveyor, or of such other person skilled in building as any of the magistrates may appoint, and on hearing the parties interested), to erect a waste or foul water-pipe or soil-pipe with trap in or upon the common staircase, or upon any wall of the tenement on the outside, to communicate with any drain underground leading into the common sewer where there is such drain, and with power to make such drain if none such already exist: Provided always, that the sanction of the Commissioners shall be obtained before connecting such drain with any common sewer in the street; and the expense and damage occasioned by erecting and constructing such pipe, drain, and communication, with the expense of restoring the street, so far as interfered with, and the expense of keeping such drain and communication clean and in good repair, with such reasonable allowance for the use of the common sewer in the street as the Commissioners may fix, shall be defrayed by the owners of the floors or flats making use thereof, in proportion to their respective rents or annual value, as the same may be ascertained from the valuation roll or police assessment books or otherwise; and in case of dispute among the parties or any of them relative to their proportion of such expense, the same shall be determined by the magistrates, or any one of them, in a summary manner, and such decision shall be final.

Construction of water-closets, &c.

251. The situation, dimensions, materials, and construction of every watercloset or earth-closet and privy shall be subject to the approval of the Commissioners, and every watercloset, earth-closet, or privy hereafter to be constructed shall be placed in such a position that one of its sides shall be an external wall, with a window therein, containing an area of at least six superficial feet, one half of which shall be made to open; and the cistern which supplies the watercloset (except the service pipe connected therewith) shall have no communication with the watercloset: Provided that in the case of waterclosets, earth-closets, or privies constructed prior to the passing of this Act it shall be optional for the Commissioners to require the owner or occupier to comply with the provisions of this section, or otherwise to provide ventilation therefor, and any owner or occupier who is dissatisfied with the requirement of the Commissioners may appeal to the sheriff, whose judgment shall be final.

Construction of cesspools, &c.

252. A cesspool shall not be allowed for any house or building except when unavoidable, in which event it shall be constructed in such situation and in such manner and under such conditions as the Commissioners direct. It shall in every case be made water-tight, it shall be arched or otherwise covered over, and shall have a current of fresh air conducted by pipe or shaft thereinto, and a pipe or shaft for ventilation shall be carried up from it or from the drain communicating with it from the watercloset or privy, as the Commissioners may direct.

Construction of ashpits, &c., and use of same.

253. The situation, dimensions, drainage, materials, mode of access, and construction of every ashpit shall be subject to the approval of the Commissioners, and shall be of sufficient size to contain the ashes and dry refuse likely to accumulate between such visits of the scavengers as the Commissioners may prescribe: Provided further, that if any person, not being the owner or occupier of the house or premises to which any ashpit belongs or is attached, shall deposit or use the said ashpit for the deposit of ashes or dry refuse, or any other matter or thing, such party shall be guilty of an offence, and on conviction thereof liable to a penalty not exceeding forty shillings.

Owners to remove cesspools after notice.

254. The owner of any privy, ashpit, cesspool, or midden, extending wholly or partially under or close to any room built before or after this Act comes into operation in the burgh, shall within one month after notice to that effect from the Commissioners remove or cleanse and build up such privy, ashpit, cesspool, and midden.

Power to enforce conversion of privies into waterclosets.

255. Where any privy, ashpit, or cesspool is certified by the medical officer of health to be prejudicial to health, of defective construction, or without drainage, or in a bad state of repair, or to be so situate that the removal of filth or refuse therefrom is prejudicial to health, the Commissioners may, by written notice, require the owner of the same within a reasonable time, to be specified in the notice, to reconstruct, or alter, or repair, such privy, ashpit, or cesspool, or to convert the privy into a watercloset or earth-closet, all as the case may require, to the satis-

faction of the Commissioners; and the Commissioners may, if they think fit, order the removal of such privy, ashpit, or cesspool.

Urinals, &c. attached to public-houses, &c.

256. The Commissioners may order the owner or occupier of any inn, public-house, beerhouse, eating-house, cook-shop, or other place of public entertainment or amusement, built before or after this Act, to provide within such time as the Commissioners think fit, and thenceforward to maintain upon or adjoining his premises, waterclosets, earth-closets, and urinals, one or more, to the satisfaction of the Commissioners; and if any person fail in any respect to comply with the provisions of this enactment he shall be liable to a penalty not exceeding five shillings for every day during which such failure continues after the expiration of fourteen days from the service of such order on him, and the Commissioners may order the owner and occupier of any premises to remove any watercloset, earth-closet, or urinal belonging thereto, where it appears to them so situated or constructed as to be a nuisance or offensive to public decency, or otherwise objectionable, and all such urinals shall be cleansed once in twenty-four hours by the occupier of the house or place to which they belong, to the satisfaction of the Commissioners; and in default thereof such occupier shall be liable to a penalty not exceeding forty shillings for every offence.

SUPPLY OF WATER.

Power to Commissioners to construct public cisterns and pumps for supply of water to baths and wash-houses.

257. The Commissioners, except when provision is otherwise made under the authority of an Act of Parliament, shall cause all existing public cisterns, pumps, wells, conduits, fountains, and other waterworks used for the gratuitous supply of water to the inhabitants within the burgh, unless the water therein is found to be dangerous or injurious to health or unfit for dietetic purposes, to be continued, maintained, and supplied with water, or they shall substitute other such works equally convenient, and shall cause them to be maintained and supplied with water; and such public cisterns and other works shall be vested in the Commissioners, and be under their management and control; and the Commissioners may construct and maintain any number of new cisterns, pumps, conduits, fountains, and other waterworks for the gratuitous use of any persons who choose to carry the water away, not for sale, but for their own private use, and may supply with water any public baths or wash-houses.

Commissioners may contract for supply of water.

258. The Commissioners may contract, for any period not exceeding three years at one time, with the owners of any waterworks, or any other person, for such supply of water as the Commissioners shall think necessary for the purposes of this Act.

For ascertaining price to be paid for water in case of dispute.

259. If the Commissioners, and the owners of any waterworks for supplying water within the burgh, with whom the Commissioners may be desirous of contracting for the supply of water to the inhabitants, do not agree as to the terms and conditions of the supply and the price to be paid for such supply, then such terms and conditions and price (except where by the Act authorising such

waterworks some other mode of determining such terms and conditions and price shall be provided) shall be settled by arbitration, and for that purpose the clauses of the Lands Clauses Acts with respect to the settlement of disputes by arbitration shall be incorporated with this Act.

Firecocks may be placed on pipes of water companies.

260. It shall be lawful for the Commissioners, at the sight of the engineer of any water company established or to be established for supplying water within the burgh, or any company or corporation actually supplying water within the burgh, to place proper firecocks upon the pipes belonging to any such company within the burgh, at such convenient distances from each other and at such places as may be considered proper for the supply of the fire engines when brought into operation, the positions of such firecocks being first arranged by the Commissioners with the directors of such water company; and in case of difference of opinion between them, the same shall be determined by the sheriff, whose judgment thereon shall be final, and not subject to review.

Commissioners may provide sufficient supplies of water, and may erect waterworks, &c.

261. The Commissioners may provide the burgh with such a supply of water as may be proper and sufficient for the purposes of this Act, and may maintain such a constant flow of water, by means of a reservoir or reservoirs or otherwise, as may be requisite for the health of the inhabitants or the amenity of the burgh, and for private use to the extent required by this Act; and for other purposes, or any of them, the Commissioners may from time to time contract with any person whomsoever, or purchase, take upon lease, hire, construct, lay down, and maintain such reservoirs and waterworks, and do and execute all such works, matters, and things as shall be necessary and proper, including the opening of streets, public or private, from time to time for the purpose of laying down, altering, or repairing water pipes therein; and any waterworks company or owners or lessees of reservoirs may contract with the Commissioners to supply water for the purposes of this Act in any manner whatsoever, or may sell and dispose of or lease their reservoirs and waterworks to the Commissioners; and the Commissioners may provide and keep in any waterworks constructed or laid down by them under the powers of this Act a supply of pure and wholesome water, and the water so supplied may be constantly laid on at such pressure as will carry the same to the top story of the highest dwelling-house within the burgh; and the Commissioners, by means of such reservoirs and waterworks, or either of them, may maintain such a constant flow of water as may be requisite for the health of the inhabitants or the amenity of the burgh: Provided always, that before constructing or laying down any waterworks under the powers of this Act, within any limits within, for, or in respect of which any waterworks company or water commissioners shall have been established for supplying water, the Commissioners shall give notice in writing to every waterworks company or water commissioners within whose limits the Commissioners may be desirous of laying on or supplying water, stating the purposes for and (as far as may be practicable) the extent to which water is required by the Commissioners; and it shall not be lawful for the

Commissioners to construct or lay down any waterworks within such limits, if and so long as any such company or water commissioners shall be able and willing to lay on water proper and sufficient for all reasonable purposes for which it is required by the Commissioners; and in case any difference shall arise as to whether the water which any such company is able and willing to supply or lay on is proper and sufficient for the purposes for which it is required by the Commissioners, or whether the purposes for which it is required are reasonable, the same shall be settled by the sheriff, upon summary application by either of the parties, and the decision of the sheriff shall be final.

Burghs having less than five thousand inhabitants may obtain from the sheriff compulsory powers for water supply.

262. In every burgh having less than five thousand inhabitants at the date of the last census, if the Commissioners resolve that, in order to obtain a supply of water for the burgh, it is necessary for them to acquire land otherwise than by agreement, they may, instead of proceeding under the Public Health Acts, present a petition to the sheriff in manner herein-before provided, and obtain his authority to put in force the provisions of the Lands Clauses Acts with reference to the acquisition of lands otherwise than by agreement.

Service pipes to be laid by owners.

263. Where the Commissioners resolve to supply the houses or tenements within the burgh with water for domestic and ordinary purposes, the owners of such houses and tenements shall be entitled to obtain such supply by connecting a service pipe with the main pipes to be laid down by the Commissioners, the expense of such service pipes and of connecting the same with the main pipes being defrayed by such owners; and where the houses and tenements generally in any street within the burgh shall be supplied with water by means of such service pipes, it shall be competent to the Commissioners to require the owner of any tenement in such streets not so supplied to take a supply of water by connecting a service pipe with the main pipe as aforesaid; and in the event of refusal or delay on the part of such owner to comply with such requisition, it shall be lawful for the Commissioners to enter such house or premises and proceed to lay down such service pipe themselves, and to recover the expense thereof from such owner; and wherever it is practicable all supplies of water for domestic use shall be taken direct from the main or service pipes and not from cisterns.

Water to be used only for domestic and ordinary purposes, unless by agreement with Commissioners.

264. No person shall be entitled, without special agreement with the Commissioners, to use the water supplied through the pipes of the Commissioners, except for domestic and ordinary purposes; but where there is a supply of water more than is required for such domestic and ordinary purposes within the burgh, it shall be lawful for the Commissioners to contract with any person or persons within the burgh to supply any public baths and washhouses, works, manufactories, or other premises within the burgh with water, at such rate and upon such terms and conditions as may be agreed on; or, in the event of disagreement, either as to the ability of the Commissioners to give the supply, or as to the rate, terms, or conditions on or in respect of which the supply is to

be given, the same shall be fixed by the sheriff, upon summary application by either of the parties, and the decision of the sheriff shall be final: Provided that when water is thus supplied from such surplus, it shall not be lawful for the Commissioners to charge the parties obtaining the same both with the portion of the burgh general assessment applicable to water supply, and also for the supply of water obtained by them; but the Commissioners may either charge the said assessment leviable on such premises or charge for the supply of water furnished to the same, as they shall think fit; and it shall also be lawful for the Commissioners to dispose of any surplus water, not required for any purpose within the burgh, to any person or persons outside the burgh, at such rate and upon such terms and conditions as may be agreed on.

It shall further be lawful for the Commissioners to dispose of any surplus water not required for any of the purposes aforesaid within the burgh to the commissioners or trustees of any harbour or other person owning or managing any harbour within or near to the burgh for the purpose of supplying vessels within the harbour and for the extinction of fires in such vessels, or in any buildings or other property within the limits of the harbour and subject to the administration of such commissioners or trustees of the harbour or other persons, and such commissioners or trustees of the harbour or other persons may demand and levy from the owner, master, agent, manager, or other person in charge of any vessel applying for and receiving such supply of water, a reasonable sum of money in respect thereof, and in the event of disagreement as to the rate, terms, or conditions on which such supply shall be given by such commissioners or trustees of the harbour or other persons to such vessels, the same shall be fixed by the sheriff upon summary application by either of the parties, and the decision of the sheriff shall be final.

Supply of water for domestic purposes.

265. A supply of water for domestic and ordinary purposes shall not include a supply of water for cattle or for horses, or for washing carriages, or for steam engines, or for railway purposes, or for warming or ventilating purposes in public buildings, or for working any machine or apparatus, or for any trade, manufacture, or business whatsoever, or for watering gardens by means of any tap, tube, pipe, or other such like apparatus, or for fountains, or for flushing sewers or drains, or for public baths or washhouses, or for any ornamental purpose whatever.

Drinking fountains.

266. The Commissioners may from time to time erect and maintain, or allow to be erected and maintained, in any street or public place any ornamental drinking fountain or trough.

Incorporation of certain provisions of the Waterworks Clauses Acts.

267. With respect to the supply of water all the clauses and provisions of the Waterworks Clauses Acts, 1847 and 1863, and any Act amending the same, with respect to the following matters; (that is to say,)

The construction of the waterworks:

The communication pipes to be laid by the inhabitants:

Waste or misuse of the water supplied by the undertakers:

Guarding against fouling the water of the undertakers:
The payment and recovery of the water rates:
The recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff:

shall, so far as the same are not varied by the provisions of this Act, be incorporated with this Act; and the expression "the undertakers" in the said Waterworks Clauses Acts shall, in reference to this Act, mean the Commissioners under this Act: Provided always, that the water to be supplied by the Commissioners need not be constantly laid on under pressure; and provided also, that for shops the water rate, or portion of burgh general assessment applicable to water, shall be chargeable only on one fourth of the rental of the premises, unless in special circumstances the Commissioners see cause to charge the ordinary rates, and in that case it shall be lawful for any person who may think himself thereby aggrieved to appeal to the sheriff in manner herein-after provided.

Byelaws in reference to water.

268. It shall be lawful for the Commissioners to make byelaws regulating all or any matters and things whatsoever connected with the water to be supplied within the burgh through their pipes.

Provisions with respect to supplying water not to apply in certain cases.

269. The provisions of this Act with respect to supply of water shall not apply in the case of any burgh which is or may be before the thirty-first day of December, one thousand eight hundred and ninety-four, supplied with water under the powers of any local Act or Acts.

HACKNEY CARRIAGES, OMNIBUSES, AND PORTERS.

Hackney carriages to be licensed.

270. The magistrates may from time to time license to ply for hire within five miles from the principal post office of the burgh such number of hackney coaches, omnibuses, or carriages of any kind or description, adapted to the carriage of persons, as they shall think fit, and they shall also license all other carriages let for hire within the burgh.

Regulations for hackney carriages.

271. With respect to hackney carriages the regulations contained in Schedule V. of this Act shall be observed, but such regulations may be altered by the magistrates, with the approval of the sheriff.

Regulations as to omnibuses or carriages plying within burgh.

272. The magistrates may prevent within the limits of their jurisdiction the plying or running of omnibuses, tramway cars, or other carriages for the conveyance of passengers which shall be in a state of disrepair or insecurity, or not adapted in all other respects for the conveyance of passengers with safety and comfort, or drawn by horses not sufficiently strong or in good condition, or not sufficiently trained or broken-in, and that by refusing, suspending, or recalling licences, and imposing penalties not exceeding for each offence five pounds on the owners or contractors, guards or drivers of such omnibuses, tramway cars, or other carriages which shall, on the complaint of the burgh prosecutor, be found by the magistrate before whom such owners, contractors, guards, or drivers may be

brought to be in an unsafe or unfit state for the conveyance of passengers, or drawn as aforesaid; and the magistrates are further empowered to make byelaws for regulating the number of passengers to be carried by and times of running of such omnibuses, tramway cars, or other carriages, the places at which the same shall stand, the time at which the same shall start, and all other matters tending to promote regularity and public convenience and safety, and also for ensuring good conduct on the part of the passengers or other persons making use of such omnibuses, tramway cars, and other carriages, and to enforce such byelaws against persons found guilty of any breach thereof, upon the complaint of the burgh prosecutor and under a like penalty, and they may alter and repeal such byelaws from time to time.

Cabmen's shelters.

273. The Commissioners may authorise suitable erections for the use, convenience, and shelter of drivers of hackney carriages, omnibuses, and tramway cars, or of carters or porters, to be placed in such of the streets of the burgh as they may think fit, and may make regulations for the management and use of such places, and the conduct of the persons resorting thereto.

Shoeblack stands.

274. The Commissioners may authorise suitable movable stands, for the purpose of enabling persons to follow the occupation of shoeblacks, to be placed in such streets as they may think fit, and they may make regulations for the conduct of such persons, and the use by them or the public of such stands.

Magistrates may license porters and others who apply for licence and badge of office.

275. It shall be lawful for the magistrates to license all persons who may be desirous of becoming porters, messengers (that is to say, persons following the business of carrying errands, messages, parcels or luggage for hire), chimney sweepers, golf cadies, or vendors of newspapers or small wares within the burgh, after being satisfied as to their character and qualifications, and to grant them a licence badge, for which a small sum shall be exigible, and which badge shall be held during their good behaviour; and the magistrates may also make byelaws to regulate the conduct of all such persons and their charges, and from time to time to rescind, alter, or amend such byelaws, and shall set down what penalties shall be incurred by persons breaking or evading any of them, not exceeding the sum of ten shillings for each offence.

Restriction as to vending by children.

276. No child under the age of twelve years shall be permitted to vend newspapers or other articles within the burgh who has not obtained a licence and a licence badge from the magistrates; nor shall any child under the said age in any case be permitted to vend newspapers or other articles after nine of the clock at night; and the magistrates shall from time to time make such byelaws as shall to them seem proper to regulate the conduct of such children; and the parents and guardians of any child under the said age who knowingly suffer such child to vend newspapers or other articles without such licence or after the said hour of nine of the clock at night, or to contravene any of the byelaws made by the magistrates, shall be liable on conviction to a penalty not exceeding twenty

shillings for each offence; and any person supplying newspapers for the purpose of sale by any child, knowing such child to be under twelve years of age, and that such child has no licence, shall be liable on conviction to a penalty not exceeding forty shillings for each offence.

MARKETS.

Commissioners' powers as to markets, &c.

277. The Commissioners shall have power to do the following things, or any of them:

To improve any existing market places:

To provide a market place, and construct a market house and other conveniences for the purpose of holding markets:

To provide houses and places for weighing carts:

To make convenient approaches to such market:

To provide all such matters and things as may be necessary for the convenient use of such market:

To take stallages, rents, and tolls in respect of the use by any person of such market house:

But no market shall be established in pursuance hereof so as to interfere with any rights, powers, or privileges enjoyed by any person, without his consent.

For the purpose of enabling the Commissioners to establish markets in manner aforesaid, or to improve and regulate markets already established in any burgh, there shall be incorporated with this Act the provisions of the Markets and Fairs Clauses Act, 1847, and the Markets and Fairs (Weighing of Cattle) Act, 1887, in so far as the same relate to markets:

With respect to the holding of the market or fair and the protection thereof; and

With respect to the weighing goods and carts; and

With respect to the stallages, rents, and tolls; and

With respect to byelaws:

Subject to this proviso, that all tolls leviable by the Commissioners in pursuance of this Act shall be approved of by the sheriff.

SLAUGHTER-HOUSES.

Commissioners may license slaughter-houses.

278. The Commissioners may provide, establish, improve, or extend, within or without the burgh, fit shambles or slaughter-houses for the purpose of slaughtering cattle, and for that purpose may borrow such sums of money as they shall find necessary, on the security of the burgh general assessment, and of the rates to be taken and levied for the use of such shambles and slaughter-houses, and of the shambles or slaughter-houses and ground on which the same are erected, or on any one or more thereof, and they may also license such slaughter-houses as they may from time to time think proper for slaughtering cattle within the burgh.

And where in any burgh the Commissioners, or their predecessors in office, shall have provided and established such shambles or slaughter-houses, and shall have paid for that purpose moneys out of the police or other funds under their charge, the Commissioners may repay such moneys out of the burgh general assessment, or out of any moneys borrowed on the security thereof, in so

far as the moneys so paid exceed in amount the moneys borrowed for the purposes of such shambles or slaughter-houses, under the powers of any special Act or provisional order, and may for the purpose of such repayment borrow money on the security of the burgh general assessment; and they may also apply any funds under their charge towards the maintenance and management of such shambles or slaughter-houses, and the payment of any feu duties or other annual burdens affecting the same, in the event of the rates levied for the use thereof not being sufficient for those purposes.

No slaughter-houses in future to be erected without a licence.

279. No place shall be used or occupied as a slaughter-house within the burgh unless and until a licence for the erection thereof, or for the use or occupation thereof as a slaughter-house, has been obtained from the Commissioners; and every person who, without such licence, uses as a slaughter-house any place within the burgh, shall for each offence be liable to a penalty not exceeding five pounds, and a like penalty for every day after the conviction for such offence upon which such offence is continued.

Officer of health to report on sanitary condition of slaughter-houses.

280. The medical officer of health of the burgh shall report to the Commissioners on the sanitary condition of all slaughter-houses belonging to or licensed by the Commissioners at least twice every year, and he, as well as the sanitary inspector, and any other person who may be specially appointed by the Commissioners for the purpose, shall have right of access to such slaughter-houses at all reasonable times for the purpose of inspecting the same.

Commissioners may make bye-laws for regulation of slaughter-houses, &c.

281. The Commissioners shall from time to time make byelaws to be confirmed in the manner herein provided, for the licensing, registering, regulation, and inspection of slaughter-houses, and preventing cruelty in slaughter-houses, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and for having them properly floored, drained, and provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such byelaws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuous violation of such byelaws, the sum of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence.

Licence of slaughter-houses may be suspended in addition to penalty imposed.

282. The magistrate before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this Act, or of the said byelaws in addition to the penalty imposed may suspend for any period not exceeding two months the licence granted to such person; and such magistrate, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed, declare the licence granted to be revoked; and whenever the licence of any such person is revoked as aforesaid the Commissioners may refuse to grant any licence whatever to him.

Penalty for slaughtering cattle during suspension of licence, &c.

283. Every person who, during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter-house to which such licence relates, or otherwise uses such slaughter-house, or allows the same

to be used as a slaughter-house, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence.

If Commissioners provide slaughter-houses, no other places to be used.

284. If the Commissioners have provided under any former Act or resolve to provide and establish, and do provide and establish, shambles or slaughter-houses, as herein provided, no person shall thereafter slaughter any cattle or beasts, or scald or dress the carcases of any slaughtered cattle, or cause the same to be done, within the boundaries of the burgh, elsewhere than within the said slaughter-houses, under a penalty of five pounds for each offence; provided always that this enactment shall not apply to any owner or occupier within the burgh who may keep any cattle or beasts within the burgh, and who may kill the same for his own or family consumption; and it shall be lawful for the Commissioners to charge, for the use of the said slaughter-houses, such reasonable rate or sum as may be agreed on between them and the persons using the same; and in case of difference as to the rate to be taken for the use of such slaughter-houses, the same shall, upon the application of either party, and after seven days previous notice to the other party of such intended application, be fixed by the sheriff in a summary manner, and the decision of the sheriff shall be final.

And to prevent evasion of the use of such slaughter-houses, all persons who shall, after such slaughter-houses are provided, bring within the boundaries of the burgh, for sale or consumption therein, the carcase or part of a carcase of any cattle or beast slaughtered within the distance of two miles beyond such boundaries elsewhere than in slaughter-houses provided or duly licensed in pursuance of any Act of Parliament shall, on bringing such carcase or part of a carcase within the said boundaries, be liable in payment to the Commissioners of the amount of the rates or sums then being levied for cattle or beasts slaughtered in such slaughter-houses provided by them: Provided that where before the passing of this Act or within one year thereafter, any burgh shall have erected slaughter-houses, no other slaughter-house shall be erected within the distance of two miles from the existing boundaries of such burgh, unless either it is erected with the consent of the commissioners of such burgh or is situated within the area of another burgh.

Places for slaughtering horses to be licensed.

285. It shall not be lawful to use any place within the burgh for the slaughtering of horses, or as a place of deposit for the carcases of the animals, unless and until every such place is licensed by the Commissioners, who are hereby authorised to give and recall such licences at pleasure; and it shall not be lawful to carry or convey within the burgh any dead horse unless in a covered cart or waggon, or unless the dead carcase be sufficiently covered: and any person who shall offend against this enactment shall be liable to a penalty not exceeding ten pounds, and a further penalty not exceeding two pounds for every day on which such offence shall continue.

Saving for Acts, &c. relating to

286. Nothing in or done under this Act shall interfere with the operation or effect of the Contagious Diseases (Animals) Acts, 1878

dairies, slaughter-houses, &c.

to 1890, or of any order, licence, or act of the Board of Agriculture made, granted, or done, or to be made, granted, or done thereunder, or of any order, regulation, licence, or act of a local authority made, granted, or done, or to be made, granted, or done, under any such order of the Board of Agriculture, or prohibit or interfere with the slaughter of any animals in accordance with the provisions of the said Act or of any such order, licence, or regulation.

Offences under 29 & 30 Vict. c. 16.

287. The provisions of the Cattle Sheds in Burghs (Scotland) Act, 1866, or any Acts amending the same, may be carried into effect and enforced in the burgh by the magistrates, and offences against the same may be tried by the magistrate as police offences, and the penalties may be recovered and applied in the same way as penalties for police offences under this Act.

PUBLIC CLOCKS.

Power to Commissioners to provide public clocks.

288. The Commissioners may from time to time provide and maintain such clocks as they consider necessary, and cause them to be fixed upon or against any public building, or, with the consent of the owner or occupier, upon or against any private building, the situation of which may be convenient for that purpose, and from time to time alter and remove any such clocks to such other like situation as they shall consider expedient, and the Commissioners may from time to time light all clocks belonging to, or hired by or lent to them, or which may be dedicated for public purposes: Provided that in the case of any post office or other Government building the consent of the post office or other Government authority in charge of such building shall be first obtained to the fixing, alteration, and removal of any such clock.

FIRE AND FIRE ESTABLISHMENT.

Penalty for wilfully setting chimneys on fire.

289. Every person who wilfully sets or causes to be set on fire any chimney shall be liable to a penalty not exceeding five pounds; Provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted or prosecuted therefor before any criminal court.

Penalty for allowing chimneys to catch fire.

290. If any chimney catch or be on fire, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding ten shillings, unless he shall prove to the satisfaction of the magistrate that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant, and such person shall pay the expenses incurred in extinguishing the fire, as the same shall be fixed by the magistrate.

Fire engines may be provided.

291. The Commissioners may purchase or provide such engines for extinguishing fire, and such water buckets, pipes, and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines, as they think fit, and may build, provide, or hire places for keeping such engines with their appurtenances, and may employ a proper number of

persons to act as firemen, and to be named the fire brigade, and may appoint a firemaster, who may be the chief constable, and who shall be the superintendent of the fire brigade, and may provide suitable dwellings for such firemaster and firemen, and make such rules for their regulation as they think proper, and give such firemaster and firemen such salaries and such rewards for their exertions in cases of fire as they think fit.

Index plates showing position of fireplugs.

292. The Commissioners may cause to be put up, at or upon the railings or in or upon the walls of buildings or elsewhere in the streets, public or private fire alarms, battery boxes and index plates, or make markings showing the position of the fireplugs in such streets or places, and may put down fireplugs in any footpath or street whether public or private, and may attach telephone or telegraph wires necessary for the working of the fire establishment to any land or heritage without being liable to any claim for compensation for so doing; and any person who shall cause any obstruction to the putting up of such plates or markings or who shall pull down, injure, deface, or destroy the same, or shall wantonly ring any such fire alarm, shall be liable to a penalty not exceeding five pounds for each offence; and any person feeling himself aggrieved as to the mode in which the Commissioners may carry out any of the powers herein contained may appeal to the sheriff, whose decision shall be final: Provided that no such telephone or telegraph wires shall be used, nor shall the powers herein contained be in any way exercised in contravention of the exclusive privileges conferred on Her Majesty's Postmaster General by the Telegraph Act, 1869.

Power to enter and break open premises in case of fire.

293. The fire brigade may enter, and, if necessary, break into any building in the burgh being on fire, or any buildings or lands adjoining or near thereto, without the consent of any owner or occupier thereof respectively, and may do all such acts and things as they may deem necessary for extinguishing fire in any such building, or for protecting the same or rescuing any person or property therein from fire; and any damage done in the exercise of such powers shall be deemed to be damage done by fire.

Senior officer of fire brigade to have control of operations.

294. The senior officer of the fire brigade present at any fire shall have the sole charge and control of all operations for the extinction of such fire, whether by the Commissioners' engines or appliances, or any other or others, including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or water supply, the shutting off the water from other parts of the building on fire or of adjoining buildings against which the water is to be directed.

Power to shut up streets temporarily.

295. The senior officer of the fire brigade or of police present on the occasion of any fire shall be entitled, where he considers the same necessary, to enable the fire brigade better to discharge their duties, or for the protection of the hose or other appurtenances, or for the safety of the public, to shut up temporarily by means of a guard of constables or other persons, or a rope, chain, tressels, or barricade, any street, court, or passage in or near the place where

such fire exists; and every person wilfully using such street, court, or passage while it is temporarily shut up, without the consent of the fire brigade or police, shall be liable to a penalty not exceeding five pounds.

Burgh prosecutor, &c. shall examine witnesses as to cause of fire.

296. The burgh prosecutor or depute burgh prosecutor shall examine and take the evidence of all or any parties reasonably supposed by him to be able to give information as to how the fire originated; and any parties refusing to be examined shall be liable to a penalty not exceeding ten pounds, but parties suspected of wilful fire-raising shall not be bound to give evidence or be examined by the burgh prosecutor or depute burgh prosecutor relative to such fire.

Police may retain possession of premises till case reported to burgh prosecutor.

297. The chief constable or chief officer of police shall, if he consider it necessary for the ends of justice, be entitled to retain possession of the premises in which the fire has occurred until twenty-four hours after the circumstances of the fire have been reported to the burgh prosecutor.

Fire police permitted to go beyond the limits of the burgh in certain cases.

298. The Commissioners or the firemaster may use such engines, with their appurtenances, and the said firemen, beyond the boundaries of the burgh, for extinguishing fire in the neighbourhood of the burgh; and the owner or, if the Commissioners think fit, the occupier of the premises where such fire shall have happened shall in such case defray the actual expense which may be thereby incurred, and shall also pay to the Commissioners a reasonable charge for the use of such engines, with their appurtenances, and for the attendance of such firemen; and in case of any difference between the Commissioners and the owner or occupier of such premises, the amount of the said expenses and charge shall be determined by the sheriff, whose decision shall be final; and the amount of the said expenses and charge shall be recoverable by the Commissioners as any debt may be recovered.

Statement of expenses attending fires to be made up by firemaster.

299. The firemaster shall make up and deliver to the Commissioners a statement of the whole expense attending each fire, which shall include the wages payable to the firemen and other persons employed at it, the rewards or premiums which he recommends to be given to them, the outlay incurred in taking them and the engines to the spot where such fire occurred, and in obtaining a supply of water, and other the like expense, and such statement, in so far as approved of or as altered by the Commissioners, shall be primâ facie evidence of the amount of expenses attending the said fire.

PUBLIC BATHING, &C.

Bathing machines and bathing.

300. Where any part of the seashore or strand of any river used as a public bathing place is within the burgh, the magistrates may make byelaws for the following purposes; that is to say,

For fixing the stands of bathing machines on the seashore or strand, and the limits within which persons of each sex shall be set down for bathing, and within which persons shall bathe:

For regulating the occupation of such stands of bathing machines, and apportioning the same temporarily among the owners of such machines for the time:

For preventing any indecent exposure of the persons of the bathers:

For regulating the manner in which and the times at which the bathing machines shall be used, and the charges to be made for the same:

For insuring that the bathing machines shall be kept in a proper state of repair:

For regulating the distance at which boats and vessels let for hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within such prescribed limits:

When bathing machines are not used, the magistrates shall have power to regulate the places and hours for both sexes bathing.

Power to provide drags, life-buoys, &c.

301. The Commissioners may from time to time provide and maintain drags, life-buoys, and other implements for the prevention of drowning, and employ such persons as superintendents and servants for that purpose, on such terms, and allow them such wages and rewards for exertion, and make such byelaws for their government as the Commissioners think fit.

Precautions in skating and bathing.

302. Every person who persists in going upon the ice on any skating pond, loch, pool, or place partly or wholly within the burgh belonging to or under the charge of the Commissioners, or open to the public, at any time when placards are exhibited or other signals intimating that it is in a dangerous state, and every person who wilfully breaks the ice on any such pond or place, and every person who goes beyond the ropes or danger signals at any open bathing place under the charge of the Commissioners, shall be guilty of an offence, and, on conviction, liable to a penalty not exceeding forty shillings.

Seashore adjoining burgh.

303. Subject to the rights of the Crown, with consent of the Board of Trade, and without prejudice to any existing right of property, the Commissioners shall have jurisdiction over the seashore down to low-water mark, and the strand adjoining the same, within or ex adverso of the burgh, for the purpose of preventing nuisance, and preserving and improving the amenity of the burgh, with power to the Commissioners to make byelaws for regulating the use of such seashore and strand by the public for bathing, recreation, and general purposes; and, without prejudice to any existing right of property, from and after this Act coming into operation, no sewage or other offensive matter shall be allowed to run over such seashore or strand.

Special enactments where seashore and strand are within burgh.

304. Where, and in so far as the seashore and strand of the sea or of any tidal river, so far as the tide flows, are within the boundaries of the burgh, subject to the rights of the Crown, with consent of the Board of Trade, and to any existing rights of property, the following enactments shall be applicable to the burgh:

(1.) No boat or vessel shall be let for hire by any person for the purpose of sailing or rowing for pleasure from the sea beach

or any pier or jetty within the boundaries of the burgh, except under licence from the magistrates, who shall have power to require that every boat or vessel let for hire as aforesaid shall be made good and seaworthy to their satisfaction, and to impose such other conditions in granting a licence as they may think necessary for the safety of the lieges, and such licence, when granted, shall continue in force until the term of Whitsunday in each year, and no longer, unless sooner revoked or suspended, which the magistrates are hereby authorised to do on legal conviction of any violation of any conditions of such licence; and if any person shall within the burgh let for hire any boat or vessel for the purpose aforesaid, without having first obtained a licence, or after the revocation or suspension thereof, or shall contravene the terms of such licence, such person shall for each offence be liable to a penalty not exceeding five pounds:

(2.) The magistrates shall have jurisdiction over the sea beach or strand down to low-water mark within the boundaries of the burgh for the purpose of preventing the riding or driving of any horse or carriage, except for such times and hours as the magistrates shall see fit, and of regulating the hiring of ponies and donkeys for pleasure riding thereon, and shall have power to make byelaws for said purposes, and to impose a penalty for breach thereof, not exceeding the sum of forty shillings for any one offence:

(3.) No person shall erect any booth, stall, or stand for the sale of goods, wares, or merchandise of any kind, on the seashore or strand within the burgh, except under authority from the magistrates, and only at such places thereon as they may appoint; and any person who shall contravene this enactment, shall be liable to a penalty not exceeding forty shillings.

Saving rights of the Crown in the foreshore.

305. Nothing contained in this Act shall authorise the Commissioners or magistrates to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river channel, creek, bay or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Board of Trade, or of Her Majesty's Commissioners of the Woods and Forests, without the previous consent in writing of the Board of Trade, or of the Commissioners of the Woods and Forests respectively, on behalf of Her Majesty; neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, Her heirs or successors.

SPECIAL ORDERS.

Special orders, procedure and restrictions in cases of.

306. Where by this Act the Commissioners are empowered to do anything by special order only, it shall not be lawful for them to do such thing unless the resolution so to do shall have been agreed to by two thirds of the Commissioners present at a meeting whereof special notice has been given, and has been confirmed by

two thirds of the Commissioners present at a subsequent meeting, held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings in some newspaper circulating within the burgh, if any be, or otherwise, in some newspaper circulating in the county in which the burgh is situated, and of which special notice in writing has been given to each of the Commissioners. Provided always, that after any resolution has been confirmed at a subsequent meeting as aforesaid the Commissioners shall not proceed to carry the same into effect until after the expiration of one month from the date of such second meeting, and during such month such resolution shall be advertised once at least in each week in such newspaper as aforesaid, and public notice thereof shall also be given by means of placards posted in public places within the burgh, and reference shall, in such advertisement and notice, be made to some place provided by the Commissioners where the plan or particulars of the work or matter to which such resolution relates may be gratuitously seen by the ratepayers; and if before the expiration of such month a representation in writing by seven or more householders against carrying into effect such resolution or any part thereof be lodged with the Commissioners, such resolution, or such part thereof as such representation applies to, shall not be carried into effect unless confirmed by a majority of the householders qualified and voting at the poll to be taken thereanent; and upon such representation being lodged as aforesaid, the Commissioners, or the chief magistrate of such burgh, shall be bound to direct a poll to be taken in the manner herein prescribed in regard to polls for the adoption of this Act, and the whole enactments and procedure provided in regard to such polls shall, so far as applicable, extend and apply to the poll hereby authorised and directed to be taken: Provided always, that where any such representation applies to part only of such resolution, the Commissioners may either carry into effect the remainder of such resolution, or rescind the same, as they think fit; but provided also, that if the said resolution shall not be so confirmed, it shall be lawful for the Commissioners, as often as they shall think proper thereafter, but not sooner than one year from the date of any preceding resolution, by such and the like procedure, again to adopt the same, but such resolution shall always be subject to be confirmed by the electors in the event of a representation being made thereagainst, all in manner above provided.

Lands and grounds for public recreation.

307. The Commissioners may after resolution, by special order, as herein defined, purchase, rent, or otherwise provide lands, grounds, or other places, either within the burgh, or at a reasonable distance therefrom, not exceeding two miles from the boundary of the burgh to be used as a pleasure ground or place of public resort or recreation; and the Commissioners may from time to time level, enclose, drain, plant, light, and otherwise lay out and improve any such public lands or grounds for the more convenient use and enjoyment thereof, and make and maintain roads to and within and seats on the same, and make byelaws for the regulation thereof; but nothing in this section shall

affect the powers of the Commissioners under the Public Health Acts or the Public Parks (Scotland) Act, 1878.

Commissioners may manage open spaces, &c.

308. The Commissioners may accept the management and control of any park or open space devoted to the public use in or near the burgh; and it shall be lawful for the Commissioners to apply money levied under the burgh general assessment, or under the Public Health Acts or under the Public Parks (Scotland) Act, 1878, for the purpose of maintaining commons, parks, or open spaces, and for defending public rights therein.

Public baths and drying grounds.

309. The Commissioners may after resolution, by special order, as herein defined, but not otherwise, purchase, rent, or otherwise provide, either within the burgh, or at a reasonable distance therefrom, suitable and convenient premises to be used for public baths and wash-houses, and public covered or open bathing places, and public drying grounds, for the use and accommodation of the inhabitants within the burgh in washing and drying clothes and other articles, and may fit up the same respectively with all requisite and proper conveniences, and from time to time enlarge, renew, and repair the same respectively, and afford the use thereof respectively to such inhabitants at such reasonable charges, and under and subject to such byelaws as the Commissioners may deem expedient; and every person who offends against any such byelaws shall be liable to a penalty not exceeding forty shillings for every offence.

Proportion of baths for working classes.

310. The number of baths for the use of the working classes provided by the Commissioners shall not be less than twice the number of the other baths of higher class.

Charges for use of baths.

311. The Commissioners may make such reasonable charges for the use of such baths, bathing places wash-houses, and drying grounds as they think fit.

Recovery of charges for use of baths, &c.

312. For the recovery of the charges at such wash-houses and drying grounds, the officers, servants, and others having the management thereof may, at the period of using the same, or at any subsequent time detain the clothes or other goods and effects, in or upon any such wash-house or drying ground, of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made; and in case such payment be not made within seven days, the Commissioners may sell such clothes, goods, and effects, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand to such person.

Publication of byelaws in regard to baths, &c.

313. A printed copy or sufficient abstract of the byelaws made by the Commissioners relating to the use of such baths, bathing places, and wash-houses, so far as regards every such bath, bathing place, or wash-house, shall be put up in such bath room, bathing place, and wash-house.

Sale of baths, &c. on discontinuing them.

314. Whenever any of such public baths, bathing places, wash-houses, or drying grounds are deemed by the Commissioners to be unnecessary or too expensive to be kept up, the Commissioners may

after resolution, by special order, as herein defined, but not otherwise, discontinue the same, and sell the lands, buildings, and materials for the best price that can reasonably be obtained, and convey the same accordingly; and the purchase money shall be paid to the treasurer of the Commissioners, and be disposed of for behoof of the burgh as the Commissioners direct.

Commissioners may erect a public hall, &c.

315. The Commissioners may after resolution, by special order, as herein defined, but not otherwise, acquire ground for the erection of and may thereafter erect thereon a public hall and offices, and a court-hall and police offices, with all public conveniences thereto, and also such number of houses for the accommodation of constables as they may consider necessary, or may acquire any building or block of buildings already erected, and which may be suitable for such halls and offices, and may repair the same from time to time, and they may also contribute towards the expenses of enlarging any existing townhall, or municipal buildings the property of the burgh, and furnish and fit up the same, and employ proper persons to take care thereof; and for that purpose it shall be lawful for them to apply, for a period not exceeding twenty years, the general improvement assessment hereby authorised to be levied, or such portion thereof as they may think proper, towards the expense of such acquisition, erection, furnishing, and fitting up; and they shall be and are hereby authorised, upon the security of the said general improvement assessment, to borrow, as herein-after provided with regard to the borrowing of money, such sum as they may require for that purpose.

BYELAWS TO BE MADE BY VIRTUE OF THIS ACT.

Byelaws.

316. The Commissioners may from time to time make byelaws as they think fit for the purposes after mentioned, videlicet:—

A.—For General Purposes.

(1.) For preventing nuisances and annoyances in any street, or any other place within the burgh:

(2.) For controlling persons offering to purchase or sell old clothes:

(3.) For preserving and regulating public bleaching greens, drying greens and grounds, public wash-houses, baths, gymnasiums, pleasure grounds and places of public resort or recreation, and open spaces, and preventing offences, nuisances, and annoyances therein:

(4.) For fixing the times of lighting and extinguishing the lights in common stairs, passages, or private courts, and the order or rotation in which the occupiers of houses or flats in common stairs, passages, or private courts shall be responsible for the lighting and extinguishing of such lights:

(5.) For regulating the beating or shaking of carpets, rugs, or mats, in streets or courts, and open spaces and squares held in common, and the hours within which carpets, rugs, or mats may be beaten or shaken:

(6.) For regulating the fencing, pulling down, clearing out, or securing of ruinous or unclaimed lands and heritages:

(7.) For regulating the driving of cattle through the streets and prescribing through what streets and at what hours cattle may be driven:

(8.) For the better preservation of any common, links, bleaching green, recreation ground, open area, or space, or other places of public resort or recreation existing within the burgh, and for regulating the use of the same, and for ensuring good order in the use thereof: Provided that if any adjoining burgh has any right or interest in such common, links, open area, or space, or other place of public resort or recreation, all such byelaws shall also be subject to the consent and approval of the magistrates and council or the Commissioners of such burgh; and in case of any difference or dispute the sheriff shall hear the parties, and decide all questions in reference to such byelaws, and his decision shall be final:

(9.) For providing that drift logs of wood are secured by the owners:

(10.) For carrying out or enforcing any other provisions of this Act not herein specially mentioned.

B.—For Sanitary Purposes.

(1.) For inspecting all places where horses are killed, and carrion is kept or sold, and keeping such places in a cleanly and proper state, and removing the filth therefrom, and requiring that all such places shall be provided by the occupiers with proper paving, drainage, and a sufficient supply of water:

(2.) For removing the contents of ashpits, dungsteads, drains, cesspools, waterclosets, lavatories, baths, and privies within reasonable periods; for preventing foul water soaking from any house or building, and for preventing any ashpit, dungstead, privy, drain, ditch, cesspool, dunghill, or manure heap from being a nuisance or annoyance:

(3.) For inspecting and periodical cleaning of cisterns erected in buildings for the use of two or more families:

(4.) For regulating the time and mode of the removal of any offensive matter or thing:

(5.) For regulating the keeping of depôts of bones, carrion, rags, or any other offensive matter or thing:

(6.) For reducing or removing the noxious or injurious effects attending the business of a blood boiler, bone boiler, tanner, slaughterer of horses or animals of any description, soap boiler, tallow melter, tripe boiler, or other noxious or offensive business, trade, or manufacture:

(7.) For providing that cattle, dogs, and poultry shall not be kept in such places or in such manner as to be a nuisance or annoyance to the inhabitants; for prescribing the situations or places in which swine may be kept, and for prohibiting, on cause shown, the keeping of swine:

(8.) For requiring owners or occupiers of houses and buildings to keep clean closes, areas, courts, passages, stairs, roofs of out-

houses, and common water-closets, and thoroughfares owned or occupied by them; and also for paving private courts, common passages, and common areas other than bleaching greens:

(9.) For regulating the sweeping and cleansing of common stairs in accordance with the sections of this Act relating to cleansing and fencing and keeping the same clear of obstruction:

(10.) For carrying out the provisions of sections two hundred and thirty-eight to two hundred and fifty-six, both inclusive.

The Commissioners may from time to time repeal, alter, or amend any such byelaws, provided the byelaws after such repeal, alterations, or amendment, be not repugnant to the law of Scotland or the provisions of this Act, and be reduced into writing, and have affixed thereto the signatures of three of the Commissioners, and also of the clerk, and if they affect other persons than the officers or servants of the Commissioners, be confirmed and published as herein provided.

Byelaws may be enforced by imposition of penalties.

317. The magistrates and the Commissioners, by the byelaws authorised by this Act so to be made by them respectively, may impose such reasonable penalties as they think fit, not exceeding forty shillings for each breach of such byelaw, and in case of continuous violation of such byelaws, the sum of ten shillings for every day during which such violation shall be continued; and may regulate the fees to be paid to them or to their officers, or others employed by them in connexion with the inspection of plans, records, or other documents in their possession, and with applications for their sanction or authority to the execution of works to which by this Act such sanction or authority is requisite: Provided always, that such byelaws be so framed as to allow the magistrate before whom any penalty imposed thereby is sought to be recovered to order the whole or part only of such penalty to be paid, or to remit the whole penalty.

Byelaws to be confirmed.

318. No byelaws made under the authority of this Act, except such as relate solely to the Commissioners or their officers or servants, shall come into operation until the same be confirmed by the sheriff, or, in the case of byelaws relating to sanitary matters, by the Board of Supervision, and authenticated by the signature of the sheriff or the chairman of the board respectively; and it shall be incumbent on the sheriff, on the request of the Commissioners, to inquire into any byelaws tendered to him for that purpose, and to allow or disallow the same as he may think fit. Before coming into operation the said byelaws shall also be confirmed by the Secretary for Scotland.

Notice of confirmation to be given.

319. No such byelaws shall be confirmed unless notice of the intention to apply for a confirmation of the same has been given in one or more newspapers circulating within the burgh, if any be, or otherwise, in some newspaper circulating in the county in which the burgh is situated, one month at least before the hearing of such application; and any person desiring to object to any such byelaw, on giving to the magistrates and the Commissioners respectively notice of the nature of his objection ten days before the hearing of the application for the allowance thereof, may, by himself, or his

counsel or agent, be heard thereon, but not so as to allow more than one objecting party to be heard on the same matter of objection without leave of the sheriff.

A copy of proposed byelaws to be open to inspection.

320. For one month at least previous to any such application for confirmation of any byelaw, a copy of the proposed byelaw shall be kept at the office of the clerk of the Commissioners, and all persons may at all reasonable times inspect such copy without fee or reward; and the magistrates and the Commissioners respectively shall furnish every person who applies for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words so to be copied.

Publication of byelaws.

321. Byelaws, when confirmed, shall be printed; and the clerk to the Commissioners shall deliver a printed copy thereof to every person applying for the same at a charge not exceeding one penny; and a copy thereof shall be painted or printed or placed on boards, which shall be hung up on the front or in some conspicuous part of the principal office of the Commissioners, and also on some conspicuous part of the works or locality to which the same relate for a period of not less than three months after the date of such confirmation; and any such clerk who does not allow the same to be inspected at all reasonable times shall for every such offence be liable to a penalty not exceeding five pounds.

Byelaws to be binding on all parties.

322. Byelaws, when so confirmed and published, shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same.

Evidence of byelaws.

323. The production of a written or printed copy of any byelaws authenticated by the signature of the clerk shall be evidence of the existence and of the due making of such byelaws, and of the proper publication thereof, in all prosecutions under the same, unless proof to the contrary be adduced by the party complained against.

Burgh byelaws not annulled.

324. Nothing herein contained shall be held to annul the byelaws, rules, orders, or regulations in force in any burgh except in so far as they are inconsistent with the provisions of this Act.

EXECUTION OF WORKS.

By Commissioners.

Commissioners empowered to enter upon premises for purposes of this Act.

325. The Commissioners shall for the purposes of this Act have power, by themselves or their officers, to enter at all reasonable hours in the daytime into and upon any premises within the burgh, as well for the purpose of inspection as for the purpose of executing any work authorised to be executed by them under this Act, without being liable to any legal proceedings on account thereof: Provided always that, except when herein otherwise provided, the Commissioners or their officers shall not make any such entry, unless with the consent of the occupier, until after the expiration of forty-eight hours notice for that purpose given to the occupier.

Penalty on persons obstructing Com-

326. Every person who shall at any time obstruct the Commissioners, or shall resist, obstruct, or molest any workman or other

person employed in the execution of any duty or the performance of any work, by virtue of this Act, or of any warrant of the magistrates, or any of them, or of any byelaw, regulation, or order of the Commissioners, or shall aid or incite any persons so to do, shall for every such offence be liable to a penalty not exceeding five pounds; without prejudice to any such workman or other person on whom any assault or offence may have been committed to sue in any competent court for compensation, damages, or expenses for any injury or loss he may thereby have sustained.

missioners or workmen employed by them.

By Owners or Occupiers.

327. Whenever, under the provisions of this Act, any work of any kind is required to be executed by the owner or occupier of any premises, and default is made in the execution of such work, the Commissioners (whether there be a penalty imposed for the default or not) may cause such work to be executed, and the expense incurred by the Commissioners in respect thereof shall be repaid to them by such owner or occupier.

Commissioners, in default of owner or occupier, may execute works, and recover expenses.

328. Whenever default is made by the owner of any premises in the execution of any work which by the provisions of this Act falls to be executed by him, the occupier of such premises may, with the approval of the Commissioners, cause such work to be executed, and the expense thereof shall be repaid to such occupier by the owner of such premises, and such occupier may deduct the amount of such expense out of the rent from time to time becoming due to such owner.

Occupier, in default of owner may execute works, and deduct expenses from his rent.

329. If the owner of any premises made liable by the provisions of this Act for the special sewer rate, general sewer rate, or reasonable sum for use of sewers, private improvement expenses, or any charge for the repayment to the Commissioners of any expenses incurred by them, do not, as soon as the same become due and payable from him, pay such rate or charge, or repay all such expenses to the Commissioners, the Commissioners may without prejudice to the preferable right and summary mode of recovery and the power herein contained, recover such rate, charge, or expenses, with the legal interest thereof from the time when the same was due and payable, from such owner, in the same manner as any debt may be recovered by the law and practice of Scotland.

How expenses are to be recovered from owner.

330. The Commissioners may, by way of additional remedy, require the payment of all or any part of such rate, charge, or expenses, and interest, payable by the owner for the time being from the person who then or at any time thereafter occupies any such premises under such owner; and in default of payment thereof by such occupier, on demand, the same may be levied by seizure and sale of the goods and effects of such occupier, in the same manner as the burgh general assessment may be recovered from him under this Act; and every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such charge or expenses and interest.

Power to levy charges on occupier, who may deduct the same from his rent.

Occupier not to be liable for more than amount of rent due.

331. No occupier of any premises shall be liable to pay more money in respect of any sums charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such rate, charge, or expenses and interest are payable at the time of the demand, or which at any time after such demand shall have accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which is due by him at the time of such demand, or which has since accrued, shall lie upon such occupier: Provided further, that nothing herein contained shall be taken to affect, abridge, or alter any claim of relief or otherwise competent to such owner or occupier respectively against each other under any special contract made between them respecting the payment of the expenses of any such works as aforesaid.

Commissioners may allow time for repayment by owners.

332. Where any such rate, charge, or expenses payable to the Commissioners by any owner of any such premises shall amount to more than half of the net annual value of such building or lands, the Commissioners may, at the request of any such owner, allow time for the repayment thereof, and receive the same by such instalments as they, under the circumstances of the case, consider reasonable, but so that the same be repaid by annual instalments of not less than one-seventh part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid after the yearly rate of five pounds in the hundred during the period of forbearance; and all such instalments when due shall be recoverable in like manner as the original sum.

Proceeding in case of occupiers opposing execution of Act.

333. If the occupier of any premises prevent the owner thereof from carrying into effect in respect of such premises any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, the magistrate may make an order in writing requiring such occupier to permit the owner to execute all such works as may be necessary for carrying into effect such provisions; and if, after the expiration of ten days from the date of such order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall for every day during which he so continues to refuse be liable to a penalty not exceeding five pounds; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such work.

Respecting existing contract for building.

334. Nothing in this Act contained shall extend to or make void any agreement in writing entered into before this part of this Act comes into operation in the burgh for erecting or altering any building, but the same shall be performed, with such alterations as may be rendered necessary by this Act, and as if such alterations had been stipulated for in such agreement; and the difference between the cost of the work according to the agreement and the cost of such work as executed according to the provisions of this

Act shall be ascertained by the parties to the respective agreements, and paid for, or deducted, as the case may require, and if the said parties do not agree upon the amount of such difference, the same shall on a request of either party (notice being given to the other) be decided by the surveyor to the Commissioners, and for his trouble in making such decision each of the said parties shall pay to the said surveyor such sum, not exceeding one pound, to be disposed of for such purposes of this Act as the Commissioners shall direct.

Respecting contracts for leases.

335. Nothing in this Act contained shall affect any lease, or agreement for a lease, whereby any person may be bound to erect buildings upon any building ground within the burgh, but the buildings mentioned in such lease or agreement shall be erected, according to the conditions which may be rendered necessary by this Act, in the same manner as if this Act had been in operation at the time of making such lease or agreement, and the same had been made subject thereto, and that without either party being entitled to any compensation.

FORM AND SERVICE OF NOTICES.

Form and service of notices.

336. Unless otherwise herein expressly provided, the following provisions shall apply to the making, giving, delivering or service of any notice, order, resolution, requisition, demand, or other instrument under this Act or any byelaws in force :—

(1.) It may be in print or writing, or partly print and partly writing, and may be authenticated by the name of the clerk or other proper officer being affixed thereto in print or writing.

(2.) It shall be sufficiently given to any owner or occupier of any property if addressed simply to the "owner" or "occupier" of the premises (naming them) to which it relates.

(3.) It may be served upon the person to whom it relates either personally or through the Post Office, addressed to him at his usual or last known place of abode or business, or by delivering the same to some inmate there, or in case of an occupier to an inmate of the building to which the document relates, or if the building is unoccupied and the place of abode of the person after due inquiry cannot be found, by affixing the same or a copy thereof upon some conspicuous part of such building, or in case of a person employed on any ship or vessel by leaving it in the hands of a person on board thereof and connected therewith; and where any owner resides beyond the jurisdiction of the magistrates of the burgh, such owner may be cited by delivering the citation to his known factor, or agent, or person drawing the rents; or if there be no factor, agent, or person drawing the rents, the occupier of the premises, or any of them, may be cited, and shall take burden for the owners, and have right of relief against them.

Power to cancel or vary notice.

337. It shall be lawful for the person sending such notice to cancel it, or to give a new notice to the same or to any other person

in respect of the matter or for the enforcement of the obligation referred to in it: But nothing herein contained shall authorise the withdrawing or cancelling of notices given under the Lands Clauses Acts, unless and except in so far as allowed by such Acts.

Service of notice on Commissioners.

338. Any notice to or demand on the Commissioners under this Act may be served on the Commissioners by being delivered to the clerk, or by being sent through the post in a registered letter directed to the clerk of the burgh according to its corporate name, in which latter case service shall be deemed to be effected on the burgh on the day on which such letter would be delivered in the ordinary course of post.

APPEAL.

Appeal.

339. Any person liable to pay or to contribute towards the expense of any work ordered or required by the Commissioners under this Act, and any person whose property may be affected, or who thinks himself aggrieved, by any order, or resolution, or deliverance, or act of the Commissioners made or done under any of the provisions herein contained, may, unless otherwise in this Act specially provided, appeal either to the sheriff or to the court of session by lodging a note of appeal within fourteen days after intimation of the order or deliverance of the Commissioners complained of, or within fourteen days after the commission of the act complained of, with the sheriff-clerk of the county in which the burgh is situated, if the appeal is made to the sheriff, or with any principal clerk of session at Edinburgh if the appeal is made to the court of session, which note of appeal shall state the grounds of such appeal, and be signed by the appellant or his counsel or agent, and the sheriff or court shall order a copy of the appeal to be served on the clerk to the Commissioners, and appoint him within six days after such service to lodge answers thereto, and shall thereafter hear parties and determine the matter of the appeal, and shall make such order thereon, either confirming, quashing, varying, or redressing, the order, resolution, deliverance, or act appealed against, and shall award such costs to either of the parties as the sheriff or court shall think fit: Provided always, that the judgment of the sheriff-substitute shall be subject to review by the sheriff, and, subject to this appeal to the sheriff, the judgment of the sheriff-substitute shall be final, and not subject to review by any other court.

PART V.

RATING AND BORROWING POWERS.

ASSESSMENT FOR GENERAL PURPOSES.

Commissioners to levy burgh general assessment.

340. Once in each year the Commissioners (being summoned in manner herein-before directed by notices, which shall state that the meeting is for the purpose of laying on an assessment) shall assess all occupiers of lands or premises within the burgh, according to the valuation roll made up or according to an estimate of the

valuation roll about to be made up in terms of the Acts in force for the valuation of lands and heritages in Scotland for the time, subject to the exceptions herein-after provided, in the sums necessary to be levied for the general purposes of this Act, and shall fix a day on or before which the same shall be payable, and another day upon which appeals by any person complaining that they have been improperly assessed shall be lodged with the clerk or collector, and another day or days on which such appeals shall be heard by the Commissioners; and the rate of assessment and day fixed by the Commissioners for payment shall be published by handbills posted in the burgh, or by advertisement in one newspaper published or circulating therein: Provided always, that such assessment shall be imposed as from the term of Whitsunday in any one year to the term of Whitsunday in the following year, and shall not in any year exceed a rate equal to four shillings in the pound of the gross yearly rent or value of such lands or premises where the Commissioners have supplied or resolved to supply the burgh with water in terms of this Act or otherwise at a rate equal to two shillings in the pound of the gross yearly rent or value of such lands or premises; and such assessment shall for the purposes of this Act be called the burgh general assessment: Provided further that when in any burgh under the provisions of any Act of Parliament, a higher rate of assessment is now and has been in use to be levied upon lands or premises above a certain fixed rent than upon lower rental lands or premises, it shall be in the power of the Commissioners in laying on the assessment under this Act to continue the same relative rates of assessment if they think proper.

Payment of damages occasioned by mobs.

341. Out of the burgh general assessment it shall be lawful for the Commissioners to defray, to such extent as they think proper, such claims for damages sustained in consequence of any riot or tumult within the burgh as may be established to their satisfaction, or, if the Commissioners think proper, they may at any time impose and levy a special assessment on all occupiers of lands or premises within the burgh, according to the said valuation roll, for the sums estimated by them to be necessary for the purpose of paying such damages, and the occupier shall be entitled to deduct one-half of the rate levied under this assessment from the next rent payable to the landlord; and such special assessment being so imposed and levied, the Commissioners shall out of the proceeds thereof discharge such claims, the same being established to their satisfaction, and the Commissioners shall be bound, out of the burgh general assessment or out of such special assessment as aforesaid, to relieve the county authorities of any claims for damages for which the county authorities may be found liable in respect of any riot or tumult within the burgh.

Commissioners may levy proportion of burgh general assessment.

342. Where in any burgh an assessment for general purposes has been imposed previous to the application of this Act, and is leviable for a period ending on a day prior to the term of Whitsunday immediately following such application, it shall be lawful for the Commissioners under this Act to impose and levy a proportion of the burgh general assessment hereby authorised, corresponding to

the time intervening between the date when such period ended and the said term of Whitsunday.

Remission of assessments.

343. The Commissioners may, on the ground of the poverty or inability of any person liable to the burgh general assessment under this Act, remit, in whole or part, payment of the said assessment by such person in such manner as the Commissioners shall, in their discretion, think just and reasonable, but upon no other account whatsoever.

Assessments not to be imposed on occupiers of premises under 4*l.*

344. The Commissioners shall assess the owners, in place of the occupiers of all lands or premises let at a rent of or under four pounds, and levy such assessment on such owners; but the Commissioners shall allow to such owners a deduction from such assessment equal to one-tenth of the amount thereof, and such assessment shall be recoverable from such owners along with any penalty which may have become exigible thereon, in the same way as is herein provided with respect to the recovery thereof from occupiers; and every such owner charged with and paying such assessment shall have relief against the occupiers of such lands or premises for the full amount thereof without deduction, if and in so far as such assessment may by law be properly chargeable upon such occupier.

When owners responsible.

345. Owners who shall let for rent, or hire lands or premises for less than a year, shall themselves be responsible for the said assessment, and the same may be recovered from such owners.

Assessment on premises occupied for part of a year.

346. When any lands or premises in respect of which the said assessment might be imposed upon the occupier, not being premises usually let for any period shorter than one year, shall not be occupied by the same occupier for the whole year from the term of Whitsunday in any year till the term of Whitsunday in the year following, but shall be occupied for part of such year by a new occupier, it shall be lawful to the Commissioners to impose and levy on and from such new occupier who occupies the same for any part of such year, whether his name appear in the valuation roll or not, a proportion of such assessment for that year, corresponding with the period of his occupancy, and on and from the owner of such lands or premises the proportion of such assessment, if any, corresponding with the period during which such lands or premises were occupied during the said year by any other occupier.

Arable land, &c., how to be valued.

347. The annual value of the following lands or premises shall, for the assessments under this Act, be held to be one-fourth of the annual value thereof entered in the said valuation roll, viz.:—

1. All lands and premises used exclusively as a canal or basin of a canal, or towing path for the same, or as a railway or tramway, constructed under the powers of any Act of Parliament for public conveyance, excepting the stations, depôts, and buildings, which shall be assessable to the same extent, as other lands and premises within the burgh, and all bridges, frontages, and ferries not being private property:

2. All the underground gas and water pipes, or underground works of any gas or water company or corporation:
3. Salmon fishings, and all woodland, arable, meadow, or pasture ground, or other ground used for nurseries, market gardens, or for agricultural purposes:

And where the Commissioners shall have supplied or resolved to supply the burgh with water in terms of this Act, the annual value of all quarries and manufactories within the burgh shall, as regards the burgh general assessment, so far as is applicable to water, subject to the exception herein-after provided, be held to be one fourth of the annual value thereof entered in the valuation roll; without prejudice, however, to the Commissioners entering into agreements for the supply of water to such lands and premises in manner herein-before provided; and in the event of any dispute arising as to the lands and premises falling under the above exceptions, it shall be lawful for the owner or occupier of such lands and premises to present a petition to the sheriff, praying to have the same declared, for the time being, liable to assessment upon the said proportion of their value only; the judgment, if by the sheriff substitute, may be appealed to the sheriff, whose decision shall be final: Provided always, that where in any burgh such lands or premises as are in this section specified were prior to the passing of this Act liable to be assessed under any general or local police Act or under the Public Health Acts or the Local Government (Scotland) Act, 1889, on the annual value thereof, and moneys have been borrowed on the security of the assessments so authorised, or some of them, such lands or premises shall, in the case of any such burgh where the assessments on the security of which such moneys have been borrowed have been imposed, be liable to be assessed on the annual value thereof and in the same manner as heretofore until such borrowed moneys have been repaid.

Assessment roll to be made up.

348. The Commissioners shall annually cause to be made up a roll or book of assessment from the valuation roll aforesaid, showing the yearly rent or value of the lands or premises in the burgh liable to be assessed under this Act for the assessments herein authorised to be levied, and according to which such assessments under this Act are intended to be levied; and such roll or book of assessment shall be open to inspection by all ratepayers in the hands of the collector or other officer appointed by the Commissioners for that purpose during the whole period which shall intervene between the date of laying on the annual assessment and the day appointed for payment thereof; and the Commissioners shall have power to rectify any error which may be found in such roll or book.

Town clerk or other person to allow collectors access to valuation roll.

349. To enable the Commissioners to make up the roll or book of assessment from the valuation roll, the assessor, town clerk, or county clerk, or other person in the actual possession thereof, shall be bound, without making any charge, to exhibit or give access to the valuation roll in his custody to the Commissioners, and the assessment roll shall be made with all despatch after the meeting of the Commissioners at which the general assessment is

resolved on, and the collector or such other officer as may be appointed by the Commissioners shall prepare the assessment roll under the orders of the Commissioners.

The Commissioners may require owner to furnish written statement.

350. It shall be lawful for the Commissioners to require an owner to furnish a written statement of the period or periods for which the lands and premises of which he is owner are let to the respective tenants or occupiers thereof, and of the rents for which the same are let, all which the said owner shall be bound to furnish within seven days of his being required in writing so to do; and if such owner shall fail, without reasonable excuse, to furnish such written statement, he shall be liable to a penalty not exceeding ten pounds; and if such owner shall present, or cause to be presented, any false statement of the period or periods or the rents for which any lands or premises belonging to him are let, knowing the same to be false, he shall be liable to a penalty of twenty pounds.

Commissioners may alter and amend the roll.

351. The Commissioners may from time to time amend the roll or book of assessment, or any assessment therein contained, by inserting therein the name of any person who ought to have been assessed, or who since the making thereof has become liable to be assessed, or by striking out the name of any person who, according to a written certificate by the assessor, ought not to have been assessed, or by correcting the amount of any rent or assessment which may have been inaccurately entered; and no such alteration shall be held to vitiate the assessment, or render it less operative; but every such alteration shall be made within one year after the expiry of the year for or applicable to which the said assessment shall have been fixed or laid on.

Notices to be given of assessment and may include other assessments.

352. The collector shall issue schedules or notices to every person liable for payment of any assessment; and may include in one schedule notice of any or all assessments, or rates leviable by the Commissioners or the magistrates and council from the owners or occupiers of lands and premises within the burgh.

Recovery of assessments.

353. It shall be lawful for the collector, on the expiration of the time specified in such notice, to recover any arrears of assessment due by any person or by any number of persons, either according to the ordinary procedure before any competent court, or by obtaining from the sheriff or any of the magistrates a summary warrant to recover such arrears, with the addition of ten per centum thereon; and such person or persons shall thereupon be bound to pay such ten per centum, which warrant the sheriff or magistrates shall grant, on production of a certificate by the collector that he had given to each such person a notice requiring him to make payment of the amount due by him within fourteen days thereafter, that the said period had expired, and that the said amount was still truly due; and such warrant shall authorise the collector or officers of court to enter into any premises in the occupancy of any person so in arrear, and to poind, seize, remove, or secure any goods and effects therein belonging to or in the lawful possession of such person or persons, or so much thereof as will fully satisfy the arrears due by

him or them, with the said addition of ten per centum thereon; and such warrant shall also authorise the collectors or officers of court or licensed auctioneer, after the lapse of four days, in the event of non-payment of the said arrears and costs, to sell and dispose of the said goods and effects by public auction on three days notice, and apply the price in payment of the said arrears and ten per centum thereon due by such person, and the balance shall be paid to such person, and the collector shall for a period of three months after the date of every sale preserve evidence of the amount of such proceeds and the disposal thereof, and such warrant shall also decern and ordain instant execution by arrestment; and the proceedings in the application for issuing and putting in force such warrant may be in the form of Schedule VIII. of this Act.

Appeal against oppressive proceedings of collector.

354. The proprietor of any goods and effects which have been either poinded or sold in pursuance of the provisions herein-before contained, and who feels aggrieved by any proceeding under such warrant, may present a petition to the sheriff or magistrate who granted the warrant, and the sheriff or magistrate shall thereupon summarily call before him the party complained of and such petitioner, and, without written pleadings, shall inquire into and decide any dispute, question, or claim of damage raised by such petition, and may award expenses to either party; but, except to the effect and in the manner herein-before provided, it shall not be competent for any person to make, nor for any court of law to entertain, any complaint with respect to any warrant granted by the sheriff or magistrate in pursuance of the provisions herein-before contained on any account or pretence whatever, or with respect to any proceeding of the collector or of any officer or licensed auctioneer in the execution of such warrant; and the decision of the sheriff or magistrate on any such dispute, question, or claim shall be final, and not subject to any form of review or stay of execution.

Recovery of rates from persons removing.

355. In case any person quits, or is about to quit, any lands or premises before he has paid all assessments due by him, and fails to pay the same on demand, the collector, or any officer of the sheriff or police court, or any police constable, may, by warrant under the hand of the sheriff or any of the magistrates (which warrant the sheriff or a magistrate is hereby authorised and required to grant, without issuing any previous summons to said person, after proof to his satisfaction of such removal or intended removal, or that there is any reason to suspect the same), poind and distrain the furniture, goods, and chattels, or other effects found in such lands or premises, and sell the same, returning the surplus (if any), after having deducted the reasonable expenses attending such proceedings, distress, and sale, together with the assessments so due, to the owners of such furniture, goods, and chattels, or other effects upon demand.

Misnomers, &c. not to affect proceedings for recovery of assessments.

356. No misnomer, mistake, or informality committed in any proceedings in assessing, levying, or recovering the burgh general assessment, or any other assessment, rate, charge, or expenses under this Act, shall prejudice the recovery thereof, nor shall such

proceedings fall, lapse, cease, or abate by the death, resignation, or removal of the collector instituting the same, or by any change in the persons holding office as Commissioners, but it shall be lawfu for the collector for the time to prosecute and follow forth procedure commenced and carried on in the name of any previous collector, in all respects as if such procedure had been taken by himself; and it shall not be competent for any person to sue, nor for any court of law to entertain, any action or proceeding against the Commissioners, or the collector or officers or other persons employed in executing any warrant in reference to any assessment, rate, charge, or expense under this Act, by reason of any misnomer, mistake, or informality, if the goods or other effects seized or sold under such warrant were bonâ fide the property or in the lawful possession of the person actually liable in payment thereof under the provisions of this Act.

Assessment to be recoverable beyond burgh.

357. In case any person liable in payment of any of the assessments herein authorised to be levied shall remove to any place beyond the burgh, it shall nevertheless be lawful for the Commissioners, and their collectors and treasurers or other officers, or any police constable, to put the decrees and warrants which may be granted for the recovery of such assessment in manner before mentioned into execution within or beyond the burgh, in the same manner as if such person had continued to reside within the burgh, such decrees or warrants being first endorsed by a magistrate or sheriff or justice of the peace for the burgh or county within which they are to be put into execution.

Common good may contribute towards the purposes of Act.

358. When the provisions of this Act shall be in operation in any burgh possessed of any free income arising from the common good of such burgh, after deduction of the interest of any debt which such burgh may owe, and also the necessary annual outgoings of such burgh, there may be annually contributed therefrom such a reasonable proportion towards the purposes of this Act as the town council of such burgh, having due regard to the extinction of the capital of such debt, shall think just: Provided that nothing herein contained shall prejudice the rights of the creditors of any burgh secured by local Acts of Parliament or otherwise; and further, that the application of this Act to any burgh shall not relieve the common good of such burgh from payment of any sum which such burgh is bound by any local Act to contribute towards the police expenses of the burgh.

GENERAL IMPROVEMENT ASSESSMENT.

General improvement assessment.

359. Whenever the Commissioners in any burgh shall resolve, in manner herein-before provided for, to make provision for the general improvement of the burgh, it shall be lawful for them to charge, in equal proportions, all owners and occupiers of lands or premises within such burgh, with reference to the said valuation roll and to all the provisions of this Act applicable to the burgh general assessment, which shall apply to the improvement assessment as if they were here repeated, with a special assessment not

exceeding threepence in the pound of the gross rent or yearly value of such lands or premises, over and above any other assessment or rate to which such persons may be liable under this Act; and such special assessment shall, for the purposes of this Act, be called "the general improvement rate," and shall be leviable either from the owner or occupier of such lands or premises in equal proportions, or in whole from the occupiers thereof, but in the latter case the occupier shall be entitled on payment thereof to deduct from his rent the proportion payable by the owner; and such assessment, so far as the occupier is concerned, shall be recoverable in the same manner as the burgh general assessment is authorised to be recovered.

FOOT PAVEMENTS ASSESSMENT.

Assessment for maintenance and repair of foot pavements.

360. Whenever the Commissioners shall resolve, in manner herein-before provided for, to undertake the maintenance and repair of the foot pavements in any burgh, and after they have called upon all owners to have their foot pavements before their properties put in a sufficient state of repair, the cost of such maintenance and repair shall form part of the burgh general assessment, and such assessment shall be recoverable in the same manner as the burgh general assessment is authorised to be recovered.

SEWER ASSESSMENTS.

Commissioners may impose a general sewer rate distinct from other rates.

361. The Commissioners shall, if necessary, impose upon owners a sewer rate, to be called for the purposes of this Act the "general sewer rate," distinct from any other rate which they are authorised to make under this Act, to be applied in maintaining and clearing and ventilating the sewers, and all other expenses connected with such sewers not herein otherwise provided for, or which may not be fully defrayed by the special sewer rate herein-after provided for, and for securing and paying off any moneys which may be borrowed on the security of the special sewer rate under the provisions of this Act, and the interest of such moneys which the special sewer rate shall be insufficient to defray.

Where new sewers are made, Commissioners may impose a special sewer rate.

362. Whenever the Commissioners shall resolve to make any new sewer, they may charge owners of all the lands or premises within the burgh, or where there are separate drainage districts within the respective districts, with a special sewer rate over and above any other assessment or rates to which such persons may be liable under this Act, and such rate shall, for the purposes of this Act, be called the "special sewer rate."

Separate districts to bear their share of expenses.

363. The Commissioners may, in making the said assessments for the burgh, or for separate and distinct districts thereof, appoint, if they see fit, surveyors, collectors, and other officers for such burgh or for every such district, and they shall cause separate and distinct accounts to be kept of all moneys collected and received under any rate in each distinct district, and of all payments and disbursements in respect thereof, and they shall apply the moneys to be collected and received from each distinct district under any

such rate as aforesaid for the several purposes to which the same may be lawfully applied under the authority of this Act, but so nevertheless that each district shall, as near as may be, bear its own expenses; and in case any such expenses shall apply to or be incurred in respect of two or more districts, the same shall be apportioned and divided between such districts in such manner as the Commissioners shall consider fair and equitable.

Premises subsequently built or enlarged to pay reasonable sum for use of sewers.

364. The Commissioners are hereby authorised to charge a reasonable sum of money for the use of the sewers against the owners of all lands or premises which were not assessed either under this or any other Act for the expense of making such sewers, or which shall have been built, enlarged, or altered after the assessment for making the same was first imposed or levied, and the Commissioners shall fix and determine the sum to be paid as they shall consider just; and in fixing such reasonable sum the Commissioners shall take into consideration the value and efficiency of such sewer, and the same may be recovered in the same manner as any assessment under this Act.

PRIVATE IMPROVEMENT EXPENSES.

Assessment for private improvements.

365. Where by the provisions of this Act the owner or occupier respectively, as the case may be, of any premises is directed or is bound to do any work, in relation to the same, and the work, through the failure or delay of such owner or occupier to execute it, shall be done by the Commissioners, or where expenses are incurred by the Commissioners for or in respect of any premises, in order to carry out the provisions of this Act, the Commissioners shall charge such owner or occupier of the premises with the said expenses over and above any assessments or rates to which such owner or occupier may be liable under this Act, and such expenses shall, for the purposes of this Act, be called "private improvement expenses," and may be recovered in the same manner as any assessment under this Act.

MODE OF COLLECTING SPECIAL RATES.

Certain rates to continue burdens on lands, &c.

366. Such special sewer rate, general sewer rate, and private improvement expenses shall, with the legal interest thereof from the time when the same shall be declared payable, together with all expenses incurred in the recovery thereof, continue burdens on the lands or premises liable for the same, or in respect of which the same shall be payable, but that only for seven years from the date when the same shall be respectively payable, as against bonâ fide singular successors or heritable creditors, and (if the ground is unbuilt on) also superiors.

Collector of rates to grant certificate.

367. The collector in any burgh shall, when required by any person, be bound to furnish to such person a certificate under his hand in the form of Schedule VI. of this Act, showing, with reference to any premises, what arrears of such rates or expenses, if any, are past due, and the name of the owner and occupier of such premises as appearing in his book, and also whether any and

what instalments of such rates or expenses are still chargeable in respect of such premises: Provided always, that for each certificate in respect of premises separately entered or charged in the assessment books he shall be entitled to a fee of two shillings and sixpence from the person requiring the same, for which fee the collector shall be bound to account to the Commissioners.

Rates and private improvement expenses how to be imposed, and how appeals to be entered and disposed of.

368. The said special sewer rate, general sewer rate, and private improvement expenses may be imposed and levied yearly, half-yearly, or at such other periods as the Commissioners may think fit, and shall be payable at such times as they appoint; and at the meeting imposing the same the Commissioners shall appoint a day upon which such rates and expenses shall be payable and another day upon which appeals by any parties complaining that they have been improperly rated or charged may be lodged with the clerk or collector, and another day or days on which appeals in reference to such rates or expenses shall be heard by the Commissioners; and notice to each party intended to be so rated or charged, stating the particulars of the intended rates or expenses as regards such party, and specifying the several days fixed by the Commissioners as aforesaid, shall be sent by the clerk or collector, at least two weeks preceding the day which may be fixed for hearing the appeal of such party, and the decision of the Commissioners upon all such appeals shall be final; but the Commissioners may rectify such rates or expenses so appealed against.

Recovery of the said rates and expenses.

369. As soon as may be after disposing of the appeals against any such rates or expenses the Commissioners shall cause to be made up a roll or book of assessment, or separate rolls or books of assessment, applicable thereto, and the same, or a copy thereof, docqueted and signed by the clerk and any two of the Commissioners shall forthwith be delivered over to the collector as the rule for levying and collecting the said rates or expenses; and if the said rates or expenses shall not be paid when the same fall due, the collector shall take legal proceedings for recovery of the same, together with the legal interest thereof from the day fixed for payment thereof as aforesaid, in the same way and manner as is herein-before provided for recovery of the burgh general assessment under this Act, or the said rates or expenses, or any part thereof, and interest, with the expenses attending the recovery of the same, may be recovered in the same way and manner as debts are recoverable by the law of Scotland.

In case of bankruptcy assessments to be preferable to private debts.

370. Such burgh general assessment and general improvement rate shall, during the year of assessment, and for the period of six months thereafter, in case of bankruptcy or insolvency, be paid out of the first proceeds of the estate, and shall be preferable to all debts of a private nature due by the parties assessed.

Application of surplus assessment.

371. Where the amount of any rate, charge, or assessment is more than sufficient to meet the charge for the service to which the same applies, any balance remaining over at the end of the financial year shall be credited to that service; and shall be applied

pro tanto in diminishing the amount of the rate to be estimated for that service during the year next ensuing; and if any such rate, charge, or assessment for any year shall not be sufficient for the purpose for which it was imposed and levied, the Commissioners shall be, and they are hereby, authorised and required to make provision for the payment of such deficiency by rate, charge, or assessment for the purpose in the following year or years, until the same shall be fully paid, but so that the total rates, charges, or assessments shall not exceed the amount authorised by this Act.

Recoupment of arrears of private improvement expenses.

372. Where the Commissioners are unable to recoup themselves out of any private improvement assessment for any expenses to which they may have been put for works, the cost of which fell to be met by private improvement expenses, it shall be lawful for the Commissioners to take such expenses out of the burgh general assessment.

INCIDENCE OF ASSESSMENTS.

Exemption and savings.

373.—(1.) No assessment authorised by this Act shall be imposed on any lands or premises exempt by Act of Parliament at the commencement of this Act from any corresponding assessment authorised to be imposed by the general Police Acts, or the local Police Acts respectively applicable to the burghs named in Schedule II. of this Act annexed, or any portion of a local Police Act expressly saved by this Act, unless and until such exemption is repealed by provisional order, confirmed by Parliament, as herein-before provided.

(2.) Where prior to this Act coming into operation in any burgh the power of imposing assessment is by any local Act restricted in amount in any portion of the burgh:

(*a.*) for a definite period—
such restriction shall continue until the expiration of such period:

(*b.*) for an indefinite period—
it shall be lawful for the Commissioners at a meeting specially called for the purpose after a month's previous notice to resolve that such restriction shall continue for a definite period and no longer, but any owner or occupier or other person interested who considers himself aggrieved by such resolution may appeal to the sheriff who shall have powers to confirm or to cancel, or with the consent of the Commissioners to modify, such resolution, and his decision shall be final.

(3.) It shall be lawful for the Commissioners at a meeting called for the purpose after a month's previous notice to resolve for a definite period to exempt from any of the assessments or to restrict any of the assessments with respect to any portion of the burgh on the ground of its being newly included within the boundaries, or its not being built upon or upon any other ground to be specified in the resolution.

(4.) In the case of any assessment under this Act, the whole or a portion of which is directed to be levied from the owner, or from the occupier respectively, where under the provisions of any local or general Police Act an assessment for the same or similar purposes is authorised to be levied in any burgh, and such assessment or such portion thereof is thereby directed to be, or is in use, to be levied from the occupier instead of from the owner, or from the owner instead of the occupier respectively, whether with recourse to either against the other for the whole or any part of the assessment or not, it shall be lawful for the Commissioners, by a majority of not less than two thirds present and voting at a meeting specially called for the purpose, to resolve that such assessment or portion thereof shall continue to be levied under this Act from the same parties, being owners or occupiers respectively, from whom it was previously in use to be levied, and with the same right of recourse if any for a definite period of years to be specified in the resolution, and such resolution may be renewed from time to time.

(5.) Nothing contained in this Act shall alter or affect the obligations of landlord and tenant as between themselves in reference to any assessment to be imposed in virtue hereof under any lease of lands or premises entered into prior to the application of this Act, but such assessment as between such landlord and tenant shall be payable during such lease by the tenant if previous to the passing of this Act a similar assessment was leviable from him.

BORROWING OF MONEY FOR THE GENERAL PURPOSES OF THIS ACT.

Power to Commissioners to borrow money for the purposes of this Act.

374. It shall be lawful for the Commissioners to borrow and take up, for any of the purposes of this Act, or for repayment of any moneys borrowed for such purposes under this or any former Acts which shall have fallen due to the lenders thereof, such sum or sums and at such time or times as the Commissioners shall deem necessary for such purposes: Provided always, that in all cases where it shall be necessary to borrow any sum or sums for the said purposes of this Act, it shall be lawful for the Commissioners, and they are hereby required, at their first annual meeting for assessment after such borrowing, if the respective rates of assessment then leviable do not amount to the respective maximum rates by this Act authorised, to assess all owners or occupiers of premises within the burgh respectively liable in the several assessments under this Act in such additional assessments beyond the sums necessary for such respective purposes as will produce a fund equal to three per centum per annum upon the sum or sums of money so borrowed respectively, and also to the annual interest of such borrowed sum or sums, which sum of three per centum per annum the Commissioners shall annually appropriate, set apart, and invest, at the highest rate of interest which can be had for the same, in the public funds, or in any chartered or other bank, or on heritable security, as a sinking fund, applicable and to be applied by the

Commissioners from time to time to the repayment of the moneys borrowed until the respective debts shall be extinguished, or the Commissioners may agree with the lender, so that the said amounts of three per centum shall annually be receivable by him in liquidation pro tanto of the principal debt: Provided always, that such additional assessment shall at no time increase the whole assessment leviable beyond the maximum rates of assessment, as the case may be, allowed by this Act; and provided also, that no sum of money shall be borrowed until an estimate of the amount required shall have been laid before the Commissioners, or until the expiration of six weeks after public notice shall have been given by the Commissioners of the amount so proposed to be borrowed, and the purpose to which the borrowed money is to be applied, in some newspaper in ordinary circulation within such burgh; and provided further, that the proposal to borrow shall be disposed of at the next meeting of the Commissioners six weeks after such public notice, and that the sum borrowed shall not exceed the amount so advertised, without a further estimate and notice in manner above provided.

Commissioners not to be personally liable.

375. No Commissioner, or officer acting under the Commissioners shall be personally liable for the repayment of any money so borrowed, but all such obligations shall be deemed and be taken to be granted on the sole security of the rates and assessments authorised to be assessed and levied as herein-before provided, and on the public halls or buildings or other works for which the loan or money borrowed is applied.

As to bonds to be granted.

376. All bonds for moneys to be borrowed as aforesaid shall be signed by three Commissioners and the treasurer of the Commissioners, and may be in the form and tenor following, videlicet,—

"Number [*here state the number*].

"By virtue of the Burgh Police (Scotland) Act, 1892, we, the Commissioners of the burgh of [*insert the name of the burgh, and if a royal burgh such shall be stated, as*, we, the royal burgh of], in consideration of the sum of [*insert the sum in words*] instantly advanced and paid to us for the purposes of the said Act, by *C.D.* of *E.*, do hereby bind and oblige the said burgh, out of the first and readiest of the moneys to be raised under the annual assessments by the said Act authorised to be imposed and levied, and designated the assessment or rate (*as the case may be*), to pay at the term of [*insert term of payment*] to the said *C.D.*, his executors or assignees, the said sum of [*state the sum*], and also the interest thereof at the rate of [*insert the rate of interest*] per centum per annum from the date hereof, at the terms of Whitsunday and Martinmas in each year, till the said sum is paid; and for the further security of the said *C.D.* we do hereby assign to him, his executors or assignees, such proportion of the said moneys to be raised under the said annual assessment as shall be equivalent to the said sum now paid to us, and the interest thereon as aforesaid from the date hereof to the term of payment; and we consent to

the registration hereof for preservation and execution.—In witness whereof [*insert testing clause in common form*].

" *K.L.* witness.
" *M.N.* witness.

L.S.

" *A.B.* }
" *C.D.* } Comrs.
" *E.F.* }
" *G.H.*, Treasurer."

And till repayment such bonds respectively shall form a lien on the rates and assessments under this Act assigned by such bond, and shall entitle the creditor under the same to recover the contents thereof from the Commissioners and their officers out of the first and readiest of such rates and assessments.

Bonds may be transferred by indorsement.

377. Such bonds may be assigned by indorsation on the back thereof in the form and tenor following, videlicet,—

" I, *C.D.* within designed, do transfer this bond, with all right, title, or interest which I have under the same, to *E.F.*, his [*or* her, *or* their, *as the case may be*,] executors and assignees.—In witness whereof [*insert testing clause in common form*].

" *K.L.*, witness. " *C.D.*"
" *M.N.*, witness.

Bonds to be recorded, and assignations to be registered.

378. There shall be kept at the office of the clerk to the Commissioners a register of such bonds, and within fourteen days after the date thereof an entry shall be made in the register of the number and the amount and date thereof, and of the names and description of the parties thereto, as stated in the deed, and also the interest payable on the same. Every such register shall be open to public inspection during office hours at the said office without fee or reward, and any clerk or other person, having the custody of the same, refusing to allow such inspection shall be liable to a penalty not exceeding five pounds. Before such bond is delivered to the creditor a certificate of such entry shall be endorsed on such bond, and signed by the clerk of the Commissioners; and all assignations of such bond shall be notified to the clerk to the Commissioners, who shall enter in the register aforesaid the date of the assignation, the names of the parties thereto, the number of the bond, and the date it was notified or intimated; and a certificate of such entry shall be endorsed on the said bond, and signed by the treasurer and clerk; and the said bond being so certified, the assignee, his executors and assignees, shall thereafter be entitled to the benefit of such bond, in terms of such assignation.

Public Works Loan Commissioners may lend money.

379. It shall be lawful for the Public Works Loan Commissioners, acting in the execution of the Public Works Loans Acts, and of any Act amending or continuing the same, to make advances to the Commissioners upon the security of all or any of the moneys or rates to be assessed or levied by them under this Act, and without requiring any further or other security than a mortgage of such moneys or rates, repayable by such instalments within a period not exceeding thirty years as shall in each case be agreed upon: Provided that nothing in this section shall be held to limit the powers of borrowing conferred upon local authorities in Scotland

by the Public Health (Scotland) Act, 1867, Amendment Act, 1875, and the reference in that Act to any enactment hereby repealed shall be deemed to refer to the corresponding enactment in this Act.

PART VI.

OFFENCES AND PENALTIES.

OFFENCES.

Penalties for offences.

380. Every person who is guilty of any of the following acts or omissions within the burgh shall, in respect thereof, be liable to a penalty not exceeding the respective amounts, or to imprisonment for a period not exceeding the respective periods herein-after mentioned; videlicet,—

To a penalty of ten pounds, or alternatively without penalty, to imprisonment for sixty days, every person who—

(1.) Wilfully or indecently exposes his person:

(2.) Occupies a building or part of a building, and suffers any breach of the peace or riotous or disorderly conduct within the same, or occupies a building or part of a building or other place of public resort for the sale or consumption of provisions or refreshments of any kind, and knowingly harbours prostitutes, or suffers persons of notoriously bad fame, or dissolute boys or girls, to assemble therein:

(3.) Publishes, prints, or offers for sale or distribution, or sells, distributes, or exhibits to view, or causes to be published, printed, exhibited to view, or distributed, any indecent, or obscene book, paper, print, photograph, drawing, painting, representation, model, or figure, or publicly exhibits any disgusting or indecent object, or writes or draws any indecent or obscene word, figure, or representation in or on any place where it can be seen by the public, or sings or recites in public any obscene song or ballad:

To a penalty of five pounds, every person who—

(4.) Being the occupier of a building or part of a building or other place of public resort for the sale or consumption of provisions or refreshments of any kind, knowingly suffers to remain in his premises any constable on duty, unless for the purpose of quelling any disturbance or restoring order, or directly or indirectly supplies such constable with intoxicating or exciseable liquor:

(5.) Affixes or causes to be affixed to or on any place where it can be seen by the public, or delivers or exhibits or causes to be delivered or exhibited to any inhabitant or passenger in or near any street, or sends or causes to be sent through the post office any bill or printed or written paper of an obscene or indecent nature:

(6.) Being the occupier of a building or part of a building or other place of public resort for the sale or

consumption of provisions or refreshments of any kind or for the sale or consumption of tobacco or cigars, opens his premises for business before five o'clock in the morning, or keeps them open or does business therein after midnight, unless specially allowed by the magistrates:

(7.) Cruelly beats, or ill-treats, over-drives, overloads, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, over-driven, overladen, abused, or tortured, any animal, or impounds or confines, or causes to be impounded or confined, any animal, and refuses or neglects to provide and supply such animal with fit and wholesome food and water:

To a penalty of forty shillings, every person who—

(8.) Alters or defaces the name or address, or the distinctive mark or inscription on any barrel, box, bag, plank, or other article which does not belong to him, without the authority of the owner:

(9.) Behaves in a riotous, violent, or indecent manner:

(10.) Commits a nuisance or uses any obscene, abusive, or indecent language to the annoyance of any person:

(11.) Is drunk while in charge in any street or other place of any carriage, horse, cattle, or steam engine, or when in possession of any loaded firearms:

(12.) Uses any threatening, abusive, or insulting words or behaviour with intent or calculated to provoke a breach of the peace:

(13.) Destroys, pulls down, injures, or defaces any board or convenience for the reception or exhibition of advertisements, or any advertisement, placard, or bill affixed thereto, or any placard or notice issued and put up by or under the direction of any lawful authority, or any notice of the position of a fireplug or hydrant, or any board on which any byelaw or part of a byelaw of any lawful authority is painted or placed:

(14.) Damages, defaces, or makes any mark on any drinking fountain or trough, or on any work appurtenant thereto, or pollutes or makes unfit for drinking by man or animal the water in any such fountain or trough, or washes in or permits to enter into that water any dog or other animal under his charge or accompanying him:

(15.) Prints or otherwise makes or circulates or uses, for any purpose whatever, any sham bank note, or a paper or document resembling in size, figure, and colour any bank note of any banking company.

Penalties for certain police offences.

381. Every person who in any street (and for the purposes of this section "street" shall include any harbour, railway station, canal, depôt, wharf, towing-path, public park, links, common, or open area or space, the strand and sea beach down to low-water mark, and all public places within the burgh), commits any of the following offences shall be liable to a penalty not exceeding forty shillings for each offence: viz.,

(1.) Exposes for show, hire, or sale (except in a market or market-place or fair or other place lawfully appointed by the Commissioners for that purpose) any horse or other animal; or shoes, bleeds, or farries any horse or animal (except in cases of accident); or cleans, dresses, exercises, or breaks or turns loose any horse or animal; or makes or repairs any part of any cart or carriage (except in cases of accident where repairs on the spot are necessary):

(2.) Turns loose or suffers to be at large any bull or other dangerous animal, without being secured by means of a rope attached to a ring through the nose of such animal, or otherwise:

(3.) Exposes to public view any stallion or bull when serving any mare or cow:

(4.) Sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal:

(5.) Slaughters any cattle or dresses any part thereof, except in the case of any cattle over-driven or which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot:

(6.) Having the care of any cart or carriage does not have and use bridles and reins with bits sufficient to enable him to regulate the speed of the horse or other animal drawing the same, or who not using bridle or reins does not walk on the causeway close to the side of the animal drawing such cart or carriage (or to the side of the first of such animals if there be more than one) or who rides on the shafts thereof, or otherwise than on the fore part of such cart or carriage, and in such a position as readily to see immediately before and on either side thereof or who is at such a distance from such cart or carriage, or in such a position therein, as not to have due control over every animal drawing the same; or who does not, in meeting any other carriage, keep his cart or carriage to the left or near side, or who in passing any other carriage does not keep his cart or carriage on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation); or who wilfully prevents any person or carriage from passing him, or any cart or carriage under his care:

(7.) At the same time drives more than two carts or carriages; and while driving two carts or carriages has not the halter of the horse in the last cart or carriage securely fastened to the back of the first cart or carriage, or has such halter of a greater length from such fastening to the horse's head than four feet, or who does not otherwise securely retain control by means of a halter over the horse in the second cart or carriage:

(8.) Rides or drives furiously, recklessly, or carelessly any horse or any horse attached to a cart or carriage, or drives furiously, recklessly, or carelessly any animal:

(9.) While in charge of any cart or carriage used for the conveyance of goods or otherwise for slow traffic, does not draw his vehicle to the near or left side of the road, when required

by any person in charge of a private carriage or a cab, or other such vehicle used for swift traffic, so as to allow the swift vehicle to pass the slow vehicle:

(10.) Causes any cart or carriage, with or without horses, or any beast of draught or burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except hackney carriages, and horses and other beasts of draught or burden standing for hire in any place appointed for that purpose by the Commissioners or other lawful authority), or by any means wilfully interrupts any public crossing, or by any means wilfully causes any obstruction in any public footpath or other public thoroughfare:

(11.) Without proper precautions, and in such manner as to be dangerous to the safety of passengers, conveys or causes to be conveyed any long, large, or heavy, keen-edged or sharp-pointed article:

(12.) Conveys or causes to be conveyed on any cart or carriage any large box, barrel, or basket, and does not sufficiently secure such article by chains or ropes to protect the public against the risk of injury:

(13.) Leads, drives, or rides any horse or other animal, or draws or drives any cart or carriage upon any footway, or fastens or places any horse or other animal so that it stands across or upon any footway:

(14.) Places or leaves and does not remove immediately therefrom any furniture, goods, or other articles, or places or uses any standing place, stool, bench, stall, or showboard on any footway of any street, or public thoroughfare, or places any shade, awning, or other projection, over or along any such footway, unless the same is eight feet in height at least in every part thereof from the ground:

(15.) To the annoyance or obstruction of the residents or passengers, carries about on any carriage or on horseback any picture, placard, notice, or other advertisement:

(16.) Places, hangs up, or exposes for sale any goods, wares, merchandise, matter, or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house, shop, or building at which the same are so exposed:

(17.) To the annoyance or danger of the residents or passengers, hangs or places any linen or clothes or other such article on any rail or fence of any premises:

(18.) Writes on, soils, defaces, or marks any wall, fence, hoarding, door, gate, or building, or without authority from the owner or occupier affixes or causes to be affixed to any building, or to any wall, fence, door, gate, or hoarding, any bill or other notice, or wilfully breaks, destroys, or damages any part of such wall, fence, hoarding, door, gate, or building, or any tree, shrub, seat, or other thing:

(19.) Conveys in any open cart or carriage, or otherwise, through any public thoroughfare the carcases, or any parts thereof, of animals slaughtered for sale, without the same being properly covered up from public view; or exposes such slaughtered

carcases, or any parts thereof, or their skins or offals, outside of any shop in any street; or uses machines to mince or hash animal food, to the annoyance of the residents:

(20.) Carries, rolls, or drives any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, log of wood, basket, board, or tray, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway:

(21.) Places any line, cord, or pole, across, upon, or over any part of any street, or hangs or places any clothes thereon, or on the outside of any window fronting any street, or on the outside of any other window so as to hang down in front of the window of any other person, or shakes carpets or mats from any window:

(22.) Being a common prostitute or streetwalker loiters about or importunes passengers for the purpose of prostitution:

(23.) Habitually or persistently importunes or solicits, or loiters about for the purpose of importuning or soliciting women or children for immoral purposes:

(24.) Is drunk and incapable, and not under the care and protection of some suitable person:

(25.) To the danger or annoyance of the residents or passengers, wantonly discharges any firearm, or recklessly makes use of any sling or catapult or similar article, or throws or discharges any stone or other missile, or makes any bonfire, or sets fire to and throws any firework:

(26.) To the danger or annoyance of the residents or passengers plays at any game, throws any snowball, or makes or uses any slide upon ice or snow, or flies any kite; but games may be played on any rinks, links, common or public park, subject to the power of regulation by byelaws as herein provided:

(27.) Cleanses, hoops, fires, washes, or scalds any casks or tubs or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime, or during the erection or demolition of any house or building, or otherwise, lays down or removes any lime or other material without the same being sufficiently watered to prevent the same being carried or blown about:

(28.) Throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or glaziers' chips, or the sweepings of any house, shop, warehouse, or other premises, or other materials (except building materials so enclosed as to prevent mischief to passengers), except for the purpose of housing or removing the same, or suffers such material to remain for a longer period than is necessary:

(29.) Beats or shakes any carpet, rug, or mat, contrary to the byelaws of the Commissioners:

(30.) Fixes or places any flower pot or box or other heavy article at any upper window, without sufficiently guarding the same to prevent it from falling:

(31.) Unnecessarily or without taking due precaution to prevent accidents throws from the roof or any part of any house or building any slate, brick, wood, rubbish, snow, or other thing:

(32.) Permits any female to stand on the sill of any window, in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building unless such window be in the sunk or basement storey:

(33.) Wilfully jostles or annoys any person:

(34.) Discharges any smoke or steam from any premises (otherwise than from the top thereof) into any such street, or suffers or permits the condensed water or moisture from any steam-pipe, flue, or funnel to fall into or upon the street:

(35.) Leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or cellar, or does not sufficiently fence any area, pit, or sewer left open, or leaves such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto:

(36.) Throws or lays any dirt, litter, or ashes or nightsoil, or any carrion, fish, offal, or rubbish, on any street, back area, court, except for the purpose of immediate removal, or on any place, or strand and sea beach, down to low-water mark, or into the channel or on the banks of any river or into any harbour within the burgh, or causes or allows any such matter, solid or liquid, to fall or run on any street, or lays down salt on any street, or footway in time of snow: But it shall not be deemed an offence to lay sand or other materials in any street in time of frost to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the person laying any such things causes them to be removed as soon as the occasion for them ceases:

(37.) Keeps any swine near any dwelling-house so as to be a nuisance or an annoyance to the residents or passengers:

(38.) Every baker who carries any board or basket, or chimney sweeper who carries any ladder, besom, or sack on the footpath or foot pavement, except for the purpose of crossing the same:

(39.) Carries any basket, creel, or other burden, so as to obstruct or annoy any passenger on the footpath or foot pavement, except for the purpose of crossing the same:

(40.) Conducts any wheeled vehicle on the footpath or foot pavement, except a perambulator or invalid carriage:

(41.) In vending coals or other articles, shouts or calls out, or uses any bell or horn, or other instrument, to cause annoyance to any inhabitant after being requested by a constable or inhabitant to cease:

(42.) Accumulates within any enclosure, area, house, building, garret, cellar, or other apartment, any dung, soil, dirt, ashes, filth, or other offensive matter or thing:

(43.) Places or throws upon any footpath or foot pavement any orange rind or peel, or other thing likely to cause danger to passengers:

(44.) Wilfully and wantonly disturbs or annoys any inhabitant by pulling or ringing any door-bell, or knocking at any door, or

wilfully and unlawfully extinguishes the light of any lamp or stair gas:

(45.) Without proper precautions, places or leaves any petroleum, paraffin, naphtha, detonator, dynamite, or other combustible or explosive material, to the danger of any person:

(46.) While in charge of any horse, cart, or carriage, falls asleep, or leads or drives any cart or carriage under his charge abreast of another or not in line, or, when required by any constable or other person, refuses to allow a free space between every two of such carts or carriages, for the purpose of crossing, or does not give his name and address when required by any person reasonably apprehending danger:

(47.) In raising or lowering or causing to be raised or lowered any article to or from any building by means of a chain or rope, does not sufficiently secure such article and provide and use means for protecting the public against the risk of injury:

(48.) Rides on or hangs from the back of any cart or carriage, or tramway car, without authority from the owner or person in charge thereof:

(49.) Affixes or causes to be affixed to any building any sign, signboard, or insignia of trade without the consent of the owner and occupier, or affixes or causes to be affixed or suffers to remain any projecting sign, signboard, advertising board, or insignia of trade without the consent of the Commissioners:

(50.) Being the owner of any cart or carriage used for the conveyance of goods, or plying for hire, allows the same to be used without having his Christain name, surname, and place of abode painted in a straight line horizontally upon some conspicuous part on the off or right side of such cart or carriage, in legible letters, either of a dark colour upon a light ground, or of a light colour upon a dark ground, not less than one inch in height, with numbers, beginning with number one where more of such carriages respectively than one shall belong to the same owner, and proceeding in regular progression:

(51.) Being the owner of any cart or carriage permits the same to be driven by any person who is not of the full age of fourteen years, or in any street puts a cart or carriage, and the animal yoked to the same, or any unyoked or saddled horse, temporarily under the charge or care of a person who is not of the full age of fourteen years:

(52.) On being authorised to open the carriageway or foot pavement, shall neglect sufficiently to protect such opening at all times and to light the same at night:

(53.) Stands or loiters on the footway, or sits or lies to the obstruction or annoyance of the residents or passengers on the footway or street:

Provided also that nothing contained in this section shall prejudice or affect any byelaws lawfully made by any harbour commissioners or trustees, or any prosecutions for offences under the same.

Habitual drunkards.

382. It may be charged as an aggravation of the offence of being drunk and incapable that the accused person has within the

twelve months preceding been three times previously convicted of such offence; and if the accused person is convicted and such aggravation is proved, the magistrate may impose an additional penalty not exceeding forty shillings in respect of such aggravation, and may sentence such person to imprisonment for any period not exceeding fourteen days without the option of a fine.

Power to remove articles placed in streets.

383. If any matter or thing whatever shall be placed or allowed to remain in any street, to the obstruction, annoyance, or danger of the residents or passengers, it shall be lawful to the chief constable or other constable to remove or cause the same to be immediately removed to any place of safety, there to remain at the risk of the owner and person offending, and to detain the same until the expenses of removal and detention are paid; and if such expenses are not paid within seven days, to sell or dispose of the same, and apply the proceeds as the magistrate shall direct.

Prevention of nuisance arising from smoke.

384. Every person who so uses, or causes or permits or suffers to be used, any furnace or fire (except a household fire) as that smoke issues therefrom, unless he proves that he uses the best practical means for preventing smoke, and has carefully attended to and managed the said furnace or fire so as to prevent as far as possible the escape of smoke therefrom, shall be liable to a penalty not exceeding forty shillings in respect of any such act or omission, and to a further penalty not exceeding five pounds in respect of every day, or part of a day, during which such act or omission continues after the imposition of the first-mentioned penalty, or in respect of every act or omission of a like nature which occurs within one month after such imposition. This enactment shall apply to any person in charge of a steamer plying on a river or estuary of the sea within the jurisdiction of the magistrates of the burgh: Provided that nothing in this Act shall be construed to extend to mines so as to interfere with or obstruct the efficient working of the same, nor to the smelting of ores or minerals, nor to the calcining, puddling, and rolling of iron and other metals, nor to the conversion of pig iron into wrought iron, so as to obstruct or interfere with any of such processes respectively.

Regulation of street traffic.

385. The magistrates may from time to time make byelaws and issue notices and orders:—

(1.) Regulating the traffic, or any particular traffic in streets within the burgh:

(2.) Diverting temporarily out of any street or streets, traffic of every kind, or such particular kinds of traffic as may be specified in any such order or notice:

(3.) Prescribing the streets in or through which particular kinds of traffic shall not be permitted, or where permitted the hours within which they are permitted:

(4.) Prohibiting or regulating public processions:

And every breach of any such byelaw, notice, or order shall be deemed an offence against this Act, and every person committing such an offence shall be liable to a penalty not exceeding forty shillings.

Power to impound stray cattle.

386. If any cattle be at any time found at large in any street of the burgh, without any person having the charge thereof, any constable or officer of police may, if he cannot readily find the owner thereof, seize and impound such cattle, and may detain the same until the owner thereof pay to the Commissioners a penalty not exceeding forty shillings, besides the reasonable expenses of impounding and keeping such cattle.

Power to sell stray cattle for penalty and expenses.

387. If the said penalty and expenses be not paid within three days after such impounding, the person by whom such cattle were seized and impounded as aforesaid, or other person appointed by the Commissioners for that purpose, may proceed to sell such cattle, or cause the same to be sold; but previous to such sale seven days notice thereof shall be given to or left at the dwelling-house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement, to be inserted seven days before such sale in some newspaper published or circulating within the burgh in which the seizure was made; and the money arising from such sale, after deducting the said sums, and the expenses aforesaid, and all other expenses attending the impounding, advertising, keeping, and sale of any such cattle so impounded, shall be paid to the Commissioners, and shall be by them paid on demand to the owner of the cattle so sold: Provided such balance be claimed within six months of such sale, and in default of such claim the balance shall be applied to the purposes of this Act.

Removal of furniture.

388. It shall be lawful for any constable to stop and convey to the police office and there detain, until due inquiry can be made, any cart or carriage, and any person in charge thereof or connected therewith, found within the burgh employed in removing furniture, or any person carrying furniture, between the hours of eight in the evening and six in the morning, except at the usual terms of removing observed within the burgh.

Dogs or other animals, if a nuisance or annoyance, to be removed, &c.

389. Every person who shall keep, or suffer to be kept, within any house, building, cellar, court, or area, or other premises, any dog, or any fowl, or any other animal, which is a nuisance or an annoyance to the inhabitants in the neighbourhood, and shall not remove the cause of such nuisance or annoyance within such time as the magistrate shall determine, which he is hereby authorised to do in a summary manner; and every person who shall suffer to be at large or have at large any ferocious, rabid, or vicious dog, not being muzzled, and every person who shall, after notice given by the magistrates, which they are hereby authorised to issue, directing that dog should be confined on account of any suspicion of canine madness, suffer any dog to be at large, or have the same at large during the time specified in such notice, all such persons shall be liable to a penalty not exceeding forty shillings; and any constable may seize and take possession of any dog or other animal, being a nuisance or an annoyance as aforesaid, and not removed, if so ordered, or any ferocious, rabid, or vicious dog, not being muzzled as aforesaid, or any dog not confined after such notice, and the

chief constable may cause any dog so seized to be destroyed; and he may also cause to be destroyed any dog reasonably suspected to be in a rabid state, or which has been bitten by any other dog reasonably suspected to be in a rabid state.

Stray dogs.

390. Any constable may take possession of any dog found straying in the burgh, and not under the control of any person, and may detain such dog for five clear days at a police station or other place selected by the chief constable, and during that time it shall be properly fed, and if at the expiration of that time such dog be not claimed, and all expenses incurred by its detention paid, the same may be sold or destroyed. When any dog taken possession of by any constable wears a collar with the address of any person inscribed thereon, a letter stating the fact of such dog having been taken possession of shall be forthwith sent by the chief constable by post or otherwise to the address inscribed on the collar.

Street musicians.

391. It shall be lawful for any householder, personally or by his servant, or by a constable of police, to require any street musician or singer to depart from the neighbourhood of the house of such householder; and every person who shall continue to sound or play any instrument, or sing in any street, at any time after being so required to depart, shall be liable to a penalty not exceeding twenty shillings.

Use of steam whistles and trumpets.

392. No person shall, without the sanction of the Commissioners, use or employ in any manufactory or any other place any steam whistle or other similar call for the purpose of summoning or dismissing workmen or persons employed, and every person offending against this enactment shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day during which such offence continues: Provided always that the Commissioners, in case they have sanctioned the use of any such instrument as aforesaid, may at any time revoke such sanction on giving one month's notice to the person using the same.

Penalty for betting in streets.

393. If any two or more persons assemble together in any street or open place within the burgh, for the purpose of engaging in lotteries, betting, or gaming, each of such persons shall be liable to a penalty not exceeding forty shillings.

Rules for persons using bicycles, &c.

394. Bicycles, tricycles, velocipedes, and other similar vehicles are hereby declared to be carriages within the meaning of this Act, and the following rules shall be observed by any person or persons using such carriage:

(1.) During the period between one hour after sunset and one hour before sunrise every person using such carriage shall carry attached to his vehicle a lamp, which shall be so constructed and placed as to exhibit a light in the direction in which he is proceeding, and so lighted and kept lighted as to afford adequate means of signalling the approach of the carriage:

(2.) Upon overtaking any cart or carriage, or any horse, mule, or other beast of burden, or any foot passenger, every such person

shall, within a reasonable distance from and before passing such cart or carriage, horse, mule, or beast of burden, or such foot passsenger, by sounding a bell or whistle, or otherwise, give audible and sufficient warning of the approach of the carriage:

and any person who breaks either of these rules shall be liable for any one offence to a penalty not exceeding forty shillings.

THEATRES AND PLACES OF PUBLIC RESORT.

Theatres, &c. to be licensed.

395. It shall not be lawful for any person to have or keep any house or other place of public resort within the burgh for the performance of stage plays or other theatrical representations, or any circus, or any place for entertainments in the nature of dramatic entertainments or exhibitions, or any other place of public resort for public dancing, music, or other entertainment of a like kind (all which places are herein-after shortly described or referred to as theatres or other places of public amusement), into which admission is obtained by payment of money or for money consideration, without being duly licensed by the magistrates, without prejudice to any powers pertaining by statute to the Lord Chamberlain.

Terms of licence.

396. The fee to be paid for each licence shall not exceed twenty shillings, and no licence shall be granted to any person except the actual and responsible manager of any such theatre or other place of public amusement, and the name and place of abode of such manager shall be printed on every playbill or other public notice announcing any representation at such theatre or other place of public amusement; and such manager shall become bound, himself in such penal sum as the magistrates may require, not exceeding fifty pounds, with two sureties, to be approved of by the magistrates, in such further sum not exceeding twenty pounds each, as the magistrates in like manner may require, for the due observance of the conditions of the licence and of the byelaws from time to time in force in the burgh during the currency of such licence for the regulation of such theatre or other place of public amusement, and for securing payment of the penalties which such manager may be adjudged to pay for breach of any of such byelaws or of this Act.

Public shows, &c. not to be opened or set up in burgh without sanction of magistrates.

397. No public show of any description whatever, whether in open ground or in any house or building, or caravan or tent, and no swings or hobby-horses, and no shooting-gallery, singing or dancing saloon, or bowling or nine-pin alley, and no place for playing skittles (all which are herein-after shortly described or referred to as public shows and other like places of public entertainment), shall be opened or set up within the burgh without the permission of the magistrates; and it shall be lawful for the magistrates to regulate, restrain, remove, or prohibit all such public shows and other like places of public entertainment, and to make and establish regulations and prohibitions to that effect; and if any person shall open or set up, or be concerned in opening or setting up, any such public show or other like place of public entertainment, without the sanction or permission of the magistrates, or shall

contravene any such regulation or prohibition, all such persons shall for every such offence be liable to a penalty not exceeding five pounds, and also to a continuing penalty of five pounds for every day during which the offence is committed or continued.

Burden of proof of licences.

398. Where in any case money or other reward shall be taken or charged directly or indirectly as an entrance fee, or where the purchase of any article is made a condition for the admission of any person into a theatre or other place of public amusement, and it shall be proved that such theatre or other place is used for any public performances or for any of the purposes of public amusement herein-before specified, the burden of proof that such theatre or other place of public amusement is duly licensed shall devolve on the party accused, and until the contrary is proved, such theatre or other place of public amusement shall be taken to be unlicensed, and every person acting therein shall be liable to a penalty not exceeding forty shillings for each offence.

Byelaws may be made as to places of public amusement.

399. The magistrates may from time to time make byelaws for the due licensing of theatres and other places of public amusement within the burgh, and may provide in such byelaws for the suppression of riots and disorderly conduct, and for the prevention of smoking within such theatres or other places, and for regulating the times at and during which the same shall severally be allowed to remain open.

Penalty for breach of byelaws.

400. In case of riot, or of the breach of any byelaws made by the magistrates, taking place in any theatre or other place of public amusement, the magistrates, after hearing the holder of the licence, may order the same to be closed, or may suspend the licence thereof for any period they think fit, and during that period such theatre or other place of public amusement shall be deemed to be unlicensed, and the manager thereof shall, in addition to any other penalty he may incur, be liable to a penalty not exceeding five pounds for each day on which he continues to contravene or offend against such byelaws.

Constables may enter certain premises.

401. Any constable shall have power, by virtue of his office, at any time to enter any premises or other place of the following description, and every part thereof, viz.:

(1.) Any place to which the public are admitted, by payment or otherwise, used for the purpose of a theatre, public show, or other place of public amusement or entertainment:

(2.) Any music, singing, or dancing saloon, or any shooting gallery, or bowling or nine-pin alley, or any place for playing skittles, or any eating-house, coffee-house, or other such place:

(3.) Any victualling house, public-house, house, or building in which wine, spirits, beer, cider, or other exciseable or fermented or distilled liquors are sold or suspected to be sold, whether licensed or not:

(4.) Any house or building, or brothel for the reception of prostitutes, or usually frequented by thieves or loose and disorderly persons:

(5.) Any building or part of a building which is kept or used for a purpose in respect of which a licence is required by the provisions of this Act:

(6.) Any ship or other vessel not being employed in Her Majesty's service:

and every occupier or keeper of any such premises or other place, or other person having the charge thereof, who shall not admit such constable when required, shall be liable to a penalty not exceeding ten pounds.

Unlicensed theatres may be entered and occupants removed.

402. Any magistrate may, by order in writing, authorise any constable to enter into any building or part of a building suspected to be kept or used for stage plays or dramatic entertainments, or as a circus, or as a public show, or for any of the purposes hereinbefore specified, into which admission is obtainable by payment of money or for money consideration, and which is not licensed in accordance with the requirements of this Act, at any time when the same is open for the reception of persons resorting thereto, and to remove any person found therein without lawful excuse; and every person keeping, using, or knowingly letting any building or part of a building or any place for the purposes aforesaid, or any of them, which building, part of a building, or place shall be unlicensed as aforesaid, shall be liable to a penalty not exceeding twenty pounds, and every person being therein without lawful excuse, shall be liable to a penalty not exceeding forty shillings, and the burden of proving that any such building, part of a building, or place is a licensed theatre or circus, or that any public show is sanctioned by the magistrates, shall be upon the person keeping or conducting the same.

DISORDERLY HOUSES AND GAMBLING HOUSES.

Suppression of brothels.

403. The magistrate may on a complaint by the burgh prosecutor grant warrant to enter into and search from time to time, during any period not exceeding thirty days from the date of such warrant, any house or building, or part of a house or building, or other place, which on examination of the chief constable or an inspector or lieutenant of police and at least one other person, not holding any office or situation under this Act, the magistrate is satisfied there is reasonable ground for believing to be kept, managed, or used, or suffered to be used as a brothel; and any constable under authority of such warrant may take into custody and convey to the police office the occupier of such house or building, or part of a house or building or place, or any person found therein who either temporarily or permanently manages or assists in the management of such brothel, and every such person shall be liable on conviction before the sheriff or two magistrates of being the occupier of, or of temporarily or permanently managing, or assisting in the management of such brothel, to a penalty not exceeding twenty pounds, or to imprisonment, without the option of a fine, for any period not exceeding sixty days, and failing payment of any such penalty, to imprisonment not exceeding sixty days, and the conviction of any such person as aforesaid, shall, ipso facto, void

and terminate any lease, or any arrangement to let such house or building, or part of a house or building, from and after the date of such conviction: Provided always, that all legal rights of the owner thereof for rent or otherwise, for the year current at the date of such conviction, and consequent voidance or termination of lease, or let, or arrangement to let, shall remain unaffected, and may be enforced as if no such voidance or termination had followed such conviction.

Remedy where room used for meetings becomes a nuisance.

404. The magistrates, on their being satisfied on the complaint of two or more householders residing in any common tenement or any building, that any house, room, or apartment therein, used for entertainments, is a nuisance, may order the person having or keeping the same to discontinue the use thereof till the nuisance be abated, and every person continuing to use such house, room, or apartment for such purposes while any such order is in force shall be liable, on conviction before the sheriff or two magistrates, to a penalty not exceeding ten pounds, or to imprisonment for a period not exceeding sixty days.

Penalty on persons keeping places for baiting animals and on persons found therein.

405. Every person who within the burgh keeps or uses or acts in the management of any house, room, pit, or other place for the purpose of fighting, baiting, or worrying any animals, shall be liable to a penalty of not exceeding five pounds, or in the discretion of the magistrate before whom he is convicted, to imprisonment, with or without hard labour, for a time not exceeding one month without any penalty being imposed; and the magistrate may, by order in writing, authorise the chief constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding five shillings; and a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequences to which he is liable for the nuisance thereby occasioned.

Penalty against practising games of hazard, &c.

406. All persons who shall be found in possession of or shall exhibit implements or articles for practising games of hazard, in order to induce or entice, or who shall induce or entice, any person to play at any game of hazard, or who, by any fraudulent act or device, shall cozen and cheat or attempt to cozen or cheat any person out of any money or property, on conviction shall be imprisoned for any term not exceeding sixty days, and shall also at the same time be sentenced to repay any money or restore any property which they may have obtained by means of any such offence, and failing such payment or restoration, may, under the same procedure, be committed to or detained in prison for any further term not exceeding sixty days.

Gaming houses.

407. It shall be lawful for the chief constable or any constable of police, having good grounds for believing that any house, room, or place is kept or used as a gaming or betting house, to enter such house, room, or place, and, if needful, to use force for the purpose of effecting such entry, and to take into custody all persons who

shall be found therein, and to seize all tables for and instruments of gaming found in such house, room, or place, and all moneys and securities for money found therein; and the owner or keeper of such gaming or betting house, or other person having the care or management thereof, and also any person who shall act in any manner in conducting such gaming or betting, shall be liable in a penalty not exceeding fifty pounds; and upon conviction of any such offender all such tables and instruments of gaming shall be destroyed, and all the moneys and securities for money which shall have been seized as aforesaid shall be paid over to the collector of police, and applied in the same way and manner as penalties by this Act are directed to be applied; and every person found within such premises without lawful excuse shall be liable in a penalty not exceeding ten pounds.

It shall not be necessary, in support of any prosecution under this Act for gaming in or suffering any game or gaming in such gaming or betting house, or for keeping or using or being concerned in the management or conduct of such house, to prove that any person found playing at any game was playing for any money, wager, or stake.

SUPPRESSION OF VAGRANTS.

Vagrant beggars, &c. to be apprehended, and upon conviction imprisoned.

408. Every person found begging, or exposing wounds, or deformities, or who shall cause or permit the exposure of children of tender age to the inclemency of the weather, or causing children to sing in any street or court, or common stair, or otherwise acting so as to induce, or for the purpose of inducing, the giving of alms, and every person conducting himself as a vagrant, having no fixed place of residence, and no lawful means of getting his livelihood, shall be liable, for the first offence, to a fine not exceeding twenty shillings, or to be imprisoned for any period not exceeding thirty days, or to imprisonment for such period, without the option of a fine, and for the second or any subsequent offence, to be imprisoned for a period not exceeding sixty days.

Known or reputed thieves may be apprehended, &c.

409. Every known or reputed thief, or associate of known or reputed thieves, who is found in any house or building, or part of a house or building, or other enclosed place, or who is found frequenting any street, court, house, or building, or place adjacent, with intent to commit any crime, or who is in possession of any picklock, key, crow, jack, bit, or other implement usually employed in housebreaking, or who is found in possession of any money or article without being able to give a satisfactory account of his possession thereof, may be apprehended, and, on conviction, be committed to prison for any term not exceeding sixty days; and it shall not be necessary in proving the intent to commit a crime to show that such person did any particular act or acts tending to show his purpose or intent, and he may be convicted if from the circumstances of the case and from his known character as proved to the magistrate it appears to such magistrate that his intention was to commit a crime. For the purpose of this section the word "crime" shall mean any description of theft, robbery, housebreaking, reset of theft, and

any similar offence involving dishonesty; and any money or article found upon the accused, if not claimed by the owner within twelve months, may be forfeited and applied for the purposes of this Act.

Procedure against persons sending out children to beg.

410. It shall be lawful for any constable to apprehend and bring before the magistrate any young person found begging or sent or suffered to go out for that purpose, and also the parents of such young person, or other relations to whose control he is subject, by whom he has been so sent or suffered to go out, and also any other person by whom such young person has been so sent out; and on the complaint being established that such young person has been sent out or suffered to go out for that purpose by his parents, or either of them, or by any other relation to whose control he is subject, or has been sent out for that purpose by any other person, it shall be lawful for the magistrate to punish such parent, relation, or other person as a vagrant or disorderly person by a fine not exceeding five pounds or by imprisonment for a period not exceeding thirty days.

Beggars and vagrants to be handed over to parochial authorities.

411. It shall be lawful for any constable to apprehend and bring before the magistrate all such beggars, vagrants, and idle poor persons, strolling or wandering or seeking relief, or found lying in any outhouse, stair, close, or area, or other place within the burgh; and it shall be lawful for the magistrate to direct and cause intimation of all such persons as he may not at the time convict of begging and vagrancy, as herein-before provided, to be sent to the inspector of the poor of the parish within which such person shall have been found, in order that their claim, if any, as paupers may be investigated and disposed of according to law; and the magistrate shall direct and cause all such persons to be detained in custody pending such investigation, and the said inspector shall be bound to report to the magistrate the result of such investigation.

ARTICLES FOUND OR STOLEN OR FRAUDULENTLY OBTAINED.

Goods, &c. found to be reported to police office.

412. Every person finding any goods, articles, or money shall report the fact, and deposit such goods, articles, or money with the chief constable or other officer acting for him, within forty-eight hours after the same shall have been found by such person; and every person failing so to report and deposit shall be liable to a penalty not exceeding five pounds; Provided always, that if the owner of such goods, articles, or money shall not claim the same and prove his ownership to the satisfaction of the magistrate within six months from the date of such report and deposit, the magistrate may award the same to the finder, under deduction of the expenses incurred for advertising for the owner; and where the owner shall appear and prove his ownership as aforesaid, the magistrate shall order such goods, articles, or money to be delivered to such owner, under deduction of such expenses and of such reward to the finder as in the circumstances the magistrate shall determine: Provided also, that if the owner of the same do not prove his ownership, and

the finder cannot, within six months and after notice, be found, the magistrate may order such goods or articles to be sold and the proceeds thereof, or if the subject be money, such money to be applied to the purposes of this Act.

Goods stolen or fraudulently disposed of to be delivered up to owner.

413. If any goods or articles shall be stolen or unlawfully obtained from any person, or being lawfully obtained shall be unlawfully pawned, pledged, sold, or exchanged, and complaint shall be made thereof, and if such goods shall be found in the possession of any broker or other dealer in second-hand property, or of any person who may have advanced money upon the credit of such goods, it shall be lawful to any magistrate to issue a summons or warrant for the appearance of such broker, dealer, or other person, and for the production of the goods or articles; and the ownership of such goods or articles being established to the satisfaction of such magistrate, he shall order such goods or articles to be delivered up to the owner thereof, either with or without payment of any sum, and at such time as the magistrate shall think fit; and every broker, dealer, or other person who, being so ordered, shall refuse or neglect to deliver up the goods or articles, or who shall dispose of or make away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, or unlawfully pawned, pledged, sold, or exchanged, shall forfeit to the owner of the goods the full value thereof, to be determined by the magistrate: Provided always, that no order shall prevent any broker or dealer from recovering possession of such goods by action of law from the person into whose possession they may have come by the magistrate's order, so that such action be commenced within three months next after such order shall be made.

How stolen or unclaimed goods to be kept.

414. Where any stolen or unclaimed goods or effects may be brought to the police office, the chief constable or other officer of police shall forthwith make an entry of the same in a book to be kept in the police office for that purpose and of the names of the parties from whom taken or by whom pledged or brought to the police office, in which book the chief constable or other officer of police shall also enter the date and manner in which such stolen or unclaimed goods shall be retained till disposed of.

Unclaimed stolen property, &c. to be disposed of.

415. All goods, articles, or money known or alleged to have been stolen or unlawfully obtained, and of which the owner may be unknown or which may be unclaimed, shall be taken possession of by the chief constable, and the magistrate after the expiration of twelve months, or, in the case of perishable articles, after the expiration of such period as he shall think fit, during which periods respectively no owner shall have claimed the same, shall grant warrant for the sale or disposal of such goods, articles, or money, the proceeds to be applied to the purposes of this Act: Provided always, that except in the case of perishable articles, notice of sale shall be given in two or more newspapers published or circulating in the burgh as the magistrate may direct: Provided also, that it shall not be necessary before such goods, articles, or money can be so sold or disposed of, that any apprehension shall have taken

place, or that any formal charge before the magistrate shall have been made against any person for having stolen or unlawfully obtained the same.

PREVENTION OF FRAUD.

Weighing machines to be erected.

416. The Commissioners may erect, so far as not already done, and maintain steelyards, scales, or other weighing machines, upon or adjacent to the streets, or at any other convenient places within the burgh, for the purposes herein-after mentioned, or they may grant powers to others to that effect, and they may also appoint proper persons to attend the same, with suitable allowances for their trouble: The Commissioners may also sanction and regulate the management of any steelyard or other weighing machines already existing within the burgh and not otherwise regulated by Act of Parliament.

Duty of keepers of weighing machines.

417. It shall be the duty of the keeper of every public weighing machine, during such hours as shall be fixed by the Commissioners to weigh every cart or carriage presented to him for that purpose, and to enter in a book, and also to give to the driver a certificate of the contents or load of such cart or carriage, its gross weight, its number, or such other particulars as shall identify it, the tare weight, if marked thereon, and the exact time of weighing. It shall be lawful for the Commissioners from time to time to make byelaws fixing the charges to be made for the use of the weighing machines.

Rights with respect to weighing machines not affected.

418. Nothing in this Act shall prejudice or affect the rights or powers of any harbour commissioners or trustees with respect to weighing machines lawfully erected or to be erected by them and under their control.

Power to provide portable machines for weighing coals.

419. It shall be lawful for the Commissioners to provide, furnish, and maintain such number of portable or movable machines for weighing coals as they may deem necessary, to be kept at convenient places within the burgh, in order that the inhabitants may have access to them for the purpose of reweighing their coals at their own expense, if they shall be so inclined, and to employ proper persons to attend such machines, and to establish the rates to be payable for such reweighing; and it shall be lawful for the chief constable or any other officer acting under this Act, to cause coals offered for sale or for delivery to be reweighed, and to require the driver to produce the ticket thereof, as a check on the conduct of drivers and others, such reweighing being always done free of expense.

Retailers of coals to keep scales and weights for weighing at the time of delivery.

420. For the purpose of ascertaining the weight of coals sold in quantities of less than half a ton within any yard or place where they may be kept, or from any cart or carriage on which they may be carried by dealers for sale, such dealers shall be obliged to keep scales and weights or steelyards of the legal standard within such yard or other place, and also attached to the cart or carriage used by them for the sale of such coals, whereby the coals so sold by

retail may be weighed at the time of the sale or delivery, and such dealers shall be obliged to weigh the same, upon being required to do so either by the person purchasing the same or by any officer of police; and any such dealer failing to have and keep such scales and weights or steelyards, or refusing to weigh the coals as aforesaid, shall be liable to a penalty not exceeding forty shillings, and five pounds for any subsequent offence.

Regulations as to sale of coals of half a ton weight.

421. Any person who shall sell any quantity of coals equal to or exceeding half a ton weight, shall be bound to deliver to the carter, or person in charge of the said coals, to be given to the purchaser, an account or memorandum specifying the true tare of the cart or carriage conveying the said coals, and the true weight and price of the coals, and the exact time the cart or carriage has left the premises of the seller, under a penalty of twenty shillings for each offence in any one of such particulars.

Carter to deliver memorandum.

422. The carter or person in charge of the said coals shall be bound to exhibit such account or memorandum to any police constable who may demand the same, and immediately on his arrival at the place of delivery shall deliver the same to the purchaser or inmate or other person in charge of the house or place of delivery, under a penalty of twenty shillings for each offence in either of the said particulars.

Penalty on driver refusing to weigh.

423. If any driver or other person having the charge of any cart or carriage shall not, upon being so required as aforesaid, take the same to any such public weighing machine, or shall refuse to assist in the weighing of the same in such manner as the drivers of carts or carriages are used and accustomed to do, such driver or other person shall for each offence be liable to a penalty not exceeding forty shillings.

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

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

Penalty on fraudulent weighing.

425. If the keeper of any weighing machine used within the burgh for the purpose of ascertaining the weight of coals, or the seller of any coals which shall be weighed at such weighing machine, or any of their respective servants, shall wilfully, on application, refuse duly to weigh or reweigh any cart or carriage, with or without loading, or shall designedly do or omit to do anything with intent that the true weight or measurement of any coals weighed thereat shall not be ascertained, or if the owner or driver or other person having the charge of any cart or carriage shall place or knowingly have any article, matter, or thing in or about such cart or carriage, other than the proper load therein, or shall alter the tare or weight, or the ticket denoting the weight, of any cart or carriage, or the loading thereof, or shall make, use, or be privy to the making or using, any false or fraudulent ticket

respecting the weight of any such cart or carriage or loading, or if by reweighing or otherwise it shall be discovered that any coals have been abstracted by such owner, driver, person in charge, keeper, or servant, from such cart or carriage, after it shall have passed the steelyard or weighing machine where it was originally weighed, or if the owner or driver or person in charge of any cart or carriage, or the keeper of any machine as aforesaid, or his servants shall make or give or use, or be privy to the making or giving or using, any false or fraudulent contrivance touching the weight of any cart or carriage, or the load therein, or shall knowingly assist in or connive at any fraud in or concerning the weight of any cart or carriage, or of the load therein, or if any other person shall knowingly aid or assist in the committing of any fraud respecting the weight of any cart or carriage, or the load therein, weighed, or stated or represented to be weighed, at any such machine as aforesaid, then and in every such case every person so offending shall for every offence be liable to a penalty not exceeding five pounds, or to be imprisoned for any period not exceeding sixty days without the option of a fine.

Regulations may be made for preventing fraud in weight of hay, straw, &c.

426. In order to prevent fraud in the weight of grain, hay, and straw, or other commodities usually weighed in carts or carriages, it shall be lawful for the Commissioners to make regulations for ascertaining the weight or quantity of grain, hay, or straw, or other commodities brought within the burgh, upon parties voluntarily resorting to the said weighing machines for the purpose, and for the magistrate to punish persons disobeying such regulations, by seizing, forfeiting, and selling such grain, hay, and straw, or other commodities so brought in contravention of such regulations, or by imposing on the offender a penalty to the extent and in the manner before described in respect of coals which have not been duly weighed, and also to fine any person driving carts or carriages from which grain, hay, or straw, or other commodities shall have been fraudulently taken or embezzled, and any person accessory to such fraudulent taking or embezzlement, in any penalty not exceeding five pounds, or to sentence him to imprisonment for any period not exceeding sixty days without the option of a fine.

Penalty on committing frauds in weight of bread.

427. All bakers and dealers in bread shall, on all bread made or exposed by them for sale (except fancy bread or rolls), impress thereon, in large and distinct figures, the imperial weight of such bread; and any person who shall expose or offer for sale, or sell any bread not so impressed shall be liable in a penalty not exceeding forty shillings for each offence; and any person who shall sell, or offer or expose for sale, any bread which shall be deficient or under the weight so impressed, shall be liable in a penalty not exceeding forty shillings for each offence.

Power to seize diseased cattle.

428. In the case of cattle infected with or suspected of any disease within the meaning of the Contagious Diseases (Animals) Acts, 1878 to 1890, being exposed or offered for sale, or being brought or attempted to be brought through any street or into any market or fair, any inspector, collector, or constable may seize any such cattle, and cause the same to be inspected by a veterinary

inspector, and may report such seizures to any magistrate, and such magistrate may, after hearing the evidence, either order such cattle to be restored, or direct the same, and also any pens, hurdles, troughs, litter, hay, straw, and other articles which he may deem likely to have been infected thereby, to be forthwith destroyed, or otherwise disposed of; and any person bringing or attempting to bring any cattle through any street, or into any market or fair, knowing the same to be labouring under any such disease, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Power to proceed against original seller of diseased cattle, &c.

429. Where any person is convicted by any magistrate of the offence of selling or exposing for sale, or of having in his possession for sale, any unsound or diseased animal or diseased meat, or any animal or meat unfit for the food of man, and intended for such food, it shall also be lawful for the burgh prosecutor to proceed against the original seller of such animal or meat as if he were an offender art and part with the convicted person, and as if he had committed such offence within the burgh, provided that such animal or meat were unsound or diseased, or unfit for the food of man, at the time of the sale thereof by such original seller to the convicted person; and the purchase by the convicted person or by any one on his behalf, from such original seller, wheresoever made or carried out, shall be taken and held to be a sale by such original seller of the animal or meat in question within the burgh, in premises kept and used for the sale of animals or meat; and the penalty and punishment provided by this Act against the person convicted shall also be applicable to and be leviable and recoverable from such original seller, and all the powers, authorities, jurisdiction, and forms of procedure given and provided by this Act against the convicted person shall be applicable to the prosecution, trial, and punishment of such original seller.

Chief constable or inspector to have power to enter premises and require articles to be weighed.

430. The chief constable, or any other constable specially appointed to perform the duty by the chief constable, or any inspector of weights and measures in the burgh, may, at all reasonable hours, enter any building or part of a building, or other place within the burgh in which any article is sold, or is made up, or kept or exposed for sale by weight or measure, or in which articles are sold or are set apart, or kept or exposed for sale in numbers, or in which any article is weighed or measured, or any articles are numbered with a view to their being bought or sold, or he may stop any cart or carriage, or any person carrying or in charge of any basket from which such articles are sold, or kept or exposed for sale, on the street, public or private, and require such article or articles to be weighed, measured, or numbered in his presence; and if the weight, measure, or number thereof ascertained does not correspond with the weight, measure, or number thereof which has been represented by the person who has sold or made up, or kept or exposed the same for sale, or who weighed, measured, or numbered the same with a view to purchase or sale, such chief constable or other constable or inspector may seize, impound, and convey such article or articles to the police office, or to an

office provided for the purpose by the Commissioners, and the magistrate may sentence the person who has sold or made up, or kept or exposed the same for sale, and who has incorrectly weighed, measured, or numbered the same with a view to purchase or sale, to a penalty not exceeding five pounds, and declare such article or articles in so far as belonging to such person to be forfeited, unless such person shall prove to his satisfaction that the deficiency in weight, measure, or number has arisen without any fraudulent intent.

Offences under Weights and Measures Acts or Criminal Law Amendment Act.

431. All offences committed within the burgh under the Weights and Measures Acts, 1878 and 1889, and under the Criminal Law Amendment Act, 1885, in so far as it relates to the suppression of brothels, may be tried by the magistrate as police offences under complaint by the burgh prosecutor; and the penalties may be recovered and applied in the same way as penalties for police offences under this Act; and the magistrates shall be the local authority, and the word "burgh" in the said Weights and Measures Acts shall include any burgh under this Act.

Authority under Sale of Food and Drugs and Bakehouses Regulation Acts.

432. The Commissioners of any burgh under this Act shall be the local authority under the Sale of Food and Drugs Act, 1875, and also under the Bakehouses Regulation Act, 1863, and all offences committed in the burgh under any of the said Acts may be brought before and tried by the magistrate as police offences under complaint by the burgh prosecutor, and the fines and penalties may be recovered and applied in the same way as fines and penalties for police offences under this Act.

BROKERS AND PAWNBROKERS.

Brokers to be licensed.

433. From and after the commencement of this Act no person shall within the burgh exercise or carry on the trade or business of a broker (which for the purposes of this Act shall also include dealers in second-hand goods, known as "general dealers") unless he shall have first obtained a licence so to do from the magistrates, which licence such magistrates shall have a discretionary power of granting or refusing as they shall see cause, and which, when granted, shall continue in force until the term of Whitsunday in each year, and no longer, unless sooner revoked or suspended, which the magistrates are hereby authorised to do, on legal conviction of any violation of any of the conditions of such licence, or of the provisions of this Act; and every person applying for such licence, or a renewal thereof, shall pay to the clerk a sum not exceeding two shillings and sixpence as the expense attending such application, and of recording the same, and the deliverance of the magistrates thereon, and of such licence or renewal, if granted, in a book to be kept by him for that purpose; and if any person shall within the burgh exercise or carry on the trade or business of a broker without having first obtained such licence as aforesaid, or after the revocation or during the suspension thereof, or shall contravene the terms of such licence or any of the provisions of this Act, such person shall for each such offence be

liable to a penalty not exceeding five pounds; Provided always, that it shall not be lawful for the magistrates to grant any such broker's licence to any licensed pawnbroker carrying on business as such; but nothing in this provision shall be held to apply to the sale of goods bonâ fide forfeited in accordance with the Pawnbrokers Act, 1872.

Brokers to furnish a description of their premises, and keep books.

434. Every person who shall apply to be licensed as a broker shall, at the time of his application, and at Whitsunday yearly thereafter, furnish to the clerk in writing a description of his premises, including all cellars, closets, and other places proposed to be used by him in the course of his trade; and all brokers shall enter in books to be kept by them on the premises the particulars of each transaction in their business, which particulars shall contain a proper and distinctive description of each article purchased or received by them, the name and place of abode of the person from whom they have purchased or received the same, and the date and hour of the day of each such transaction, and the price paid or agreed to be paid for such articles; and if any such broker shall fail to keep such book, or to enter therein the particulars before mentioned, he shall for each offence be liable to a penalty not exceeding five pounds.

Brokers to retain articles for fourteen days after having received them.

435. All articles purchased or received by such brokers shall be kept by them in their shops or other places where their ordinary business is carried on for the full period of fourteen days from and after the date on which it shall appear from their books that such articles have been purchased or received; and every broker shall attach to each article a ticket or label with the date of purchase or receipt written thereon; and every broker who shall fail to attach such ticket or label, or who shall sell or otherwise dispose of or remove from his premises as aforesaid any such articles before the expiry of such period of fourteen days, or shall fail at any time in the course of that period to produce such articles to the chief constable, or to any constable acting under him, when required so to do, shall for each offence, upon conviction before a magistrate, be liable to a penalty not exceeding five pounds; and every broker shall add columns to his books in which entries shall be made showing to whom the several articles were sold or delivered, giving full name and full address and date of sale, and every broker failing so to do shall for each offence be liable to a penalty not exceeding twenty shillings.

Brokers to produce articles and books on demand.

436. Every broker shall, at all reasonable times, exhibit and produce, on demand, to the chief constable, or to any constable acting under him, all articles in his possession, or which he may have received or purchased, and shall also produce his books in which the description of any such articles is or should have been entered, when required, in the police court, or to the chief constable, or any constable acting under him, and having the general or special authority of a magistrate, in which book the constable requiring and obtaining production thereof shall on every occasion subscribe his name immediately following the last entry therein; and as often as it shall be found that any goods or articles which

have been stolen, embezzled, or fraudulently obtained are in the possession of any broker, he is hereby required, on being informed by the chief constable or other constable authorised as aforesaid that such goods or articles were stolen, embezzled, or fraudulently obtained, to deposit the same with the chief constable, in order that they may be produced in such manner as may be necessary for the ends of justice, or upon proof of ownership, to the satisfaction of the magistrate, restored to the proper owner thereof; and every broker who shall refuse to produce and show the goods or articles in his possession, or the books in which the same ought to have been described, on being required so to do, or who shall refuse to allow the chief constable or constable requiring the said books to subscribe his name therein, or who shall not deposit any such goods or articles stolen, embezzled, or fraudulently obtained as aforesaid, shall, upon conviction before a magistrate, for every such offence be liable to a penalty not exceeding five pounds, without prejudice to such broker being also proceeded against as a receiver or resetter of stolen goods according to law.

Pawnbroker to produce his book on demand.

437. Every pawnbroker shall at all times during his hours of business produce on demand to the chief constable, or to any constable acting under him, his books in which the articles received by him in pledge are entered, and shall exhibit to such chief constable or constable all goods regarding which information shall have been given tending to show or to render probable that the same have been stolen, embezzled, or fraudulently taken, and if required shall deposit the same with the chief constable for the ends of public justice, on receiving a receipt for such goods; and any pawnbroker who shall refuse to produce his books, or to exhibit and, if required, to deposit any goods as aforesaid, shall for every offence be liable to a penalty not exceeding five pounds.

Brokers, &c. to report stolen goods, under a penalty for neglect.

438. If any goods or articles regarding which written or printed information shall be given by any constable to any pawnbroker or broker as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of such pawnbroker or broker, such pawnbroker or broker shall, without unnecessary delay, give information at the nearest police station, or to any police officer, if that should be the speediest mode of communicating that certain goods or articles answering the description of the said goods or articles were offered to him or are in his possession, and shall also state the name and address given by the person by whom the same were offered or from whom the same were received, under a penalty not exceeding five pounds for each and every such neglect or offence: Provided always, that in the case of wearing apparel or other articles which it may be difficult for such pawnbroker or broker to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the magistrate that such articles had been knowingly concealed by such pawnbroker or broker.

If stolen articles be altered or defaced by

439. If any broker shall after receiving information of the theft, or the embezzling or the fraudulent disposal of any metals, goods, or articles of whatsoever description, melt, alter, deface, or

broker, he shall be held to be resetter of stolen goods.

put away the same, or shall cause the same to be melted, altered, defaced, or put away without having previously received the permission of the magistrate, and if it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person from whom such broker received the same, or by any other person, then and in such case it shall be held that such broker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of, and such broker shall be proceeded against according to law as a resetter of stolen goods, or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

Brokers not to carry on business of publicans, nor to purchase tickets of pawnbrokers.

440. It shall not be lawful for any broker or any pawnbroker to carry on business as a publican or retailer of exciseable liquors, or for any broker to purchase, receive, or take the note or ticket of any pawnbroker for any goods or articles which have been pawned, or to contract or negotiate in any manner with the holder of any such note or ticket, or any person in his behalf, for the purchase of goods or articles specified therein; and if any broker shall offend herein, either by himself or his servant, or by any other person having the charge of his premises, and for whom in such case he shall be held responsible, such broker shall for every such offence be liable to a penalty not exceeding five pounds.

Pawnbrokers not to act as brokers, and brokers not to take articles in pledge.

441. If any pawnbroker shall act as a broker, except in the sale of articles bonâ fide forfeited in accordance with the provisions of the Pawnbrokers Act, 1872, or if any broker shall receive or take any goods or articles in pledge, such pawnbroker or broker shall for every such offence be liable to a penalty not exceeding five pounds.

Pawnbroker and broker not to carry on business in the same premises.

442. It shall not be lawful for a pawnbroker and broker to carry on their respective trades within the same premises, or in separate premises having a communication with each other; and every pawnbroker or broker who shall offend herein shall for every such offence be liable to a penalty not exceeding five pounds, which penalty shall be in addition to any penalty now payable for the like offence under any Act or Acts now in force.

Penalty on brokers transacting business with persons under fourteen years of age.

443. It shall not be lawful for any broker at any time to sell to or purchase from any person who shall apparently be under fourteen years of age, whether such person is acting on his own behalf, or on behalf of some other person; and if any broker shall offend herein, either by himself or his servant, or any other person having the charge of his premises, and for whom in such case he shall be held responsible, such broker shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on brokers transacting business between certain hours.

444. It shall not be lawful for any broker to sell to or purchase from, or have any business transaction whatsoever with any person between the hours of ten o'clock of each Saturday night and nine o'clock in the morning of the following Monday, or between ten

o'clock of any other night and eight o'clock on the following morning; and if any broker shall offend herein, either by himself or his servant, or any other person having the charge of his premises, and for whom in such case he shall be held responsible, such broker shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on pawnbrokers, &c. purchasing tickets or clothing issued by charitable institutions.

445. Any pawnbroker or broker who shall either by himself or by his servant, or by any other person having the charge of his premises or business, and for whom in such case he shall be held responsible, and any other person who shall purchase, receive, or take any note or ticket issued by authority of any parochial board or charitable institution, or any article of clothing issued by authority of any parochial board or charitable institution, and legibly marked, or known by him to be so issued, shall for each such offence be liable to a penalty not exceeding five pounds, without prejudice to such pawnbroker, broker, or other person being proceeded against according to law as a resetter of stolen goods.

Pawnbrokers not to keep smelting pots.

446. Every pawnbroker or broker who shall keep or suffer to be in his premises any smelting pot or implement for melting, altering, or defacing gold, silver, lead, or other metals, shall for every such offence be liable to a penalty not exceeding five pounds and such smelting pot or implement shall be forfeited.

Brokers to have their names painted over shop doors.

447. Every person licensed as a broker shall have his name, with the words "licensed broker," painted over the door or principal entrance of his premises, in large characters, either black upon a white ground, or white upon a black ground, and shall from time to time replace the same when removed, obliterated, or defaced, under a penalty not exceeding twenty shillings.

Brokers, &c. may detain suspected persons offering goods for pledge or sale.

448. It shall be lawful for any pawnbroker, or other broker or dealer, or any other person to whom any goods or articles which shall be reasonably suspected to be stolen or illegally obtained shall be offered to be pawned, sold, or delivered, and he is hereby required to detain the person offering the same, and for any officer or constable thereupon to take such person into custody, for the purpose of being examined by a magistrate, and to take possession of such goods or articles for the ends of justice, and the magistrate may, on examination, immediately discharge such person, or may, if he shall see any ground for believing that the goods or articles have been stolen or illegally obtained, remand such person to the police office, or commit him to prison for a period not exceeding three lawful days, for further examination, or till bail be given for his appearance within the said term for further examination; and if on further examination the magistrate shall be satisfied that the goods or articles were stolen or otherwise illegally obtained, he may commit the person charged to prison, to be dealt with according to law, and in that case all such goods and articles shall immediately be delivered up to and dealt with by the police as stolen or unclaimed property: Provided always, that the chief constable or other person on duty at the police office to which such person so offering

such goods or articles may be taken shall, without delay, inquire as to the circumstances attending the possession of such goods or articles, in order to his determining, in the absence of the magistrate or burgh prosecutor, whether the party shall be immediately discharged or liberated on bail in manner herein provided; and any pawnbroker, broker, or dealer, or any other person, who shall detain any person under this provision, shall be freed from responsibility, unless malice be averred and proved.

Provisions applicable to a dealer in marine stores.

449. The following provisions shall apply to a dealer in marine stores:

(1.) He must receive a licence from the magistrates, signed by the clerk, specifying the particular house and room or rooms in which the business is to be carried on, and which may be granted on application made to them in such form and with such particulars as they may prescribe:

(2.) He shall cause to be painted in capital letters not less than four inches in height and of proper breadth on the outside of the licensed house, and so that the same shall be at all times plainly legible, his Christian name and surname at full length, with the addition "licensed dealer in marine stores":

(3.) The licence shall be in force for one year only from its date or until the next general licensing day (if any):

(4.) It shall be recorded in a register kept for the purpose, and there shall be paid for it such fee not exceeding five shillings, as the magistrate may fix:

(5.) Whenever a licensee changes his place of abode, or the place or room or rooms in which he carries on his business, he shall, within twenty-four hours of the change, give notice thereof to the clerk, and within three days produce to the clerk his licence, who shall, if the magistrate be satisfied as to the suitability of the new premises, endorse thereon a memorandum specifying the particulars of the change:

(6.) The provisions herein-before enacted in regard to brokers in sections four hundred and thirty-four, four hundred and thirty-nine, four hundred and forty-one to four hundred and forty-six, both inclusive, and four hundred and forty-eight hereof, shall apply, under the same conditions, to dealers in marine stores.

Penalty on carrying on business without licence, and other offences.

450. Any person who commits any of the following offences, (that is to say,)

Carries on within the burgh the business of a dealer in marine stores without having obtained a licence for such purpose; or

Makes any wilfully false statement in any application for a licence; or

Having obtained a licence, neglects or omits to give effect to any of the foregoing provisions,

shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such business is carried on contrary to the provision of this Act.

451. Any such licence may be suspended or revoked by any magistrate or court before whom the licensee is convicted of any offence which, in the opinion of the magistrate or court, renders it expedient that such licence should be suspended or revoked, and although such revocation may not be craved in the complaint. Licences may be suspended or revoked.

452. Nothing in this Act contained with respect to dealers in marine stores shall relate to or affect persons who carry on the business of a general ship chandler, or that business and the business of a ropemaker. Saving for ship chandlers or ropemakers.

453. All offences committed against the provisions with respect to dealers in marine stores and manufacturers of anchors in the Merchant Shipping Act, 1854, and all offences committed against the provisions of the Pawnbrokers Act, 1872, except any offence to which a customs or excise penalty is attached, shall be deemed police offences, and may be tried by the magistrate at the instance of the burgh prosecutor in the mode provided by this Act for the trial of police offences. Offences by brokers, pawnbrokers, and dealers in marine stores to be police offences.

JURISDICTION AND RECOVERY OF PENALTIES.

454. The magistrates of police of a burgh under this Act, or any one or more of such magistrates, except where otherwise provided in this Act, including stipendiary magistrates and sheriffs acting in the police court, shall, within the burgh, have jurisdiction and power to take cognizance of all crimes, offences, and breaches of the police regulations in this Act contained or referred to, or contained in any other Act in force in the burgh, or of any byelaws made in virtue of the provisions of this or any other Act, or of any offence against the Public Parks (Scotland) Act, 1878, or any byelaws made in virtue of the provisions thereof, and of any other crime or offence which is punishable by public general or local statute or common law, and is within the jurisdiction of the magistrates of any royal burgh, and shall have the like jurisdiction within the burgh as any magistrate of a royal burgh, or any dean of guild of a royal burgh, has by the law of Scotland, and all jurisdiction to try offences and award punishment conferred on any justice of the peace, or two justices of the peace, or any magistrate, by any Act, public or local, passed or to be passed, or any byelaws, orders, or regulations made in virtue thereof and in force in the burgh: Provided always that such jurisdiction shall not extend to the trial of offences against any of the Inland Revenue or Customs Acts. Jurisdiction of magistrates of police.

The sheriff shall have power to sit and act in the police court with consent of the magistrates on any special occasion or under any continuing arrangement.

455. The Commissioners of any burgh under this Act may resolve that a stipendiary magistrate shall be appointed to officiate in the police court or courts of the burgh, and may fix the salary to be paid to him, and the following provisions shall apply: Stipendiary magistrates may be appointed in certain burghs.

(1.) The person to be appointed shall possess the qualifications required for a sheriff substitute in Scotland:

(2.) The Secretary for Scotland shall make the appointment, on being satisfied with the salary provided:

(3.) The tenure of office of the stipendiary magistrate shall be the same as that possessed by a sheriff substitute. He may only be removable from his office for incompetency or misbehaviour by the like process and by the same authority as is provided by law for the removal of a sheriff substitute:

(4.) Stipendiary magistrates, whether appointed before or after the passing of this Act, shall be entitled, out of the burgh general assessment, to retiring allowances for like reasons, on the like conditions and of the like amounts, having regard to their salaries and periods of service as are provided by law in the case of sheriff substitutes:

(5.) Stipendiary magistrates shall possess within the burgh the same jurisdiction, powers, and authorities as the other magistrates of the burgh acting in the police court or any of them:

(6.) The Commissioners may from time to time increase the salary of the stipendiary magistrate.

Office of stipendiary magistrate may be renewed or discontinued.

456. Upon the death, removal, or superannuation of a stipendiary magistrate, it shall be lawful to the Commissioners to resolve that the office shall be discontinued, or to resolve then or at any future time that the office shall be continued or renewed, in which case the provisions before mentioned shall again apply.

Boundaries of jurisdiction.

457. In all proceedings for the trial of offences under the jurisdictions conferred by this Act,—

(1.) Where the offence is committed in, or on board, any ship or boat in any harbour, river, arm of the sea or other water (tidal or other) which runs between or forms the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts:

(2.) Where the offence is committed on the boundary of the jurisdiction of two or more courts, or within the distance of five hundred yards of any such boundary, or is begun within the jurisdiction of one court and completed within the jurisdiction of another court, such offence may be tried by any one of such courts:

(3.) Where the offence is committed on any person, or in respect of any property in or upon any cart or carriage whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried by any court through whose jurisdiction such cart or carriage or vessel passed in the course of the journey or voyage during which the offence was committed, and where the side, bank, centre, or other part of the highway, road, river, lake, canal, or inland navigation along which the cart or carriage or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts, a person may be tried for such offence by any one of such courts:

(4.) Any offence which is authorised by this section to be tried by any court may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

Punishment of abettors.

458. Where the doing of any act or thing is made punishable by this Act, or by any byelaw thereunder, the causing, procuring, aiding, abetting, or wilfully permitting or suffering such act or thing to be done shall be punishable in like manner, if the nature of the case permits, and if an intention to the contrary does not appear in this Act.

Certain crimes not to be tried in police court.

459. If it shall appear, either in the preliminary investigation of the charge against any person accused of having committed any crime, delinquency, or offence within the burgh, or during his trial before the magistrate, that such person has been guilty of or is charged with any of the crimes denominated the pleas of the Crown (videlicet), murder, robbery, rape, and wilful fire-raising, or with the crimes of stouthrief, or of theft by housebreaking, or of housebreaking with intent to steal, or of theft to an amount exceeding ten pounds, or of theft by opening lockfast places, or of theft aggravated by having been twice previously convicted of theft, or of theft aggravated by being habit and repute a common thief, or of reset of theft, to an amount exceeding ten pounds, or of reset of theft aggravated by having been twice previously convicted of that crime, or of falsehood, fraud, and wilful imposition to an amount exceeding ten pounds, or of falsehood, fraud, and wilful imposition aggravated by having been twice previously convicted of that crime, or of breach of trust and embezzlement to an amount exceeding ten pounds, or of breach of trust and embezzlement aggravated by having been twice previously convicted of that crime, or of assault to the danger of life, or of assault whereby any limb has been fractured, or of assault with any knife or other lethal instrument where effusion of blood has followed, or of assault with intent to ravish, or of attempt at wilful fire-raising, or of culpable homicide, or of forgery, or of uttering a forged bank or banker's note, it shall not be competent for the burgh prosecutor, or those acting under or for him, to insist in a prosecution against such person before the magistrate, but the magistrate shall commit the person accused to prison for examination for any period not exceeding four days and the burgh prosecutor shall forthwith give notice of such commitment to the procurator fiscal of the sheriff court of the county, or county of the city, where such exists, in which the offence shall be charged to have been committed, in order that such person may be proceeded against conformably to law: Provided always, that the aforesaid provision shall not apply to chain-droppers, card sharpers, thimblers, loaded-dice players, keepers of roulette tables and wheels of fortune, and offenders of that description, whom the magistrate is hereby specially empowered to try and sentence, whatever may be the amount of the sum specified in the charge against them, or however often they may have been previously convicted.

Clerk of police court.

460. The Commissioners shall appoint a proper person to be clerk of the police court, with such salary as they may determine,

and such person may be the same person who is clerk to the Commissioners, and, subject to the approval of the Commissioners of the person or persons to be appointed, he may appoint, by a writing under his hand, a depute or deputes for whom he shall be responsible; and such deputes shall be invested with all the powers appertaining to the office of clerk of the police court.

Magistrates of police may appoint burgh prosecutor.

461. The Commissioners under this Act shall appoint from time to time, by writing and during pleasure, a fit person to be burgh prosecutor of the burgh, for the purposes of this Act, and such burgh prosecutor shall within such burgh have all the powers and privileges appertaining to any procurator fiscal by the law of Scotland; and they shall fix his salary, and shall pay it out of the burgh general assessment.

Where in any burgh there are more police courts than one, the Commissioners may appoint one or more depute burgh prosecutors, and may appoint more than one police clerk to officiate in such courts, and they shall fix their salaries.

Where any burgh prosecutor is bound by the terms of his appointment to devote his whole time to the duties of his office, and abstain from other business, his tenure of office and his right to have his salary not diminished, shall be the same as is hereinbefore provided with regard to the chief constable.

Interim burgh prosecutor.

462. Every proceeding or trial before the magistrate shall be conducted in the official name and at the instance of the burgh prosecutor; and any other competent person appointed by the magistrate for the purpose, may, in the absence of the burgh prosecutor, act in his stead and name, either at the first or any adjourned diet, and sign complaints for him, but the burgh prosecutor shall not be responsible for his acts.

Power to magistrate to grant warrant to take into custody.

463. The magistrate may, on a complaint by the burgh prosecutor, grant warrant to search for, take into custody, and convey to the police office, in order to be brought before him or some other magistrate, any person accused or suspected of having committed any crime at common law or any offence against this Act, or any other Act under which the magistrate has jurisdiction, and such warrant shall entitle the constable executing it to enter any building or part of a building, or other place whatsoever, and to break open lockfast places in which he has reason to believe or may reasonably suspect that such person is to be found.

May grant warrant to cite and failing appearance to apprehend.

464. If the magistrate shall deem it unnecessary or inexpedient to grant warrant for apprehension, he may grant warrant to cite the accused to appear at an appointed time; and in case the accused shall fail to appear, without proper excuse when cited, the magistrate may then issue his warrant for the apprehension of the accused.

Previous convictions of contraventions may be libelled and proved.

465. It shall be competent for the burgh prosecutor, in any libel charging any person with an offence under or a contravention of any of the provisions of this Act, or any byelaws, orders, rules, or regulations made under or by virtue of this Act, to include in his

libel a charge that said offence or contravention has been aggravated by previous conviction within seven years for a like offence or contravention of this Act, or any other Act, or any byelaws made under the same, and to lead proof in support of said last-mentioned charge; and in the event of the said offence or contravention, together with the said aggravation, being proved to the satisfaction of the magistrate, it shall be lawful for the magistrate to impose a penalty not exceeding forty shillings or thirty days imprisonment without the option of a fine in respect of such aggravation, in addition to the penalty or imprisonment which he is authorised by this Act to impose for the offence or contravention itself.

Power to magistrate to grant warrant to search.

466. The magistrate may, at the instance of the burgh prosecutor, grant warrant to search for, seize, and convey to the police office any article mentioned in any complaint as having been stolen or fraudulently obtained, and any documents or articles likely to afford evidence of the guilt of the accused; and such warrant shall entitle the constable executing it to enter any building or part of a building, or other place whatsoever, and to break open lockfast places in which he has reason to believe or suspect that such articles or documents are to be found.

Officers or owners of property on which offences are committed may take offenders into custody.

467. Any person found committing any offence punishable either by indictment or criminal libel, or upon summary conviction under this Act, or any other Act under which the magistrate has jurisdiction, may, without a warrant, be taken into custody by any police constable, or be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by his servant or any person authorised by the owner or his servant, and may be detained until he can be delivered into the custody of a constable, and the person so arrested shall be taken as soon as conveniently may be before some magistrate, to be examined and dealt with according to law, but the chief constable or officer in charge at any police office or police station to which such person may be brought may liberate him if satisfied that there is not sufficient proof of guilt; and any constable may search any premises, and may also stop, search, and detain any vessel, boat, cart, or carriage in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained, or fraudulently carried away, may be found, and also any person who may be reasonably suspected of having or carrying in any manner anything stolen or fraudulently obtained or carried away; and any constable may seize anything stolen or unlawfully obtained or fraudulently carried away.

Horse, carriage, &c. of persons taken into custody may be secured.

468. When any person having charge of any horse, cart, or carriage, or any animal or thing, shall be taken into the custody of any constable, under the provisions of this Act, it shall be lawful for any constable to take charge of such horse, cart, or carriage, or animal or thing, and to deposit the same in some place of safe custody, as a security for payment of any expenses which may have been necessarily incurred for taking charge of and keeping the same (if the same cannot conveniently and safely be given up to the owner if known); and unless the same shall be claimed by the owner, and all expenses incurred thereon paid, within four days

after such detention, and after notice to the owner, if known, it shall be lawful for any two magistrates to order the sale thereof, and the proceeds of such sale to be applied towards the necessary expenses incurred, and the overplus, if any, to be paid to the owner if he can be found, and if he cannot be found to be applied in the same way as fines.

Persons in custody, in or passing through burgh, may be detained.

469. Any person charged with the commission of a crime or offence, or sentenced to imprisonment, when in the lawful custody of a constable of a county, city, burgh, or place, or of a warder or officer of a prison in the United Kingdom, for the purpose of being conveyed to a county, city, burgh, place, or prison, may, when in or passing through the burgh, be detained for a period not exceeding twenty-four hours, or not exceeding forty-eight hours if Sunday intervene, in a cell or lock-up at any police office or station provided under this Act, if the removal of such person through or from the burgh is delayed from any cause: Provided always, that the chief constable or officer in charge of such police office or station shall be satisfied that the person in custody cannot at once be conveniently removed, and provided also that any expense incurred for the maintenance of such prisoner shall be defrayed by the Commissioners or others by whom such constable, warder, or officer is appointed.

Watchmen may be placed in charge of shops, &c. left open.

470. Where any constable or officer on duty shall discover that the window or door of any house, shop, warehouse, factory, or other premises within the burgh has been left open or unlocked, or is otherwise insecure, it shall be lawful for such constable or officer to put a watchman in immediate charge thereof, at the expense of the tenant or party occupying such premises, and such expense shall be recoverable by way of penalty before the magistrate by summary complaint at the instance of the burgh prosecutor, provided the magistrate considers the charge to be reasonable.

Chief constable in certain cases may accept of bail or deposit.

471. Upon the apprehension of any person charged with any offence under this Act, or with any crime or offence which may be competently tried before the magistrate, it shall be lawful for the chief constable, or other officer of police having charge in absence of the chief constable at any police office or station, to accept of bail or deposit, by a surety or by such person, that such person shall appear for trial before the magistrate at some time and place to be specified, and at all after diets of court, and to liberate the person so apprehended upon bail being found to an amount not exceeding twenty pounds, or upon the deposit of any money or article of value to the amount of the bail fixed; and the chief constable or other officer of police, if deposit be accepted, shall immediately enter the same in a book to be kept for the purpose, and grant an acknowledgment for the money or article so deposited: Provided always, that the chief constable or other officer of police may refuse, if he see cause, to accept of bail in any shape; and the refusal to accept bail or deposit, and detaining the person so apprehended until the case of such person is tried in the usual form, shall not subject the chief constable or other officer of police

to any claim for damages, wrongous imprisonment, or claim of any other kind whatsoever: Provided also, that it shall be lawful to liberate any such person without bail, if the chief constable or other officer deem it proper so to do; and if any person fail to appear in redemption of his bail or deposit, not only may the same be forfeited, but warrant may be granted for his apprehension.

Authority to officers to cite parties and witnesses.

472. This Act shall be a sufficient authority to the constables for citing a party charged with any offence against the provisions of this Act, or of any other Act under which the magistrate has jurisdiction, or of any byelaw, order, or regulation in force in the burgh, or at common law, and for summoning any witness or haver to give evidence in relation to the same, and for executing within the burgh any warrant granted by a magistrate in virtue of the powers conferred by this Act or any Act incorporated herewith or under which such magistrate has jurisdiction; and it shall be deemed a legal citation of such accused person or witness or haver if the citation be delivered personally, or left at his dwelling-house, or if such person or witness has no known dwelling-house, at the hotel, inn, lodging-house, or other place in which he eats and sleeps, or in the shop, warehouse, counting-house, or other place of business occupied by him, or where he is employed, or, in the case of a master of or seaman or person employed in any ship or vessel, in the hands of a person on board thereof and connected therewith, which citation of an accused person shall state the nature of the charge, and the time and place of appearance; and the citation of an accused person, witness, or haver, whether given by virtue of this Act or by warrant, may be proved by the execution of the officer or by his oath.

Offences by companies, associations, or corporations, how to be dealt with.

473. With regard to offences or omissions by companies, associations, or incorporations, the following provisions shall apply:—

(1.) In the case of an ordinary company, any one or more of the partners thereof, or the manager or person locally in charge of the concern, may be dealt with as if he or they were the persons offending:

(2.) In the case of an association, incorporation, or incorporated company, any one or more of the directors or persons managing the affairs thereof, or the clerk, secretary, or other principal officer thereof, or the person in charge, or locally in charge of the affairs thereof, may be dealt with as if he or they were the persons offending.

Penalty for witnesses refusing to give evidence.

474. If any person refuses to be precognosced by the burgh prosecutor, or to give information or evidence concerning the subject-matter of any crime or offence, on receiving a summons or citation to attend for precognition at least twenty-four hours before the diet of compearance, the magistrate may grant warrant to commit to prison such person for any period not exceeding thirty days.

Offenders removing from bounds of police, how to be proceeded against, &c.

475. Warrants granted by the magistrates for apprehending or citing persons accused of having committed crimes and offences, or for citing witnesses for the prosecutor or accused when such persons or witnesses are beyond the jurisdiction of the magistrates, shall be

sufficient for apprehending or citing the offenders and witnesses within Scotland, and for conveying such offenders as shall be taken into custody in terms of the warrant, to be dealt with according to law, and the said warrants may be lawfully and competently executed either by an officer of the court or magistrate granting the warrant, or by any constable or other officer of the law, although addressed to officers of the court issuing the warrants; and the provisions of the Acts relative to the execution of sentences and of decrees for penalties and expenses beyond the jurisdiction of the court or judge by whom the same have been granted, shall be applicable to the execution of convictions and judgments pronounced under the authority of this Act; and the provisions contained in an Act passed in the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-two, entitled "An Act to facilitate "the performance of the duties of justices of the peace out of ses- "sions within England and Wales, with respect to persons charged "with indictable offences," for the enforcement of warrants granted by sheriffs and justices in Scotland by endorsation in England and Ireland, and also the provisions of the Act of the thirty-first and thirty-second years of Victoria, chapter one hundred and seven, for enforcing warrants within the Channel Islands, are hereby extended and made applicable to all warrants issued by the magistrate.

Persons in custody to be taken before magistrates.

476. Every person who by virtue of this Act shall be taken into custody, and who shall be detained, may be detained in the police office or police cells, and shall be taken before the magistrate not later than in the course of the first lawful day after he shall be taken into custody, such day not being a sacramental fast day, or a day set apart for a general fast or a public holiday; and if the nature of the crime or offence charged shall admit of its being competently tried before the magistrate under the provisions of this Act, it shall be lawful for him to grant warrant to commit such offender to the police cells or to prison, for affording time to find bail, or for further examination, or for trial, such further examination or trial always taking place as soon as circumstances shall permit, and without any unnecessary delay; or if the crime or offence charged shall in the opinion of the magistrate merit a greater punishment than he can lawfully award, it shall be lawful for him at any stage of the examination or trial to commit such offender to prison for examination; or if the crime or offence charged, from having been committed beyond the limits of the burgh, or from being otherwise excluded from the jurisdiction of the magistrate, falls to be tried in another jurisdiction, it shall be lawful for the magistrate to commit such offender to prison until disposed of according to law; in either of which last two cases it shall be the duty of the burgh prosecutor to give notice of such commitment to the procurator fiscal or burgh prosecutor or other proper officer for the city, county, burgh, or other jurisdiction within which the crime or offence was committed, in order that such offender may be further proceeded against according to law: Provided further, that the chief constable or other person on duty at the police office or police station to which any person may be brought in custody may discharge such person from custody on

being satisfied that there is no sufficient evidence to warrant a complaint against him.

Procedure in police court.

477. Without prejudice to the jurisdiction of the sheriff, justices of the peace, burgh, or dean of guild courts, as herein-after provided for, all prosecutions, actions, and proceedings for crimes and offences or contraventions of this Act, or any byelaws, orders, rules, or regulations made thereunder, committed within the burgh, or for the recovery of fines, penalties, forfeitures, or expenses under the provisions of this Act, or any other Act under which the magistrate has jurisdiction (the mode of recovering which is not herein otherwise provided for) shall be instituted, sued for, or carried on before the magistrates of police, or any one of them, in the police court, at the instance of the burgh prosecutor, to be appointed as herein authorised; and (with the exception of complaints against cardsharpers, chain-droppers, thimblers, loaded-dice players, keepers of roulette tables and wheels of fortune, and offenders of like description) in all cases of theft or of reset of theft, or of falsehood, fraud, and wilful imposition, or of breach of trust and embezzlement, it shall be assumed that the sum of money or the value of the article stolen, resetted, obtained by falsehood, fraud, and wilful imposition, or embezzled, does not exceed ten pounds; and it shall not be competent thereafter to the person accused (except where an offer shall be made at the time of the trial) to prove that the money or article stolen, resetted, obtained, or embezzled exceeded in value the sum of ten pounds; and the whole procedure before such magistrates or any of them shall be conducted summarily vivâ voce, and without written pleadings, and in describing any offence against this Act or other Act under which the magistrate may have jurisdiction, it shall be sufficient to refer to the section of the Act founded on, without setting forth the enactment in words at length, and the description of any offence against the Act founded on in the words of such Act shall be sufficient in law; and no other record shall be kept of the proceedings except the complaint, the plea, the names of the witnesses examined, and the judgment pronounced; and it shall not be competent to any party who shall appear to answer to any complaint to plead want of due citation or informality in the warrant, citation, or execution.

Accused may require adjournment of diet.

478. Any person brought before the court by a warrant of apprehension or under the authority of this Act shall be entitled to require a copy of the complaint, and also to require that the hearing shall be adjourned for a period of not less than forty-eight hours; and such requisitions shall be complied with if made before the examination of any witness on the merits shall have commenced; but no such requisition shall be competent where a copy of the complaint or a summons stating the nature of the charge shall have been delivered to the accused personally forty-eight hours before the hearing.

Court may adjourn hearing and detain accused, &c.

479. Subject to the provisions contained in the preceding section no adjournment of the hearing shall take place when the accused pleads not guilty, or at any other stage of the proceedings, unless

the court shall think fit for some good reason to order an adjournment: Provided that, where the accused has been brought into court upon a warrant of apprehension, it shall be lawful for the court to grant warrant to detain him in prison or in police cells until the period to which the hearing shall be adjourned, or until he finds sufficient security to appear at all future diets of the court.

Where an adjournment is granted the court may, instead of ordaining the accused to find security to appear, appoint the accused to attend the sitting of the court to which the case is adjourned under a suitable penalty in case he shall fail to appear; and if the accused shall fail to appear at the adjourned diet, not only may the penalty contained in the bond or mentioned in the order of adjournment be forfeited, but warrant may be granted for his apprehension. A penalty contained in an order may be recovered by the like process as is herein provided for the recovery of a penalty in a forfeited bond.

Objections to complaint.

480. No objection shall be allowed by the court to any complaint under this Act for any alleged defect therein in substance or in form, or for any variance between any such complaint and the evidence adduced on the part of the prosecutor at the hearing thereof, not changing the character of the offence charged; but if any such defect or variance shall appear to the court to be such that the accused has been thereby deceived or misled, it shall be lawful for the court to adjourn the hearing to some future day, and at the same time, or at any stage of the proceedings, to direct such amendment to be made upon the complaint as may appear to be requisite, not changing the character of the offence, and such amendment shall be authenticated by the signature or initials of the magistrate or clerk of court.

Procedure at hearing.

481. At the hearing of the case the charge shall be read to the accused, and he shall thereupon be required to plead in common form, and the accused may then state objections to the competency or relevancy of the complaint or proceedings; and if no objections are stated, or if such objections are stated and repelled or are obviated by amendment of the complaint or adjournment of the diet, as herein-before provided, the accused's plea shall then or at such adjourned diet be recorded, and the plea, if the same be guilty, shall be signed by the magistrate or person officiating as clerk of court, and if the plea be not guilty, the prosecutor shall proceed to establish his complaint by such evidence as is competent, and the accused may, if he think fit, lead such evidence as is competent, after which the court shall pronounce judgment at the same or any adjourned diet.

In certain cases magistrate may proceed in absence of accused, and may allow another person to appear for him.

482. Where, in the police court of any burgh under this Act, a person accused of an offence for which the punishment is a pecuniary penalty only (recoverable by diligence or enforceable by imprisonment) fails to appear after being duly cited, the following provisions shall be in the option of the magistrate:—

(*a.*) The magistrate may adjourn the trial to another diet, and ordain the attendance of the accused at such diet:

(*b.*) The magistrate may proceed to try the case in the absence of the accused:

(*c.*) The magistrate may allow any other person to appear and plead for and defend the accused, provided the magistrate is satisfied that such person has authority from the accused so to do:

(*d.*) The magistrate, if of opinion that the personal presence of the accused is necessary in order that he may be identified by the witnesses or for any other reason, may require the personal presence of the accused accordingly, and if need be grant warrant for his apprehension.

Magistrates may dismiss with an admonition.

483. The magistrate may in his discretion, if such course appears to meet the justice of the case, dismiss any person found guilty of a statutory or common law offence with an admonition.

As to signing of convictions and warrants.

484. Any magistrate, though out of his jurisdiction, may sign any conviction, judgment, or warrant under this Act, provided the evidence and every other proceeding necessary to support such conviction, judgment, or warrant shall have been before him when within his jurisdiction.

Warrants may be issued for apprehension of witnesses.

485. If any person cited as a witness or haver shall neglect or refuse to appear at the time and place appointed by the citation, and no just excuse shall be offered in his behalf, it shall be lawful for the magistrate to issue a warrant for his apprehension; or, if the magistrate shall be satisfied by evidence upon oath that it is probable that such person will not attend without being compelled so to do, it shall be lawful for the magistrate to issue a warrant in the first instance for the apprehension of such person; and any witness or haver who shall wilfully fail to attend after being duly cited, or who shall refuse to be sworn or to be examined on affirmation, or who after the oath or affirmation has been administered to him shall refuse to answer any question which the magistrate shall allow, or to produce documents in his possession when required by the magistrate, may be summarily punished for his contempt by imprisonment or fine, such punishment not exceeding that which the magistrate would be entitled to award in case of conviction upon the complaint.

Examination of witnesses.

486. Where from the absence of witnesses for the prosecutor in any complaint, or from any other cause, it becomes necessary to adjourn the diet, and where witnesses for the accused in such prosecutions are in attendance, it shall be lawful for the magistrate, at the request of the accused person, and if the magistrate in the circumstances shall deem it proper, to take the evidence of the witnesses for the accused before the proof for the prosecution has been led or concluded; but the accused shall in all such cases be entitled to lead additional evidence after the prosecutor's case has been concluded.

In default of paying fines parties to be imprisoned.

487. The magistrate may sentence any person found liable in a pecuniary penalty to imprisonment until the same is paid, but in no case shall the period of imprisonment for non-payment exceed the respective periods herein-after specified.

Power to order offenders to find caution for

488. It shall be lawful for the magistrate, in lieu of any punishment by imprisonment or fine, to ordain any offender to find

good behaviour in lieu of punishment.

caution for good behaviour for any period not exceeding six months, and under a penalty not exceeding twenty pounds; and in the case of any offence committed by a child of not more than twelve years of age it shall be lawful for the magistrate to summon the parent or other guardian of such child to appear in court, and to ordain such parent or guardian to find caution for the good behaviour of such child as aforesaid; and to sentence the person ordained to find such caution to be imprisoned till caution be found, but not exceeding the respective periods herein-after specified: Provided always, that no parent or guardian shall be liable in terms of this section either to imprisonment for failure to find caution, or to forfeiture of the caution when found, if such parent or guardian prove that he exercised all due care to control the child, and to prevent the commission of offences by such child.

Or to find caution in addition to imprisonment or fine.

489. It shall be lawful for the magistrate, in addition to any punishment by imprisonment or fine, to ordain the offender to find caution as aforesaid from and after the expiry of the term of imprisonment, or from and after the payment of the fine or pecuniary penalty specified in the said sentence, or from and after the expiry of the term of imprisonment for non-payment thereof; and in case such caution shall not then be found, it shall be lawful to sentence the person ordained to find such caution to be further detained in prison beyond the expiry of said term of imprisonment until such caution be found; but in no case shall the whole period of imprisonment, including the period of detention for not finding such caution, exceed sixty days except as herein-after provided.

Punishment for common law offences.

490. The magistrate may either sentence the accused on conviction for common law crimes or offences to imprisonment with or without hard labour for any period not exceeding two months, or he may impose a fine not exceeding ten pounds, and failing payment thereof award imprisonment, not exceeding the respective periods after specified; and in lieu of or in addition to either of these modes of punishment he may order the accused to find security for good behaviour for any period not exceeding six months, and, under a penalty not exceeding twenty pounds, and failing the finding of such security he may award imprisonment or additional imprisonment not exceeding the respective periods after specified, but in no case shall the total imprisonment exceed sixty days except as herein-after provided.

For recovery of forfeited bail bonds and bonds of caution.

491. When any person shall be apprehended, and afterwards liberated on bail, and shall fail to appear, or when any person who shall have found caution for good behaviour or for keeping the peace as aforesaid shall commit a new offence inferring forfeiture of such caution, it shall be lawful for the magistrate, on the motion of the burgh prosecutor, to declare the sum contained in the bail bond or bond of caution to be forfeited, and to order the cautioner to be charged to make payment thereof to the clerk within six days after the date of such charge, and in default of such payment, after the lapse of such period, to grant warrant for apprehending and imprisoning the cautioner till the said sum be paid, but which period of imprisonment shall not exceed the

respective periods herein-after specified from the time of incarceration, and after such imprisonment no further procedure against the cautioner shall be competent on the bond; and when any money or other article shall be deposited by any person as a security for his appearance, and such person shall fail to appear, it shall be competent to the magistrate to declare such deposit to be forfeited; and if it be money, it shall be forthwith ordered by the magistrate to be paid to the clerk; and if it be not money, such article so deposited shall be ordered by the magistrate to be sold by public auction then or at some periodical sale, and the free proceeds shall be paid to the clerk, and in both cases accounted for by him, along with the forfeitures, penalties, and fines, to the collector, and applied in the same manner as forfeitures, penalties, and fines are by the provisions of this Act directed to be applied.

Cautioners in bonds may subscribe by mark.

492. Any bail bond or bond of caution, the cautioner in which is unable, or shall declare he is unable, to subscribe his name, shall be valid and effectual if such cautioner shall adhibit to such bond his mark, in presence of two witnesses, who shall subscribe the said bond in testimony thereof.

Warrant of commitment.

493. In all cases where imprisonment takes place a short extract of the charge and sentence, signed by the clerk of the police court or his depute, shall be sufficient warrant of commitment: Provided always, that any person sentenced to imprisonment or to imprisonment in consequence of non-payment of any pecuniary fine, penalty, forfeiture, or expenses, or for want of caution being found, or otherwise, may be detained in the police office or police cells for a reasonable time, to allow of such extract being made, such time not exceeding in any case twelve hours.

Police officers may be dismissed by magistrates.

494. It shall be lawful for the magistrates, on the report of any one magistrate, without the necessity of any complaint, to direct the chief constable to dismiss any constable under him whose conduct in any proceedings that shall form the subject of investigation before the magistrate shall, in the opinion of the magistrate, render such constable unfit to be any longer retained in the police establishment, and such constable shall be dismissed accordingly; but the magistrates may make further inquiry and may decline to give effect to the report.

Proceedings not to be void for want of form, and judgments to be final.

495. No order, judgment, record of conviction, or other proceeding whatsoever, concerning any prosecution instituted before the magistrates, shall be quashed for want of form, and no warrant of imprisonment, and no extract of judgment shall be held void by reason of any defect of form therein, provided it be inferred therefrom that it is founded or has proceeded on a conviction or judgment, and there be a valid conviction or judgment to sustain the same; and all judgments and sentences pronounced by the magistrate shall be final and conclusive, and not subject to suspension, or appeal, or any other form of review or stay of execution, unless on the ground of corruption, malice, or oppression on the part of the magistrate, or of such deviations in point of form from the statutory enactments as the court of review shall think

took place wilfully, or of incompetency, including defect of jurisdiction of the magistrate; and such suspension, or appeal, or review, or stay of execution, must be presented before the next sitting of the High Court of Justiciary within the circuit, or where there is no circuit before the High Court of Justiciary at Edinburgh, in the manner, and by and under the rules, limitations, conditions, and restrictions which shall from time to time be prescribed by the said High Court of Justiciary: Provided that—

(1.) Prosecutions under this Act shall be subject to the provisions of the Summary Prosecutions Appeals (Scotland) Act, 1875, and any Act amending the same:

(2.) Where by this Act jurisdiction is given to the magistrates to try any offence created by a statute which expressly provides an appeal, such appeal shall still be competent.

No suspension or stay of execution, &c. to prevent payment of penalties.

496. Such suspension or appeal, or review, or stay of execution shall not operate as a suspension or stay of execution of any order or sentence of the magistrate requiring the payment of any penalty, unless on consignment thereof in the hands of the clerk of court, nor of any order or sentence of the magistrates awarding imprisonment, unless on sufficient caution to the satisfaction of the magistrate for the appearance of the person appealing at such time and place as he shall direct; and in all cases of prosecution before the magistrate it shall be lawful for the magistrate whose sentence shall be brought under review in another court to authorise the expenses incurred in the proceedings in such other court to be defrayed out of the burgh general assessment: Provided always, that at the first meeting of the Commissioners after any such sentence shall have been brought under review as aforesaid the burgh prosecutor shall make a report of the facts and circumstances of the prosecution on which any such sentence shall have been pronounced and brought under review, and the Commissioners shall thereupon direct such sentence so brought under review to be defended or not, as to them shall seem proper; and if they shall direct such sentence not to be defended, then no expenses incurred in defending such action subsequent to such meeting shall be defrayed out of the said assessment.

Fines to be paid to the clerk or other person.

497. Except as herein-before provided, all forfeitures, penalties, fines, and expenses imposed by the magistrates and recovered shall be paid to the clerk or such other person as the magistrate may direct, and shall be accounted for by him once every month, or such other time or times as the Commissioners may direct, to the collector, to be disposed of as herein mentioned; and the burgh prosecutor is hereby directed on the first Monday of every month to intimate to the collector the amount of the forfeitures, penalties, and fines imposed in the previous month, stating the amount thereof recovered.

Application of penalties.

498. The whole forfeitures, penalties, and fines imposed by the magistrate and paid to the clerk or other person as aforesaid shall be applied in payment of the expenses incurred in alimenting prisoners detained in custody in the police office or station houses:

Provided always, that if such forfeitures, penalties, and fines shall not be sufficient for these purposes, whatsoever further sum may be required shall be paid from the burgh general assessment; and if such forfeitures, penalties, and fines shall be more than sufficient for these purposes, the surplus shall be applied to the same purposes as the burgh general assessment.

Penalty where no penalty is otherwise stated.

499. Every provision of this Act, to the contravention of which no penalty is attached, shall be read and construed as if it were thereby provided that every person contravening the same shall, on conviction thereof, be liable to a penalty not exceeding forty shillings.

Penalties on repetition of offences.

500. Where by this Act any pecuniary penalty or other punishment is imposed in respect of any offence described in this Act, then and in every such case, if the nature of the case permits, and if an intention to the contrary does not appear in this Act, such penalty or punishment may be inflicted for every repetition of such offence.

Power to mitigate penalties.

501. In all proceedings under the jurisdictions conferred by this Act,—

(*a.*) Where the punishment of imprisonment is imposed by this or any other Act under which the magistrate has jurisdiction, the magistrate may, if he thinks the justice of the case demands it, substitute for imprisonment a fine not exceeding twenty-five pounds or reduce the period of imprisonment, and notwithstanding any enactment to the contrary, impose the same without hard labour, and when the punishment of a penalty or fine is imposed he may reduce the amount of such fine, and when in the case either of imprisonment or a fine the accused is required to come under his own obligation or to find caution or security for keeping the peace and observing some other condition, or to do any of such things, he may dispense with any such requirement or any part thereof:

Periods of imprisonment in proportion to fines, &c.

(*b.*) Where a warrant of imprisonment is granted, whether in default of payment of a penalty or sum specified in a forfeited bond, or for failure to find caution or security, when the amount adjudged to be paid or for which security is to be found—

Does not exceed ten shillings	The period of imprisonment shall not exceed seven days.
Exceeds ten shillings but does not exceed one pound	Fourteen days.
Exceeds one pound but does not exceed five pounds	One month.
Exceeds five pounds	Two months.

Provided always, that nothing in this Act contained restricting the amounts of fines or periods of imprisonment shall apply to or affect the prosecutions authorised or the penalties enforceable under the Licensing (Scotland) Acts, 1828 to 1887, or to the

Prevention of Crimes Act, 1871, or to any Act other than this Act, under which the magistrate has jurisdiction to impose fines for greater amounts, or imprisonment for longer periods, than those of this Act.

Chief constable to keep register of persons convicted.

502. The chief constable shall cause to be kept a register of the name, description, crime, and sentence of persons charged with and convicted before the magistrates of crimes and offences, and shall cause to be entered therein such particulars as he may from time to time be directed to enter by the magistrates, or as may be necessary for supplying judicial statistics; and the entries in such register, or any extracts therefrom, certified by the chief constable, shall be taken and received as evidence of every sentence and conviction and of any previous conviction and the particulars thereof.

Proceedings subsequent to conviction.

503. Where, in consequence of the requirements of this Act, it is necessary that any warrant of imprisonment or other warrant should be granted subsequent to the conviction or judgment, or where any other ulterior proceeding is enjoined, all such warrants or ulterior proceedings may be taken without the presence of the respondent.

Signature of one magistrate sufficient in certain proceedings.

504. In cases in which any matter or proceeding shall be cognisable by two or more magistrates, it shall be sufficient that any warrant of imprisonment or other warrant or proceeding prior or subsequent to the conviction or judgment shall be subscribed by one magistrate, and it shall not be necessary that such magistrate shall be or shall have been present at the hearing of the complaint, but the conviction or judgment shall in all cases be signed by such number of magistrates present at the hearing, and concurring in the result thereof, as may be required by this Act; and in case of an equal division of opinion among the magistrates present, the complaint shall be held to be not proved, and judgment shall be given for the accused.

Limitation of police prosecutions.

505. All prosecutions, actions, or proceedings for recovery of fines, penalties, or forfeitures, by virtue of the provisions of this Act, shall be commenced within three months from the time the facts on which such prosecutions, actions, or proceedings were brought shall have been discovered and known to the chief constable or burgh prosecutor, and not thereafter.

As to actions of damages against public prosecutors.

506. No burgh prosecutor, or other party prosecuting for the public interest, by complaint under the provisions of this Act, shall be liable to pay or be found liable by any court in a greater sum than five pounds as damages for or in respect of any proceedings taken or anything done on such complaint, or on any judgment following on such complaint, unless the person prosecuting for damages shall aver and prove that such proceeding was taken or done maliciously, and without probable cause; but the party suing such damages shall not be entitled to have any decree or verdict pronounced against such burgh prosecutor or other party prosecuting for any damages, or return or repetition of penalty or costs, in case such prosecutor shall prove at the trial that the party suing

was guilty of the offence in respect whereof he had been convicted, or on account of which he had been apprehended, or had otherwise suffered, and that he had undergone no greater or other punishment than was assigned by law to such offence; and any such prosecutor sued as aforesaid may at any time put an end to the action, in so far as not founded on acts done maliciously and without probable cause, by tendering payment of the sum of five pounds as damages, with the amount of the penalty, if recovered, and the expenses of such action to the date of the tender.

Provisions as to proceedings brought against burgh prosecutor.

507. Where any order or sentence following on an application by the burgh prosecutor is brought under review, or where any action is brought against the burgh prosecutor, or against any officer or constable, in consequence of anything done in pursuance of this Act, or of such order or sentence, the burgh prosecutor shall immediately make a report of the facts and circumstances to the Commissioners, who shall thereupon resolve either that such order or sentence so brought under review, or such action shall be defended at the expense of the Commissioners, or that it shall not be so defended, and if they resolve that it shall be so defended, the Commissioners shall thenceforth take the superintendence and control of the case, and the Commissioners shall relieve the burgh prosecutor or other defender from liability for all or any of the conclusions thereof; and if the Commissioners resolve that it shall not be so defended, they may, if they see cause, agree that they shall relieve the burgh prosecutor or other defender from the consequence of not defending the same, and the Commissioners shall in such case relieve them accordingly.

Parties presently entitled to prosecute may do so.

508. The prosecutions authorised by this Act, under complaint by the burgh prosecutor, shall be without prejudice to complaints at the instance of any party or parties who are at present entitled to make the same.

Jurisdiction of sheriffs and courts of guild to be preserved.

509. No jurisdiction conferred by this Act shall be held to exclude the jurisdiction of the sheriff, justices of the peace, burgh or dean of guild court, where the case shall in the first instance have been brought before or taken up by such sheriff, justices of the peace, burgh or dean of guild court.

Forms of procedure.

510. The forms in Schedule VII. to this Act, where they are applicable, or forms as near to them as are found convenient, shall be the forms of procedure under this Act until the same be altered or amended by the High Court of Justiciary in terms of this Act: Provided that the magistrate may add to any of the forms of conviction or judgment a direction that the accused shall be kept to hard labour during the whole or part of the term of his imprisonment, and execution upon any judgment or warrant may proceed either upon such judgment or warrant itself or upon an extract issued and signed by the clerk of court.

Form when sum recoverable as civil debt.

511. Where under this Act a sum is awarded which is declared by the Act to be recoverable as a civil debt, the forms to be followed in the recovery thereof shall be those provided for enforcing decrees pronounced in the small debt courts of the sheriff, and

there shall be added to the finding of the magistrate in such case a warrant for execution in the following form :—" and the magistrate " decerns and ordains instant execution by arrestment, and also " execution to pass hereon by poinding and sale after a charge of " ten free days." Any officer by this Act authorised to execute the warrant of a magistrate may carry out the procedure authorised by this section.

Proceedings may be either in writing or printed.

512. The several forms of proceedings prescribed by this Act may be either in writing or printed, or may be partly written and partly printed, and all such forms as bear reference to any antecedent form may be either on the same sheet of paper therewith or on a separate sheet attached to it.

High Court of Justiciary may make or amend forms.

513. It shall be lawful for the High Court of Justiciary, on the application of the Lord Advocate, from time to time to pass such acts of adjournal as may be necessary or proper for altering or amending the forms of proceedings in the police courts of burghs under this Act or under this part of this Act, or providing forms for proceedings in said courts not supplied by this Act.

Juvenile offender may be sentenced to whipping.

514. In any case where the magistrate may award sentence of imprisonment, or of fine with the alternative of imprisonment, it shall be lawful for the magistrate in the case of any juvenile offender being a male whose age in the opinion of the magistrate shall not exceed fourteen years to adjudge such offender, instead of imprisonment, or in addition to imprisonment, to be punished by private whipping in such manner and according to such regulations as have been or shall be made by the Lord Advocate of Scotland in that behalf, and approved by the Secretary for Scotland.

Offences for breaches of certificates under Public Houses Acts to be tried in police court.

515. All offences under or against the Public Houses Acts Amendment (Scotland) Act, 1862, and the Acts therein recited, or any of them, or of any Act or Acts amending or superseding the same for any breach of or offence against the terms, provisions, or conditions of any certificate granted under the said Acts, or any of them, may be prosecuted and tried before and by any magistrate or magistrates of police of any burgh officiating in any court for the trial of police offences under the provisions of any local or general Police Act, in the same way and manner in all respects as may be provided for the trial of police offences by any such local or general Police Act in force in the county, district, burgh, or place where the offender shall reside, or the offence shall have been committed, and such magistrate or magistrates shall have power to impose the penalties and punishments, and declare the forfeitures provided in that behalf by the said Public House Acts, or any of them.

Summary jurisdiction forms may be used in certain cases.

516. If it should be found convenient in any prosecution under this Act or any special statute, any of the provisions or forms of the Summary Jurisdiction Acts, or of the provisions or forms of the Criminal Procedure (Scotland) Act, 1887, may be used.

517. The provisions of sections one hundred and sixty-six to two hundred and nine, both inclusive, of this Act, shall not apply to the railways or stations of any railway company or buildings connected therewith other than dwelling-houses. Exemption of railway companies' buildings.

518. Nothing in this Act shall prejudice or affect the provisions of the Local Authorities Loans (Scotland) Act, 1891. Saving of Local Authorities Loans Act.

SCHEDULES to which this Act refers.

SCHEDULE I.

Section 1.

GENERAL POLICE ACTS.

Session and Chapter.	Title of Act.
3 & 4 Will. 4. c. 46. -	An Act to enable burghs in Scotland to establish a general system of police.
10 & 11 Vict. c. 39. -	An Act to amend an Act to enable burghs in Scotland to establish a general system of police, and another Act for providing for the appointment and election of magistrates and councillors for certain burghs and towns of Scotland.
13 & 14 Vict. c. 33. -	An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for paving, draining, cleansing, lighting, and improving the same.
25 & 26 Vict. c. 101.	An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for lighting, cleansing, paving, draining, supplying water to and improving the same, and also for promoting the public health thereof.
31 & 32 Vict. c. 102.	The General Police and Improvement (Scotland) Act, 1862, Amendment Act.
40 & 41 Vict. c. 22. -	The General Police and Improvement (Scotland) Act, 1862, Amendment Act, 1877.
41 & 42 Vict. c. 30. -	The General Police and Improvement (Scotland) Amendment Act, 1878.
45 & 46 Vict. c. 6. -	The General Police and Improvement (Scotland) Act, 1882.
52 & 53 Vict. c. 51. -	The General Police and Improvement (Scotland) Act, 1862, Amendment Act, 1889.

SCHEDULE II.

Sections 5, 15, 373.

Edinburgh.	Dundee.
Glasgow.	Greenock.
Aberdeen.	

Section 5.

SCHEDULE III.

PORTIONS OF LOCAL ACTS SAVED.

Session and Chapter.	Title or Short Title.	Portions of Acts saved, Sections numbered inclusively.
	I.—*Airdrie.*	
1 & 2 Geo. 4. c. lx. -	An Act for erecting the Town of Airdrie, in the County of Lanark, into a Burgh of Barony; paving, lighting, and improving the same, and establishing a Police therein.	Section 13.
12 & 13 Vict. c. lxxxix.	The Airdrie Police and Municipal Act, 1849.	Sections 7, 10, 59, 76.
48 & 49 Vict. c. xl. -	The Airdrie Burgh Extension Act, 1885.	The whole Act, except sections 3, 50, and 51, and the First Schedule.
	II.—*Ayr.*	
36 & 37 Vict. c. cc. -	The Ayr Burgh Act, 1873.	The whole Act, except sections 132 to 137.
48 & 49 Vict. c. lxxiii.	The Ayr Burgh Act, 1885.	The whole Act, except sections 13 and 14.
	III.—*Broughty Ferry.*	
43 & 44 Vict. c. xxxix.	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Broughty Ferry) Act, 1880.	The whole Act.
46 Vict. c. xix. -	The Broughty Ferry Paving Act, 1883.	The whole Act.
	IV.—*Burntisland.*	
39 & 40 Vict. c. cxxxix.	The Burntisland Burgh Act, 1876.	The whole Act, except sections 101 to 106.

Session and Chapter.	Title or Short Title.	Portions of Acts saved, Sections numbered inclusively.
	V.—*Campbeltown.*	
39 & 40 Vict. c. clxvii.	The Campbeltown Burgh and Harbour Act, 1876.	The whole Act and schedules, except sections 12, 133, 134, and 136.
	VI.—*Coatbridge.*	
48 & 49 Vict. c. xli. -	The Coatbridge Burgh Act, 1885.	Sections 1 to 32 inclusive; sections 37, 38, and 88 to 97 inclusive, and 103.
	VII.—*Dumbarton.*	
46 & 47 Vict. c. cxlviii.	The Dumbarton Waterworks Streets and Buildings Act, 1883.	The whole Act.
	VIII.—*Dunfermline.*	
33 & 34 Vict. c. cxv. -	The General Police and Improvement (Scotland) Supplemental Act, 1870.	The whole Act and the Schedule, so far as they relate to the Burgh of Dunfermline.
	IX.—*Falkirk.*	
22 & 23 Vict. c. cxxiii.	The Falkirk Police and Improvement Act, 1859.	The 7th and 8th clauses of the Preamble, and sections 2 (so far as regards the definition of "The Stintmasters of Falkirk;" "The Feuars of Falkirk;" "The District of Grahamston;" and "The District of Bainsford"), 7, and from 11 to 18, both inclusive, and 20 and 21.
	X.—*Galashiels.*	
39 & 40 Vict. c. lx. -	The Galashiels Municipal Extension Gas and Water Act, 1876.	The whole Act, except sections 3, 4, 7, 13, 17, 18, 21, 22, 24, 26, 27, 34, 37–39, 52, 56, 57, 66, 85–87, 90–93, and Schedules III. and IV.

Session and Chapter.	Title or Short Title.	Portions of Acts saved, Sections numbered inclusively.
	XI.—*Hamilton.*	
41 & 42 Vict. c. cxxxvii.	The Hamilton Burgh Act, 1878.	The whole Act, except sections 141, 142, 143, and 148 to 165.
	XII.—*Inverness.*	
10 & 11 Vict. c. ccviii.	The Inverness Burgh Act, 1847.	Sections 1, 39, 133, 134, 142, 143, 149, 150, and Schedule A.
	XIII.—*Irvine.*	
44 & 45 Vict. c. lxxi. -	The Irvine Burgh Act, 1881.	The whole Act.
	XIV.—*Kilmarnock.*	
10 & 11 Vict. c. ccvii. -	An Act for amending the Acts relating to the Police and Improvement of the Burgh of Kilmarnock, and for other purposes in relation thereto.	Section 131, in so far as it relates to the application of the fines, penalties, and forfeitures.
34 & 35 Vict. c. lxxi. -	The Kilmarnock Municipal Extension and Improvement Act, 1871.	The whole Act, except sections 4, 28, 40, 42, 43, 48 to 84, 152, 153, 180, 188, 222, 223, 225 to 227, the Second Schedule, the Fifth Schedule.
	XV.—*Kirkcaldy.*	
39 & 40 Vict. c. clxxix.	The Kirkcaldy Burgh and Harbour Act, 1876.	The whole Act, except sections 134 to 137.

Session and Chapter.	Title or Short Title.	Portions of Acts saved, Sections numbered inclusively.
	XVI.—*Leith.*	
11 & 12 Vict. c. cxxiii.	The Leith Municipal and Police Act, 1848.	Sections 1, 3, 4, and 5, 16, 17; 70 (as regards Lochend Loch), 262, 271.
40 & 41 Vict. c. cc. -	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Leith) Act, 1877.	Section 1, and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 21 of the Order thereby confirmed, and the Schedule to the Order.
	XVII.—*Lerwick.*	
39 & 40 Vict. c. clxiii.-	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Lerwick) Act, 1876.	Section 1, and sections 7, 8, and 9 of the Order thereby confirmed.
	XVIII.—*Oban.*	
44 & 45 Vict. c. clxxviii.	The Oban Burgh Act, 1881.	The whole Act.
	XIX.—*Paisley.*	
40 & 41 Vict. c. cxlix. -	The Paisley Improvement Act, 1877.	The whole Act.
38 & 39 Vict. c. clxxi. -	The General Police and Improvement (Scotland) Act, 1862, Orders Confirmation Act, 1875.	The whole Act.
39 & 40 Vict. c. clvii. -	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Paisley) Act, 1876.	The whole Act.
41 & 42 Vict. c. ciii. -	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Paisley) Act, 1878.	The whole Act.
42 Vict. c. iii. -	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Paisley) Act, 1879.	The whole Act.

Session and Chapter.	Title or Short Title.	Portions of Acts saved, Sections numbered inclusively.
	XX.—*Perth.*	
19 & 20 Vict. c. cxxxviii.	An Act to provide for the arrangement of the financial affairs of the City of Perth, for the maintenance of the Port and Harbour, and for other purposes therewith connected.	The whole Act and the Schedules.
28 Vict. c. vii. - -	The General Police and Improvement (Scotland) Supplemental Act, 1865.	The whole Act, and also the Provisional Order contained in the Schedule, excepting sections 2 to 7 of the Provisional Order.
31 Vict. c. xi. - -	An Act to confirm certain Provisional Orders under the General Police and Improvement (Scotland) Act, 1862, relating to the Burghs of Perth and Brechin.	The whole Act and the Schedule, so far as they relate to the Burgh of Perth.
33 & 34 Vict. c. cxv. -	The General Police and Improvement (Scotland) Supplemental Act, 1870.	The whole Act and the Schedule, so far as they relate to the Burgh of Perth.
39 & 40 Vict. c. clviii. -	The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Perth) Act, 1876.	The whole Act and the Schedule.
	XXI.—*Port Glasgow.*	
28 & 29 Vict. c. ccliv. -	The Port Glasgow Police Act, 1865.	The whole Act and Schedule, except sections 7 and 48 of the Act.
	XXII.—*Renfrew.*	
18 Vict. c. lxxii. -	The Renfrew Police and Improvement Act, 1855.	Sections 1 to 5. Interpretation clause of section 6, sections 7, 8, 11, 12, 16, 17, 18, 22, 23, 28 to 42.
	XXIII.—*Rothesay.*	
9 & 10 Vict. c. ccxcix. -	Rothesay Police Act -	Section 12.

SCHEDULE IV.

Section 177.

RULES FOR NEW BUILDINGS.

Excavations.

(1.) The site of the intended building shall be dug out to such depth as shall be necessary, in the opinion of the Commissioners, for the removal therefrom of soil or refuse; and it shall not be lawful for any person to build upon any site until such soil or refuse is so removed.

(2.) The walls of every new building to be used as a dwelling-house shall have a damp course of durable material, impervious to moisture; the damp course for external walls to be at the level of the ground directly abutting upon the external wall, or at such other level as the Commissioners shall order. Party walls to have the damp course at a level of not less than the under side of the joisting of the lowest floor; and where in the judgment of the Commissioners the nature of the soil or subsoil requires it, the whole internal area of the site shall be covered with a layer of asphalte, cement, concrete, or suitable material to their satisfaction.

(3.) The outer walls and the party walls or separate side or end walls, and the joisting and principal timber and ironwork, shall be of sufficient strength and stability.

(4.) There shall be to the satisfaction of the Commissioners sufficient ashpit and watercloset or privy accommodation in connexion with the building.

(5.) The plan of the building shall not contemplate the raising or lowering of any article from windows or openings towards any public streets by hoists or other appliances outside the building line.

Walls and gables to be built solid.

(6.) All party walls and gables shall be built solid, except at vents, fireplaces, presses, and where the Commissioners may allow them to be built otherwise.

Party walls to be carried through roof, &c.

(7.) All external walls, party walls, passage walls, partition walls dividing separate houses, staircases, stairs, and landings shall be constructed with incombustible materials, and all party walls shall be carried through and above the roof to form a parapet. The parapet to be finished on top with a cope, and the height of parapet to be not less than twelve inches, measured at right angles with the slope of the roof, above the covering of the roof of the highest building to which such party wall belongs.

Wall strapping.

(8.) All walls of dwelling-houses shall be so constructed as to prevent damp.

Lime mortar.

(9.) The mortar to be used in the construction of new or altered buildings shall be composed of fresh burnt lime and clean sharp pit sand, grit or ground bricks, or freestone shivers, without earthy matter, and no sea or ballast sand shall be used.

Joists to be bridled.

(10.) The joists under every hearth shall be bridled, and, where practicable, the hearth shall be supported by a brick arch or concrete under its whole area, or to be otherwise constructed or supported as the Commissioners may direct. Every fireplace shall have jambs and lintels or arches of incombustible material projecting at least to the flush of the plaster work. No timber, joist, beam, or safety lintel shall be inserted into a wall nearer to the fireplace or vents, where practicable, than twelve inches.

Buildings to have gutters and spouts.

(11.) Every building shall have rhones, gutters, or spouts along the eaves thereof, with down spouts and perforated gratings, to carry all water falling on the roof thereon to the drains.

Chimney heads to be stayed.

(12.) No part of a built chimney or flue must be less than 9″ × 9″, and no part of a wall on the outside or house side of the chimney to be of less thickness than nine inches. Every chimney head shall have a stone cope,

into which chimney cans can with safety be inserted, and such chimney cans shall be sufficiently guarded.

Floors to be deafened.

(13.) The floors between each flat of a tenement shall be deafened.

Plaster work.

(14.) All apartments in every dwelling-house shall be plastered with three coats plaster.

Plumber work.

(15.) All plumber work connected with sanitary arrangements and house drains shall be ventilated, trapped, and otherwise constructed and tested to the satisfaction of the Commissioners.

Filling up at ground floors.

(16.) In ground floors where the space from surface has to be filled up to level of floors, the same shall be filled up, subject always to sufficient space being left for ventilation, with dry stone shivers or such other materials as the Commissioners may appoint.

Passages and courts, &c. to be paved.

(17.) All private courts, common passages, and common areas (other than bleaching greens) shall be paved with natural or artificial stone, or such other material as the Commissioners shall approve, and be provided with proper and sufficient means for taking off the surface water.

Roofs not to be covered with combustible materials.

(18.) No external covering of any roof shall be constructed of combustible materials; and it shall not be lawful for the owner of any building having, at the date when this Act comes into operation, a roof covered with thatch, or other combustible material, and contiguous to or adjoining to any other building, to suffer such covering to such roof to remain for a longer period than seven years thereafter, unless with the consent in writing of the Commissioners. And every person who shall suffer the covering of any roof to continue, contrary to the provisions herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the Commissioners, shall be liable to a penalty not exceeding one pound for every day that such building or covering to such roof shall so continue.

Any person failing to comply with any of these conditions in a good and sufficient manner shall be guilty of an offence, and be liable for each offence to a penalty not exceeding five pounds.

Section 271.

SCHEDULE V.

REGULATIONS FOR HACKNEY CARRIAGES.

What to be hackney carriages.

(1.) Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street, within the prescribed distance, and every carriage standing upon such street within such prescribed distance, having thereon any numbered plate required by this Act to be fixed upon a hackney carriage, or any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of the Act; and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe any such carriage; but no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed, shall be deemed to be a hackney carriage.

Provisions applicable to licences for hackney carriages.

(2.) The following provisions shall apply to a licence for hackney carriages:—

(*a.*) A requisition for the licence shall be made to the magistrates in such form and containing such particulars as they may prescribe, and shall be signed by the proprietor or one of the proprietors of the carriage for which the licence is sought.

(*b.*) Any person who makes a false statement in such requisition shall be liable to a penalty not exceeding ten pounds.

(*c.*) The licence shall specify the name and place of abode of every person who is proprietor or part proprietor, or who is concerned in letting the

hackney carriage (and such persons are herein-after referred to as the licensee), and shall specify the number to be marked on the plates of the carriage, and any other particulars which the magistrates may think fit.

(*d.*) The licence shall be confined to one carriage, shall be made out by the clerk, signed by one of the magistrates, and a fee not exceeding five shillings shall be paid therefor.

(*e.*) The licence shall be entered in a book kept by the clerk and open to public inspection without fee, and in such book shall be made entries of any offence committed by the licensee, or the driver, or person attending the carriage.

(*f.*) The licence shall be in force for one year or until the next licensing day (if any).

(*g.*) Any licensee who changes his place of abode shall within seven days thereafter give notice thereof to the magistrates, and shall produce his licence to the clerk, who shall endorse thereon the particulars of the change. For any failure to comply with this enactment the licensee shall be liable to a penalty not exceeding forty shillings.

(*h.*) Any person plying within the prescribed distance any hackney carriage for hire without a licence or without having the number of the carriage corresponding with the number of the licence therefor displayed on the carriage, or the owner of the carriage employing such person, shall for every such offence be liable in a penalty not exceeding forty shillings.

Provisions as to drivers' licences.

(3.) The following provisions shall apply to any driver of a hackney carriage within the prescribed distance:

(*a.*) He shall not act as driver without first obtaining a licence from the magistrates, and which shall remain in force till revoked, except during the time it may be suspended.

(*b.*) The licence shall be registered by the clerk and a fee of one shilling paid for the same.

(*c.*) If any person shall act as such driver without a licence or during the time his licence is suspended, or shall lend or part with his licence except to the licensee of the hackney carriage, or if the licensee of a hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as herein-after provided, every such driver and every such licensee shall for every such offence respectively be liable to a penalty not exceeding twenty shillings.

Licensee to retain licence of drivers when in his employ, and to produce the same when summoned.

Magistrates may endorse convictions upon licence.

Penalty on licensee for neglect.

(4.) In every case in which the licensee of any hackney carriage permits or employs any licensed person to act as the driver thereof, such licensee shall cause to be delivered to him, and shall retain in his possession, the licence of such driver while such driver remains in his employ; and in all cases of complaint, where the licensee of a hackney carriage is summoned to attend before a magistrate, or to produce the driver, the licensee so summoned shall also produce the licence of such driver, if he be then in his employ; and if any driver complained of be judged guilty of the offence alleged against him, such magistrate shall make an endorsement upon the licence of such driver, stating the nature of the offence and the amount of the penalty inflicted; and if any such licensee neglect to have delivered to him and to retain in his possession the licence of any driver while such driver remains in his employ, or if he refuse or neglect to produce such licence as aforesaid, such licensee shall for every such offence be liable to a penalty not exceeding forty shillings.

Licensee to return licence to drivers

(5.) When any driver leaves the service of the licensee by whom he is employed without having been guilty of any misconduct, such licensee shall forthwith return to such driver the licence belonging to him; but if such

when quitting his service if they behave well, if otherwise licensee to summon them.

driver have been guilty of any misconduct, the licensee shall not return his licence, but shall give him notice of the complaint which he intends to prefer against him, and shall forthwith cause such driver to be summoned to appear before a magistrate to answer the said complaint; and such magistrate, having the necessary parties before him, shall inquire into and determine the matter of complaint; and if upon inquiry it appear that the licence of such driver has been improperly withheld, such magistrate shall direct the immediate re-delivery of such licence and award such sum of money as he thinks proper to be paid by such licensee to such driver by way of compensation, and the payment of which may be enforced as a penalty.

Compensation in case of licence being improperly withheld.

Licences to be suspended or revoked for misconduct.

(6.) The magistrates may upon the conviction for the second time of the licensee or driver of any hackney carriage for any offence under the provisions of this Act with respect to hackney carriages, or of any byelaw made in pursuance thereof, suspend or revoke, as they deem right, the licence of any such licensee or driver.

Number of persons to be carried in a hackney carriage to be painted thereon.

(7.) No hackney carriage shall be used or employed, or let for hire, or shall stand or ply for hire, within such prescribed distance, unless the number of persons to be carried by such hackney carriage, in words at length, and in form following (that is to say)—"To carry persons," be painted on a plate placed on some conspicuous place on the outside of such carriage, and in legible letters, so as to be clearly distinguishable from the colour of the ground whereon the same are painted, one inch in length, and of a proportionate breadth; and the driver of any hackney carriage shall not be entitled to carry in or by such hackney carriage a greater number of persons than the number painted thereon.

Penalty for neglect or for refusal to carry the prescribed number.

(8.) If the licensee of any hackney carriage permit the same to be used, employed, or let to hire, or if any person stand or ply for hire with such carriage, without having the number of persons to be carried thereby painted and exhibited in manner aforesaid, or if the driver of any hackney carriage or omnibus shall carry a greater number of persons in or by such hackney carriage or omnibus than the number of persons painted thereon, or shall refuse, when required by the hirer thereof, to carry in or by such hackney carriage the number of persons painted thereon, or any less number, every licensee or driver so offending shall be liable to a penalty not exceeding forty shillings.

Penalty on driver for refusing to drive.

(9.) Any driver of a hackney carriage standing on any of the stands for hackney carriages appointed by the magistrates, or in any street, public or private, who refuses or neglects, without reasonable excuse, to drive such carriage to any place within such prescribed distance, or any distance to be appointed by any byelaw of the magistrates, not exceeding such prescribed distance, to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty for demanding more than the sum agreed for, though less than the legal fare.

(10.) If the licensee or driver of any hackney carriage, or any other person on his behalf, agree beforehand with any person hiring such hackney carriage to take for any job a sum less than the fare allowed by this Act or by any byelaw made thereunder, such licensee or driver shall be liable to a penalty not exceeding forty shillings if he exact or demand for such job more than the fare so agreed upon.

Agreement to pay more than the legal fare not to be binding, and sum paid beyond the proper fare may be recovered back.

(11.) No agreement whatever made with the driver, or with any person having or pretending to have the care of any hackney carriage, for the payment of more than the fare allowed by any byelaw made under this Act, shall be binding on the person making the same, and any person may notwithstanding such agreement refuse, on discharging such hackney carriage, to pay any sum beyond the fare allowed as aforesaid; and if any person actually pay to the driver of any hackney carriage, whether in pursuance

of any such agreement or otherwise, any sum exceeding the fare to which such driver was entitled, the person paying the same shall be entitled, on complaint made against such driver before a magistrate, to recover the sum paid beyond the proper fare, and, moreover, such driver shall be liable to a penalty for such exaction not exceeding the sum of forty shillings; and in default of the repayment by such driver of such excess of fare, or of payment of the said penalty, the magistrate shall forthwith commit such driver to prison, there to remain for any time not exceeding one month, unless the said excess of fare and the said penalty be sooner paid.

Driver to carry, under an agreement for a discretionary distance, the distance to which hirer is entitled for the fare.

(12.) If the licensee or driver of any hackney carriage, or any other person on his behalf, agree with any person to carry in or by such hackney carriage persons not exceeding in number the number so painted on such carriages as aforesaid for a distance to be at the discretion of such licensee or driver, and for a sum agreed upon, such licensee or driver shall be liable to a penalty not exceeding forty shillings if the distance which he carries such persons be under that to which they were entitled to be carried for the sum so agreed upon, according to the fare allowed by any byelaw made under this Act.

Overcharge by hackney coachman, &c., to be included in conviction, and returned to aggrieved party.

(13.) Every licensee or driver of any hackney carriage who is convicted of demanding or taking as a fare a greater sum than is authorised by any byelaw made under this Act shall be liable to a penalty not exceeding forty shillings; and on the conviction of such licensee or driver an order may be included for payment of the sum so overcharged, if paid, over and above the penalty of costs, and such overcharge shall be returned to the party aggrieved, whose evidence shall be admissible in proof of such offence.

Penalty for permitting persons to ride without consent of the hirer.

(14.) Any licensee or driver of any hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding twenty shillings.

No person to act as driver of any carriage without the consent of the licensee.

(15.) No person authorised by the licensee of any hackney carriage to act as driver of such carriage shall suffer any other person to act as driver of such carriage without the consent of the licensee thereof, and no person, whether licensed or not, shall act as driver of any such carriage without the consent of the licensee; and any person so suffering another person to act as driver, and any person so acting as driver, without such consent as aforesaid, shall be liable to a penalty not exceeding forty shillings for every such offence.

Penalty on drivers misbehaving.

(16.) If the driver or any other person having or pretending to have the care of any hackney carriage be intoxicated while driving, or if any such driver, or other person, by wanton and furious driving, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property, he shall be liable to a penalty not exceeding five pounds.

Penalty for leaving carriages unattended at places of public resort

(17.) If the driver of any hackney carriage leave it in any street or at any place of public resort or entertainment, whether it be hired or not, without some one proper to take care of it, any constable may drive away such hackney carriage, and deposit it, and the horse or horses harnessed thereto, at some neighbouring livery stable or some other place of safe custody; and such driver shall be liable to a penalty not exceeding twenty shillings for such offence; and in default of payment of the said penalty upon conviction, and of the expenses of taking and keeping the said hackney carriage and horse or horses, the same together with the harness belonging thereto, or any of them, shall be sold by order of the magistrates before whom such conviction is made; and after deducting from the produce of such sale the amount of the said penalty, and of all costs and expenses, as well of the proceedings before such magistrate as of the taking, keeping, and sale of such hackney carriage, and of such horse or horses

and harness, the surplus (if any) of the said produce shall be paid to the proprietor of such hackney carriage.

Damage done by drivers may be recovered from the licensee.

(18.) In every case in which any hurt or damage has been caused to any person or property as aforesaid by the driver of any carriage let for hire, the magistrate before whom such driver has been convicted may direct that the licensee of such carriage shall pay such sum, not exceeding five pounds, as appears to such magistrate a reasonable compensation for such hurt or damage; and every licensee who pays any such compensation as aforesaid may recover the same from the driver; and such compensation shall be recoverable from such licensee, and by him from such driver, as damages; but this provision shall not prevent the injured party suing for damages without restriction as to amount before any competent court.

Improperly standing with carriage, refusing to give way to or obstructing any other driver, or depriving him of his fare.

(19.) Any driver of any hackney carriage who suffers the same to stand for hire across any street or alongside of any other hackney carriage, or who refuses to give way, if he conveniently can, to any other carriage, or who obstructs or hinders the driver of any other carriage in taking up or setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding twenty shillings.

Compensation may be awarded to drivers for loss of time in attending to answer complaints not substantiated.

(20.) If the driver of any hackney carriage be summoned or brought before any magistrate to answer any complaint made on information given by any private person touching or concerning any offence alleged to have been committed by such driver against the provisions of this Act or of any byelaw made under this Act, and such complaint or information be afterwards dismissed, or if such driver be acquitted of the offence charged against him, such magistrate, if he think fit, may order the informer to pay to such driver such compensation for his loss of time in attending such magistrate touching or concerning such complaint or information as to such magistrate seems reasonable; and in default of payment of such compensation such magistrate may commit such informer to prison for any time not exceeding one month, unless the same shall be sooner paid.

Penalty for refusing to pay the fare.

(21.) If any person refuse to pay, on demand, to any licensee or driver of any hackney carriage the fare allowed by any byelaw made under this Act, such fare may, together with costs, be recovered before any magistrate as a penalty.

Penalty for damaging carriage.

(22.) Any person using any hackney carriage plying under a licence granted by virtue of this Act, who wilfully injures the same, shall for every such offence be liable to a penalty not exceeding five pounds, and shall also pay to the licensee of such hackney carriage reasonable satisfaction for the damage sustained by the same; and such satisfaction shall be ascertained by the magistrate before whom the conviction takes place, and shall be recovered by the same means as the penalty.

Magistrates may make byelaws for regulating hackney carriages.

(23.) The magistrates may from time to time (subject to the restrictions of this Act) make byelaws for all or any of the purposes following; that is to say,

For regulating the conduct of the licensees and drivers of hackney carriages plying within such prescribed distance in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the days and hours within which they may exercise their calling:

For regulating the manner in which the number of each carriage corresponding with the number of its licence shall be displayed:

For regulating the number of persons to be carried by hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and

the placing of check strings to the carriages, and the holding of the same by the driver, and how hackney carriages are to be furnished or provided:

For fixing the stand of hackney carriages, and the distance to which they may be compelled to take passengers, not exceeding such prescribed distance:

For fixing the rates or fares, as well for time as distance, and for securing the due publication of such fares:

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

(24.) The magistrate may suspend or revoke any licence granted to the licensee or driver of a hackney carriage on such licensee or driver being convicted of any offence, in addition to or in lieu of the penalty applicable to such offence.

SCHEDULE VI.

Section 367.

*Name of Burgh*_____

GENERAL SEWER RATE [*or* SPECIAL SEWER RATE and PRIVATE IMPROVEMENT EXPENSE ASSESSMENT, *as the case may be*].

Description of Subjects.	Name of Owner.	Name of Occupier.	Rental.	Rate or Private Improvement Expense due and chargeable at						
				15 May 18 .	15 May 18 .	15 May 18 .	15 May 18 .	15 May 18 .	15 May 18 .	15 May 18 .
General Sewer Rate -										
Special Sewer Rate -										
Private Improvement -										

*Date*_____ *A.B.*, Collector.

SCHEDULE VII.

Section 510.

FORMS OF PROCEDURE.

I.

FORM OF COMPLAINT FOR STATUTORY CONTRAVENTIONS, OFFENCES, &c.

Unto the magistrates of the burgh of [ ].

The complaint of [ ] burgh prosecutor [*or other party entitled to prosecute with or without his concurrence*].

HUMBLY SHEWETH,

That [*name and designation of accused*] did on [*here give date*] at (or in) [*here name place and state act done*] contrary to the Act section whereby the accused is liable [*state shortly the nature of the forfeiture or penalty*].

May it therefore please your honours to grant warrant to officers of law to apprehend and bring the said accused [*or* to summon the said accused to appear personally] before the magistrate

officiating in the police court of the said burgh [*in using this or any of the succeeding forms, if there are more than one police court in the burgh state the particular court*] to answer to this complaint; to cite witnesses for both parties; to convict the accused of the aforesaid contravention [*or* offence]; and to adjudge said accused to suffer the penalties provided by the said Act.

According to justice, &c.,

_____ B.P.

II.

FORM OF COMPLAINT FOR AN OFFENCE AT COMMON LAW.

Unto the magistrates of the burgh of [ ].

The complaint of [ ], burgh prosecutor [*or other party entitled to prosecute with his concurrence*].

HUMBLY SHEWETH,

That [*name and designation of accused*] did on the [*here give date*] at (or in) [*here state the act*].

May it therefore please your honours to grant warrant to officers of law to apprehend and bring the said accused [*or* to summon the said accused to appear personally] before the magistrate officiating in the police court of the said burgh to answer to this complaint; to cite witnesses for both parties; to convict the said accused of the aforesaid crime; and to adjudge said accused to suffer the pains of law.

According to justice, &c.,

_____ B.P.

NOTE.—*If a search warrant be required the craving therefor may be included in the prayer of either of the preceding two forms and may be in the following terms:—*

Further, to grant warrant to search the person, dwelling-house, and repositories of the said accused, and place in which the accused may be found, and to take into custody the property mentioned or referred to in the complaint, and all documents, articles, or property of whatever kind likely to afford evidence of the accused's guilt in the premises; and if necessary for that purpose to open all shut and lockfast places.

[*And such warrant may also be subsequently applied for by writing on the original complaint "Warrant of search is craved," which will be sufficient for the magistrate to grant the warrant in the above terms.*]

WARRANT FOR APPREHENSION OF AN ACCUSED PARTY.

[*Place and date.*] Grants warrant to officers of law to search for and apprehend the said [*name of accused*] and if necessary for that purpose to open all shut or lockfast places, and to bring said accused before the magistrates officiating in the police court of the burgh of [ ] to answer to the foregoing complaint; and in the meantime, if necessary, to detain said accused in a police station-house or other convenient place; and also to cite witnesses and havers for both parties for all diets in the cause.

_____ Magistrate.

WARRANT TO SUMMON AN ACCUSED PARTY AND WITNESSES.

[*Place and date.*] Grants warrant to officers of law to summon the said [*name of accused*] to appear personally before the magistrate officiating in the police court of the burgh of [ ] upon the day of at o'clock [ ] to answer to the foregoing complaint, and to cite witnesses and havers for both parties for all diets in the cause.

_____ Magistrate.

WARRANT TO APPREHEND AND SEARCH.

[*Place and date.*] Grants warrant to officers of law to apprehend and bring the said [*name of accused*] before the magistrate officiating in the police court of the burgh of [ ] to answer to the foregoing complaint; and if necessary in the meantime to detain the accused in a police station-house or other convenient place, also to cite witnesses and havers for both parties for all diets in the cause: and to search and secure, and for that purpose to open all shut and lockfast places, all as craved.

_____ Magistrate.

SUMMONS TO AN ACCUSED PARTY.

To [*name and designation of accused*].

You are hereby summoned to appear personally before the magistrate officiating in the police court of the burgh of [ ] upon the day of at o'clock to answer to a complaint at the instance of the burgh prosecutor [*or other party entitled to prosecute with or without his concurrence*] charging you with [*state the nature of the crime, contravention, or offence, as in principal complaint*].

This summons served by me on the day of 18 .

_____ Constable.

[*A note in the following terms to be subjoined to all summonses.*]

If the accused desires to have witnesses cited for the defence, every reasonable assistance for citing such witnesses will be given on application at the police office.

All accused persons failing to appear in answer to a summons without lawful excuse are liable to be apprehended.

CITATION TO A WITNESS OR HAVER.

To [*name and designation*].

You are hereby cited to appear before the magistrate officiating in the police court of the burgh of [ ] upon the day of at o'clock, to give evidence for the prosecution [*or* defence] in the complaint at the instance of the burgh prosecutor [*or other party entitled to prosecute with or without his concurrence*] against [*name and designation of accused*], and you are required to produce [*state what the haver is to produce*].

This citation served by me on the day of

_____ Constable.

[*Note to be subjoined to all citations.*]

Witnesses or havers failing to attend the court, without lawful excuse, are liable to be apprehended.

CONSTABLE'S EXECUTION OF SUMMONS OF AN ACCUSED PERSON.

I, a constable or officer of police of the burgh of [ ], upon the day of lawfully summoned [*name and designation of accused as in complaint*] to appear before the magistrate officiating in the police court of the burgh of [ ] on the day of at o'clock, to answer to a complaint at the instance of the burgh prosecutor [*or other party entitled to prosecute with or without his concurrence*], charging him with [*state name by which crime, offence, or contravention known, such as "Theft," "Assault," "Breach of the public peace," &c.*]

This I did by delivering a summons to that effect [*state how served upon accused, whether personally, or left at dwelling-house, or how*].

_____ Constable.

CONSTABLE'S EXECUTION OF CITATION OF A WITNESS OR HAVER.

I, a constable or officer of police of the burgh of [ ], upon the day of lawfully cited [*name and designation of witness or haver*] to appear before the magistrate officiating in the police court of the burgh of [ ] on the day of at o'clock to give evidence for the prosecution [*or* defence] in the complaint at the instance of the burgh prosecutor [*or other party entitled to prosecute with or without his concurrence*] against [*name and designation of accused*].

This I did by delivering a citation to that effect [*state how served, whether personally, or left at dwelling-house, or how*].

_____ Constable.

WARRANT TO APPREHEND AN ACCUSED PARTY IN RESPECT OF FAILURE TO OBEY SUMMONS.

[*Place and date.*] The magistrate, in respect the said [*name of accused*] has failed to appear to answer to the foregoing complaint, after having been duly summoned to this diet, grants warrant to officers of law to search for and apprehend the said accused; and, if necessary for that purpose, to open all shut and lockfast places, and to bring said accused before the magistrate officiating in the police court of the burgh of [ ], to answer thereto; and to detain said accused in a police station-house or other convenient place until brought before the said magistrate; and also, if necessary, to cite witnesses and havers of new.

_____ Magistrate.

WARRANT TO APPREHEND A WITNESS IN RESPECT OF FAILURE TO OBEY CITATION; ADJOURNMENT OF DIET; AND DETENTION OF ACCUSED.

[*Place and date.*] The magistrate, in respect [*name and designation*], witness in the cause, has failed to appear after having been duly cited, adjourns the diet till the day of at o'clock, and orders the accused to be detained in the police cells or in the prison of [ ] till that time [or until sufficient security to the amount or value of £ be found for his appearance at all diets of court]; and grants warrant to officers of law to

search for and apprehend the said witness; and, if necessary for that purpose, to open all shut and lockfast places, and to detain said witness in the said cells [*or* in said prison] until the hearing of the cause, unless sufficient security be found for appearance at all diets of court, to the amount or value of [ ].

_____ Magistrate.

FORFEITURE OF PLEDGE IN RESPECT OF FAILURE TO APPEAR.

[*Place and date.*] The magistrate, in respect of the failure of the accused to appear, declares a pledge of [*amount or description of pledge*] deposited as security for appearance at this diet to be forfeited; and appoints the same to be applied in terms of the statute.

_____ Magistrate.

FORFEITURE OF PLEDGE IN RESPECT OF FAILURE TO APPEAR; AND WARRANT TO APPREHEND.

[*Place and date.*] The magistrate in respect of the failure of the accused to appear, declares a pledge of [*amount or description of pledge*] to be forfeited; appoints the same to be applied in terms of the statute; and, on the motion of the complainer, grants warrant to officers of law to search for and apprehend the said accused; and, if necessary for that purpose, to open all shut and lockfast places, and to bring said accused before the magistrate officiating in the police court of the burgh of [ ] to answer to the foregoing complaint; and to detain the accused in the police cells [*or* in the prison of] in the meantime.

_____ Magistrate.

ADJOURNMENT OF DIET.

[*Place and date.*] The magistrate adjourns the diet till at o'clock noon; and ordains the accused and witnesses to appear personally at that time.

_____ Magistrate.

ADJOURNMENT OF DIET AND WARRANT TO DETAIN ACCUSED.

[*Place and date.*] The magistrate adjourns the diet till at o'clock ; and grants warrant to detain the accused in the police cells [*or* in the prison of] until that time; and also, if necessary, to cite witnesses of new.

_____ Magistrate.

ADJOURNMENT OF DIET, AND WARRANT TO DETAIN ACCUSED FAILING SECURITY FOR APPEARANCE BEING FOUND.

[*Place and date.*] The magistrate adjourns the diet till at o'clock ; and grants warrant to detain the accused in the police cells [*or* in the prison of] until that time, or until sufficient security to the amount or value of sterling be found for his appearance at all diets of court.

_____ Magistrate.

FORM OF PROCEDURE AT HEARING.

[*Place and date.*] In presence of *A.B.*, *one* of the magistrates of the burgh of [ ], appeared the said [*name of accused*], and the charge being read over he pleads [not] guilty [*or* appeared *C.D.* for the accused and on his behalf pleads [not] guilty], *or* [*Place and date.* The accused having failed to appear, although duly cited, the magistrate proceeded to try the case in his absence]. (Where witnesses are examined add) Whereupon the following witnesses were examined in support of the complaint, viz.: and the following witnesses were examined in exculpation, viz.:

FORM OF CONVICTION, FINE, AND FAILING PAYMENT, IMPRISONMENT.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or] evidence adduced, finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*], and therefore fines and amerciates said accused in the sum of [*amount*] payable to [ ], and in default of immediate payment thereof, sentences and adjudges the said accused to be imprisoned for the space of [ ] from this date [with hard labour], unless said fine be sooner paid, and thereafter to be set at liberty; and for that purpose grants warrant to officers of law to convey the said accused to the prison of [ ] thereafter to be dealt with in due course of law.
[ ] words deleted.

_____ Magistrate.

CONVICTION.

IMPRISONMENT.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or] evidence adduced, finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*], and therefore sentences and adjudges said accused to be imprisoned for the space of [ ] from this date [with hard labour], and thereafter to be set at liberty; and for that purpose grants warrant to officers of law to convey said accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

TO FIND CAUTION FOR GOOD BEHAVIOUR.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or evidence adduced], finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*], and therefore ordains said accused to find sufficient caution acted in the books of court for good behaviour for the period of [ ] months from this date, and in default of said caution being immediately found, sentences and adjudges said accused to be imprisoned for the space of from this date unless said caution shall be sooner found; and for that purpose grants warrant to officers of law to convey said accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

FINE OR IMPRISONMENT AND TO FIND CAUTION FOR GOOD BEHAVIOUR OR FURTHER IMPRISONMENT.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or evidence adduced], finds the said accused guilty of the crime [contravention or offence] charged [*or state to what extent accused*

found guilty], and therefore fines and amerciates the said accused in the sum of [ ] payable to [ ], and in default of immediate payment thereof, sentences and adjudges said accused to be imprisoned for the space of [ ] from this date [with hard labour], unless said fine shall be sooner paid. Further ordains the accused to find sufficient caution acted in the books of court for good behaviour for the period of months from and after the date of payment of said fine or of the expiration of said period of imprisonment, under a penalty of [ ]; and in default of said caution being found, sentences and adjudges said accused to be imprisoned for the further space of [ ] from the date of the payment of said fine or the expiration of the term of imprisonment for non-payment thereof; and for these purposes grants warrant to officers of law to convey the said accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

IMPRISONMENT, AND TO FIND CAUTION FOR GOOD BEHAVIOUR.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or evidence adduced], finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*], and therefore sentences and adjudges the said accused to be imprisoned for the space of [ ] from this date [with hard labour]. Further ordains the accused to find sufficient caution acted in the books of court for good behaviour for the period of [ ] months from and after the date of the expiration of said term of imprisonment, under penalty of [ ]; and in default of said caution being found sentences and adjudges said accused to be imprisoned for the further space of [ ], unless said caution shall be sooner found, and for these purposes grants warrant to officers of law to convey said accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

SENTENCE OF WHIPPING.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or evidence adduced], finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*]; also that in his opinion the said accused does not exceed fourteen years of age, therefore sentences and adjudges said accused to suffer the punishment of private whipping according to the regulations applicable thereto, and that to the number of [ ] stripes, and ordains the accused to be conveyed to the prison of [ ], there to undergo said punishment; but if it shall be the opinion of the surgeon of said prison that the said accused is unfit to endure the punishment of whipping, then and in that event [*state terms of alternative, whether imprisonment, or imprisonment with the option of a fine in the appropriate form*].

_____ Magistrate.

FORM WHEN COMPLAINT FOUND NOT PROVED.

[*Place and date.*] The magistrate, having heard the cause, finds the complaint not proved, and discharges the accused accordingly.

_____ Magistrate.

DESERTION OF DIET.

[*Place and date.*] The magistrate, on the motion of the burgh prosecutor, deserts the diet *pro loco et tempore*.

_____ Magistrate.

REMIT TO SHERIFF OR MAGISTRATE OF ANOTHER BURGH.

[*Place and date.*] The magistrate remits this case to the sheriff of [ ] and grants warrant to officers of law to convey the accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

Note.—If the remit is made to the magistrates of another burgh, it will be so stated.

BOND OF CAUTION FOR THE APPEARANCE OF AN ACCUSED PARTY.

I, [*name and designation of cautioner,*] do hereby judicially enact, and bind and oblige myself as cautioner and surety, that [*name and designation of accused party*] shall appear personally before the magistrate officiating in the police court of the burgh of , on the day of at o'clock, in the hour of cause, or at any other diet to which the cause may be adjourned, and answer to a complaint at the instance of the burgh prosecutor [*or other party entitled to prosecute with his concurrence*], and that under a penalty of [ ] to be paid by me in case of failure, and to be recovered in the manner prescribed by the "Burgh Police (Scotland) Act, 1892."

In witness whereof, &c.

_____ *Cautioner.*

_____ Witness.

_____ Witness.

BOND OF CAUTION FOR GOOD BEHAVIOUR.

I, [*name and designation of cautioner,*] in terms of a sentence pronounced by one of the magistrates of the burgh of [ ] on the day of do hereby judicially enact, and bind and oblige myself as cautioner and surety for the good behaviour of [*name, &c. of accused, as in complaint*], for the period of months from the day of , and that under the penalty of to be paid in the event of contravention, and recovered in the manner prescribed by the "Burgh Police (Scotland) Act, 1892."

In witness whereof, &c.

_____ *Cautioner.*

_____ Witness.

_____ Witness.

FORFEITURE OF A BOND OF CAUTION IN RESPECT OF CONTRAVENTION AND WARRANT TO CHARGE AND IMPRISON CAUTIONER, FAILING PAYMENT OF THE PENALTY.

[*Place and date.*] The magistrate, in respect of the judicial confession above recorded [or evidence adduced], finds the accused guilty of the crime [contravention or offence] charged [*or state to what extent accused found guilty*], and therefore [*insert sentence of court*]: Further, declares a bond of caution dated granted for the good behaviour of the accused under a penalty of forfeited; appoints the penalty to be applied in terms of the statute; and orders the cautioner in said bond to be charged, to make payment to [ ] of the penalty therein contained within six days after such charge; and in default of payment thereof within said period ordains the said cautioner to be imprisoned for the period of days from the date of incarceration, unless payment

of said penalty be sooner made, and thereafter to be set at liberty; and for that purpose grants warrant to officers of law to apprehend and convey the said cautioner to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Magistrate.

FORFEITURE OF BOND OF CAUTION, IN RESPECT OF NON-APPEARANCE, WARRANT TO CHARGE AND IMPRISON CAUTIONER FAILING PAYMENT OF THE PENALTY.

[*Place and date.*] The magistrate, in respect the accused has failed to appear to answer to the foregoing complaint, declares a bond of caution granted for the appearance of the accused at this diet under a penalty of forfeited, and appoints the said penalty to be applied in terms of the statute: Further orders [*name and designation of cautioner*] the cautioner in said bond to be charged to make payment to the clerk of court of said penalty within six days after such charge, and in default of payment thereof within said period, ordains the said cautioner to be imprisoned, &c. [*and so on as in preceding form*].

_____ Magistrate.

CHARGE TO A CAUTIONER TO MAKE PAYMENT OF A PENALTY IN A BOND FORFEITED IN RESPECT OF CONTRAVENTION OR FOR NON-APPEARANCE.

To [*name and designation of cautioner, as in bond*].

I, a constable or officer of the police court of the burgh of [ ], hereby charge you to make payment of the sum of [ ], being the penalty contained in a bond of caution enacted by you in the said court for the [good behaviour of] [*name and designation of accused, as in bond*] for the period of months from the day of] [*or* appearance personally before said court of [*name and designation of accused, as in bond*] [to answer to a complaint at the instance of the burgh prosecutor thereof] [*or other party entitled to prosecute with his concurrence*], which bond has been declared forfeited by the magistrate officiating in said court in respect of a conviction for an offence committed in contravention thereof [*or* in respect of the non-appearance of the accused to answer to said complaint], the said sum to be paid by you to [ ] within six days after the date of this my charge under pain of imprisonment for the period of days from the date of incarceration, unless said sum shall be sooner paid.

This charge served by me on the day of

_____ Constable.

CONSTABLE'S EXECUTION OF A CHARGE UPON A CAUTIONER.

I, a constable or officer of the police court of the burgh of [ ], upon the day of , lawfully charged [*name and designation of cautioner, as in charge*] to make payment to [ ] of the sum of , being the penalty contained in a bond of caution enacted for the good behaviour of [*or* for the appearance personally before the said police court to answer to a complaint at the instance of the burgh prosecutor [*or other party prosecuting with his concurrence*], which bond has been declared forfeited, and that within six days after the date of my said charge

under the pain of imprisonment for a period of from the date of incarceration.

This I did by delivering a charge to the effect aforesaid [*state how served, whether personally or left at dwelling-house, or how*].

_____ Constable.

Note.—Where the penalty forfeited is contained in an adjournment order, and due by the accused, the necessary alterations will be made on the foregoing forms.

PETITION TO MAGISTRATES FOR RESTORATION OF STOLEN, &C. GOODS.

Unto the magistrates of the burgh of [ ].

The petition of [*name, &c. of claimant*].

HUMBLY SHEWETH,

That [*state circumstances regarding the goods, &c.; and by whom claimed*]

May it therefore please your honours, after intimation to and hearing any parties interested, to order the property above described to be restored to the petitioner upon *viva voce* evidence being adduced to your satisfaction that such property was stolen [fraudulently obtained, or disposed of in breach of trust], and that the petitioner is the true owner or possessor thereof; or to do otherwise as to your honours may seem meet.

According to justice, &c.,

Petitioner,

or

_____ Agent for Petitioner.

EXTRACT OF CHARGE AND SENTENCE.

[*Place and date.*] [*Name and designation of accused*] having this day been brought before the magistrate officiating in the police court of the burgh of on the complaint of the burgh prosecutor charged with the crime of [ ] (*or*) [with a contravention of section of the Burgh Police (Scotland) Act, 1892,] (*or*) [with an offence within the meaning of section of the Burgh Police (Scotland) Act, 1892, *or other Act contravened*], and having been found guilty, the said magistrate [fined and amerciated the accused in the sum of and failing immediate payment thereof] sentenced and adjudged the said accused to be imprisoned for the space of [ ] from this date [unless said fine should be sooner paid, and granted warrant to officers of law to convey the said accused to the prison of [ ], thereafter to be dealt with in due course of law.

_____ Clerk.

GENERAL DIRECTIONS.

Where the accused is summoned or apprehended, or witnesses are cited by virtue of the Act, it shall not be necessary to pray for or grant warrants for these purposes.

Whoever may be the presiding judge in the police court, the name "magistrate" shall be used in all proceedings.

SCHEDULE VIII.

Section 353.

PETITION AND CERTIFICATE BY THE COLLECTOR TO BE WRITTEN AT THE END OF EACH VOLUME OF THE ROLL OF ASSESSMENTS.

Unto the honourable the sheriff of [*or* magistrates of the burgh of].

The petition of A.B., collector of assessments for the burgh of ,

HUMBLY SHEWETH,

That the assessments specified in the foregoing book (which is the volume of the roll of assessments for said burgh), have been duly imposed on the persons and companies therein mentioned for the year from to , and became due and payable at the term of (as the case may be).

That the petitioner hereby certifies that the said persons or companies received notices from the petitioner to pay the assessments set against their names respectively, within fourteen days hereafter, and that the said period has in each case expired.

Farther, that certain of the said persons and companies have failed to pay the assessments due by them respectively, being those against whose names no marking of payment has been made in said volume, and the sums specified after their names are still truly due.

May it therefore please your lordship [*or* your honours] to grant summary Warrant to the petitioner or officers of court to enter into any premises in the occupancy of any of the said persons or companies so in arrear, and to poind, seize, remove, or secure any goods and effects therein belonging to, or in the lawful possession of, such persons or companies, or so much thereof as will fully satisfy the arrears of assessments due by them respectively with the addition of ten per centum thereon; and warrant also to the petitioner or officers of court or any licensed auctioneer, after the lapse of four days, in the event of the non-payment of said arrears and ten per centum thereon, to sell and dispose of said goods and effects by public auction, on three days notice of the sale [*by the common crier or by such mode as the sheriff or magistrate may prescribe*], either on the premises or at the market cross [*or such other public place as may be fixed by the sheriff or magistrate*], and apply the proceeds in payment of the said arrears and ten per centum, returning any balances to the owners; and the petitioner further craves your lordship [*or* your honours] to decern and ordain instant execution by arrestment of the goods, debts, and sums of money of the said persons or companies in satisfaction of the said assessments due by them respectively and of ten per centum thereon.

A.B., Collector.

[*Place and date.*] The sheriff [sheriff substitute *or* magistrate] grants warrant and decree all as craved.

C.D.

SCHEDULE IX.

Section 89.

We, *A.B.* [*here insert name and place of abode as in the municipal register for the burgh*] and *C.D.* [*here insert name and place of abode as aforesaid*] hereby propose and nominate *E.F.* [*here insert name and place of abode as aforesaid*] for election as a councillor. When the burgh is

divided into wards add here "for the ward" [*specifying such ward*] at the next ensuing municipal election in the burgh of [*specify burgh*].

Given under our hand this [*insert date*].

A.B. _____

C.D. _____

We, the undersigned, being registered municipal electors of the burgh of [*or "for the ward" [specify ward] as the case may be*], do hereby assent to the nomination of the said *E.F.* as councillor as above mentioned.

G.H.	of	Insert places of abode as in Municipal Register
I.J.	of	
K.L.	of	
M.N.	of	
O.P.	of	

I, the nominee for election consent

E.F. _____

To town clerk of _____

Section 40.

SCHEDULE X.

The intimation or nomination of *E.F.* [*here insert name and place of abode of candidate as in the municipal register for the burgh*] for election as a councillor, When the burgh is divided into wards, add here "for the ward" [*specifying such ward*] at the next ensuing municipal election in the burgh of [*specify burgh*] is hereby withdrawn.

Given under our hand this [*insert date*].

To be signed by

× Candidate.

× Propóser or seconder.

or by

× Proposer.

× Seconder.

× Assenter.

To _____

Town clerk of

CHAPTER 56.

An Act to amend the Law in relation to the Appointment of Coroners and Deputy Coroners in Counties and Boroughs. [28th June 1892.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment and powers of a deputy coroner of both a county and a borough.

1.—(1.) Every coroner, whether for a county or a borough, shall appoint, by writing under his hand, a fit person approved by the chairman or mayor, as the case may be, of the council who