ANNO SEPTIMO

GEORGII IV. REGIS.

****

Cap. cxv.

An Act to explain and amend an Act of the Third Year of the Reign of His present Majesty, intituled *An Act for watching, cleansing, and lighting the Streets of the City of* Edinburgh *and adjoining Districts; for regulating the Police thereof; and for other Purposes relating thereto.*

[26th *May* 1826.]

WHEREAS an Act was passed in the Third Year of the Reign of His present Majesty, intituled *An Act for watching,* 3 G. 4. c. 78.
cleansing, and lighting the Streets of the City of Edinburgh *and adjoining Districts, for regulating the Police thereof, and for other Purposes relating thereto,* whereby certain Powers were granted and Regulations established for the Management of the Police of the said City and adjoining Districts, and for watching, cleansing, and lighting the same: And whereas the said Powers and Regulations have been found to be in some respects defective; and it is expedient to grant further Powers and establish other Regulations regarding the same, and otherwise to alter, amend, and explain the said Act; but as these Purposes cannot be effected without the Aid and Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled,

Powers of recited Act extended to this Act.

and by the Authority of the same, That the said recited Act, and all the Powers, Authorities, Provisions, Regulations, Directions, Privileges, Penalties, Forfeitures, Clauses, Restrictions, Matters, and Things whatsoever therein contained, so far as the same are not altered, varied, or repealed, shall extend to and be put in execution for the Purposes of this Act.

Regulations of recited Act as to apprehending Offenders extended to Offenders of every Description.

II. And be it further enacted, That from and after the passing of this Act the Rules and Regulations established by the said recited Act of the Third Year of the Reign of His present Majesty, and by this Act, in regard to the apprehending, securing, and bringing before any of the Judges respectively officiating in the Police Court established by the said Act Persons charged with or suspected of having committed Crimes, Delinquencies, or Offences, shall be applicable not only to the apprehending, securing, and bringing to Punishment Persons guilty of the several Crimes, Delinquencies, or Offences specified in or arising under the said Act, but shall extend generally to the apprehending, securing, and bringing before any of the said Judges respectively all Persons charged with or suspected of having committed Crimes, Delinquencies, or Offences of whatever Description, and at what Period soever the same may have been or are suspected to have been committed.

Officers appointed by Commissioners of Police may apprehend Persons accused or suspected of every Description of Crime.

III. And be it further enacted, That it shall be the Duty of the Superintendent of Police, and of the Officers, Watchmen, and others acting under his Authority, to apprehend, secure, and bring before the Judge officiating in the Police Court all Persons charged with or suspected of having committed the Crimes, Delinquencies, and Offences aforesaid, whether the same be of such a Kind as can be competently tried in said Court, or be of a Nature to require to be tried before a higher Criminal Tribunal, or, from having been committed beyond the Bounds over which the said recited Act extends, fall to be tried in another Jurisdiction.

Police Judge to try, remit, or detain Offenders.

IV. And be it further enacted, That it shall be lawful for the said Judges, according as the Offence shall have been committed within their respective Jurisdictions as defined in the said Act, and they are hereby authorized and empowered, to try and punish such Person or Persons under the Powers granted and after the Form authorized by the said recited Act and this Act, and within the Period prescribed by the said recited Act, or to transmit such Person or Persons for Trial to a higher Criminal Tribunal; and it shall be lawful for any of the said Judges, where the Crimes, Delinquencies, or Offences shall have been committed beyond the Bounds over which the said recited Act extends, to authorize such Person or Persons so accused or suspected to be detained in the Police Office or Tolbooth until disposed of according to Law, and it shall be the Duty of the said Superintendent of Police forthwith to give Notice of such Detention to the Procurator Fiscal for the City, County, Burgh, or other Jurisdiction within which the Crime, Delinquency, or Offence is alleged to have been committed.

Superintendent to give Notice of Detention to the Procurator Fiscal.

Certain Cases may be transmitted to the Magistrates.

V. And be it enacted, That all Persons accused of Crimes committed within the Royalty of the City of *Edinburgh*, where such Crimes do not require to be investigated by Precognition, but which it may either be incompetent for the Magistrate acting in the Police Court to decide, or which may appear to require a higher Punishment than such Magistrate can lawfully

lawfully award, shall be transmitted to the Magistrates of the City for Trial, without Prejudice always to the Jurisdiction of the Sheriff of the County in regard to such Crimes, when it may be deemed expedient that he should exercise the same.

Clerk of Police to enter the Names, &c. of Prisoners transmitted.

VI. And be it enacted, That the Clerk of Police shall enter in a Book to be kept for that Purpose the Names of all Prisoners transmitted to a higher Tribunal, specifying such Tribunal, the Nature of the Crime, and the Date of such Transmission.

Lists to be sent to Procurator Fiscal.

VII. And be it enacted, That the Clerk of Police shall in the course of the First Week of the Months of *January*, *April*, *July*, and *October* of every Year fill up and subscribe a Schedule corresponding with that annexed to this Act, containing the Names of all Prisoners so transmitted to the Sheriff during the Three immediately preceding Months, and a like Schedule of those Prisoners who shall during the same Period have been transmitted to the Magistrates of the City, which several Schedules the said Clerk of Police shall during the Week aforesaid send to the Procurators Fiscal respectively of the Courts to which the Prisoners shall have been so transmitted; and the Procurators Fiscal respectively to whom such Schedules shall have been so sent shall within Ten Days thereafter fill up such of the Columns in said Schedules as relate to the Time and Mode of the after Disposal of such Prisoners, and shall therein make it appear how and when any Cases returned in the Schedule for the preceding Quarter as then undecided were afterwards disposed of, which Schedules, after being subscribed by the Procurators Fiscal respectively, shall be sent by them within the Period of Ten Days to the Crown Agent for the Information of His Majesty's Advocate; and any Clerk of Police or Procurator Fiscal neglecting any of these Provisions shall forfeit for each Offence a Penalty of Twenty Pounds, to be levied and applied in the same Way as other Penalties imposed by the said recited Act or this Act may be levied and applied.

What Crimes Commissioners not competent to take cognizance of.

VIII. And be it further enacted, That if it shall appear, either in the preliminary Investigation of the Charges against any Person or Persons accused of having committed Crimes, Delinquencies, or Offences within the Bounds over which the said Act extends, or during his Trial in the Police Court, that such Person or Persons have been guilty of or are charged with any of the Crimes denominated the Pleas of the Crown; (*videlicet*,) Murder, Robbery, Rape, and wilful Fire-raising, or with the Crime of Stouthrief, or of Theft by House-breaking, or of House-breaking with Intent to steal, or of simple Theft to an Amount exceeding Ten Pounds Sterling, or of Theft by opening lockfast Places, or of Theft aggravated by being habit and repute a common Thief, or by having been Three Times previously convicted of Theft, or of Reset of Theft to an Amount exceeding Ten Pounds Sterling, or of Reset of Theft aggravated by having been Three Times previously convicted of that Crime, or of Falsehood, Fraud, and wilful Imposition to an Amount exceeding Ten Pounds Sterling, or of Falsehood, Fraud, and wilful Imposition aggravated by having been Three Times previously convicted of any Offence of that Nature, 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 aggravated by

Three

Three previous Convictions for that Crime, or of Assault with Intent to ravish, or of Attempt at wilful Fire-raising, or of culpable Homicide, or of Forgery, or of uttering forged Bank or Bankers Notes, it shall not be competent for the said Superintendent or those acting under him to insist in a Prosecution against such Person or Persons before the said Police Court, but the Judge officiating in the said Police Court shall and he is hereby authorized and required to commit the Person or Persons accused to the Tolbooth of *Edinburgh* for Examination; and the said Superintendent of Police shall forthwith give Notice of such Commitment to the Procurator Fiscal of the City or County of *Edinburgh*, in order that such Person or Persons may be proceeded against conformably to Law.

Superintendent to give Notice of Detention to Procurator Fiscal.

Offences to be disposed of summarily.

IX. And be it further enacted, That all Offences arising under the said recited Act, and all other Crimes, Delinquencies, and Offences committed within the Bounds over which the said Act extends, except such Crimes, Delinquencies, and Offences as are hereby declared to be incompetent to be tried in the said Police Court, may be disposed of by the Judge officiating in said Court without written Pleadings, according to the summary Mode established by that Act, except in so far as the said summary Mode is amended or altered by this Act.

Persons found guilty of Petty Offences may be confined in the Police Office.

X. And be it further enacted, That in all Cases of Petty Offences which shall appear to the Judge officiating in the Police Court not to require Punishment by Commitment to the Tolbooth or Bridewell, it shall be in the Power of the said Judge to sentence the Party or Parties having committed any such Petty Offence to be confined in the Police Office for any Period not exceeding Three Days, either as the sole Punishment to be inflicted, or along with Caution to keep the Peace or for good Behaviour, or in addition to any Fine that may otherwise be competently awarded under the before-recited Act: Provided always, that in the event of the said Caution not being found, or the said Fine not being paid within the said Period, it shall not be lawful to retain such Prisoner in the Police Office for longer than that Period, but it shall be lawful for the Judge officiating in the Police Court to order the said Party or Parties to be confined in the Tolbooth or Bridewell for any further Period not exceeding Ten Days.

In Cases of Theft, &c. the Complaint and Conviction shall state that the Value of Articles stolen did not exceed 10*l*.

XI. And be it further enacted, That in all Cases of Theft or of Reset of Theft, or of Falsehood, Fraud, and wilful Imposition, which shall be tried in the said Police Court, the Complaint and the Conviction following thereon shall bear that the Sum of Money, or Value of the Article or Articles stolen, resetted, or obtained by Falsehood, Fraud, and wilful Imposition, did not exceed Ten Pounds Sterling, and it shall not be competent thereafter to the Person or Persons accused, except where an Offer shall be made at the Time, to prove that the Article or Articles stolen, resetted, or obtained as aforesaid exceeded in Value the Sum of Ten Pounds Sterling.

Record of Cases tried summarily shall, if required, con-

XII. And be it further enacted, That the Record directed by the said Act to be kept in all Cases tried according to the summary Mode of Proceeding authorized to be adopted by the said Act and this Act shall, besides the Charge and the Judgment pronounced, include, if the Prosecutor

cutor or Prisoner require it, a Statement of any Offer of Proof made on the Part of the Prosecutor or Prisoner, and refused to be admitted by the Judge, with the Deliverance of the Judge thereon, and also, if required as aforesaid, of any legal Objection to any of the Witnesses adduced on either Side, stated on the Part of the Prosecutor or Prisoner, and sustained or over-ruled by the said Judge, with the Deliverance of the Judge thereon.

tain Offer of Proof by Prisoner.

XIII. Provided always, and be it further enacted, That it shall not be competent in any Suspension or Advocation in the High Court of Justiciary to adduce Witnesses to establish that an Offer of Proof was made on the Part of the Prosecutor or Prisoner, and refused to be admitted by the Judge, or that a legal Objection was stated to Witnesses adduced on either Side, and sustained or over-ruled by the Judge, unless it be also offered to be established by such Witnesses that the Prosecutor or Prisoner required such Offer of Proof or legal Objection to Witnesses to be entered on the Record, and that the Judge refused to allow such Entry to be made, and unless such Offer or Objection be stated in a Suspension or Advocation presented to the Clerk of the said High Court, within Fourteen Days after the Date of such Judgment; and if it shall appear that the said Judge committed Error in regard to such Offer of Proof or Objection, the said High Court shall dispose of the Judgment complained of according to Law.

Witnesses incompetent to prove such Offer on the Statement of such Objection, unless refused to be recorded.

XIV. And be it further enacted, That in Cases of Contempt of Court, or of resisting, assaulting, or obstructing the Officers of the Law when in attendance on the Court, it shall be competent for the said Judge, either of his own Motion summarily and without the Necessity of a Complaint or other Procedure, as provided for by the Form of prosecuting other Offences, to punish the Offender by a written Sentence, specifying the Offence, and awarding a Fine not exceeding Five Pounds Sterling, or Imprisonment in the Tolbooth or Bridewell for any Period not exceeding Ten Days, or to direct the said Offender to be prosecuted after the ordinary Form by the public Prosecutor, in which Case the same Forms shall be observed, and the same Punishments may be inflicted as on other Offences before the said Court: Provided always, that when the Judge proceeds to punish summarily he shall cause a Record to be kept containing a Statement of the Facts which may have led to such Punishment.

Offenders may be punished summarily, by Fine or Imprisonment, for Contempt of Court.

XV. And be it further enacted, That it shall be lawful for the Lord Provost and Magistrates of the City and the Sheriff Depute of the County of *Edinburgh*, with the Advice and Approbation of the Lord President of the Court of Session, and of the Lord Justice Clerk for the Time being, and they are hereby authorized and empowered from Time to Time to alter, amend, and adapt the Form of Process now in use before the said Police Court, and to frame Forms of Diligence for carrying the Decrees and Sentences of the said Court into effect, in order that the Provisions of the said recited Act and this Act may be carried into full Execution.

Present Form of Process may be altered to suit the former and this Act.

XVI. And be it further enacted, That it shall be the Duty of the said Superintendent and he is hereby authorized and required to convene, by Complaint before the Judge officiating in the Police Court, any Person or Persons licensed to sell Ale, Beer, or Spirituous Liquors accused of permitting riotous or disorderly Conduct within the Premises occupied by such

Persons licensed to sell Beer, &c. permitting disorderly Conduct in their

Premises may be fined.

such Person or Persons for vending such Liquors; and upon such Complaint being established to the Satisfaction of the said Judge it shall be competent for him and he is hereby authorized and required to impose Penalties upon such Person or Persons not exceeding Ten Pounds Sterling, to be levied in the same Manner as other Penalties under the said recited Act, and that instead of or in addition to Security for good Behaviour or Forfeiture or Deprivation of the Excise Licences held by any such Person or Persons as provided for by the said recited Act.

Commissioners may take Measures for watering and washing Streets and Pavements.

XVII. And be it further enacted, That it is and shall be lawful for the said General Commissioners and they are hereby authorized and empowered to provide all necessary Implements and Apparatus, and to take all necessary Measures, for watering and washing the Streets and Pavements within the Bounds over which the before-recited Act and this Act extend, at such Times and in such Manner as they shall direct, and to defray the Expense which shall be thereby incurred out of the Monies levied or to be levied as aforesaid.

Commissioners required to remove Dung, Soil, Ashes, &c. but not Rubbish not fit for Manure.

XVIII. And be it further enacted, That the said General Commissioners shall provide for the Removal from the Streets, Squares, Passages, and other Places within the Bounds of Police of all Dung, Soil, Dirt, Ashes, and Filth, except Ashes or Danders, Coal, Culm, Sweepings of Cellars, or other Rubbish of whatever Description, deposited by any Person or Persons, and not fit to be used and sold for Manure, which shall be forthwith removed at the Expense of the said Person or Persons under the Direction of the Inspector appointed or to be appointed under the said recited Act, or any Person employed by him, for which Expense the Judge officiating in the Police Court is hereby authorized and required to decern upon a Complaint at the Instance of the said Inspector.

Fulzie, &c. of Slaughter-houses, &c. to be kept off the Street, and not to be mixed with that belonging to the Commissioners.

XIX. And be it further enacted, That the Dung, Fulzie, and Refuse of Slaughter-houses, Stables, and Cow-houses shall be kept off the public Streets, Squares, and other public Places (Mews or Stable Lanes excepted); and if the Owner of any such Dung, Fulzie, or Refuse shall mix or allow to be mixed therewith any Dung, Soil, Dirt, Ashes, or Filth vested by the said Act in the said General Commissioners, or if any Dung, Soil, Dirt, Ashes, or Filth vested in the said General Commissioners shall be mixed with the Dung, Fulzie, or Refuse of any Slaughter-houses, Stables, or Cow-houses without the Knowledge of the Owner thereof, and the said Owner shall not, within Twenty-four Hours after he shall come to the Knowledge of such Mixture having taken place, give Notice thereof to the said Inspector of lighting and cleansing, or those acting under him, in all or any of these Cases it shall be lawful for the Judge officiating in the Police Court or any other Judge competent and they are hereby authorized and required to declare the said Dung, Fulzie, and Refuse vested in the said General Commissioners, and it shall then be lawful for the said Inspector to take possession of, sell, and dispose of the same as public Property, and the Money thence arising shall make Part of the Funds for the Purposes of the said recited Act.

Inspector authorized to secure Fulzie, &c. until

XX. And be it further enacted, That it shall be lawful for the said Inspector, or those acting under him, to seize, detain, and secure all Dung, Fulzie, or Refuse mixed as aforesaid until any Question that shall arise

regarding it shall be determined by the Judge acting in the Police Court, or any other Judge having Jurisdiction in Terms of the Provisions of the said recited Act and of this Act. Questions regarding it are decided.

XXI. And be it further enacted, That if any Person or Persons shall be convicted on a Complaint at the Instance of the said Inspector before the Judge officiating in the Police Court of having laid down Dung, Fulzie, or Refuse on any of the public Streets, Squares, or other public Places, or of having mixed or allowed to have been mixed with the Dung, Fulzie, and Refuse of Slaughter-houses, Stables, or Cow-houses belonging to private Parties any Dung, Soil, Dirt, Ashes, or Filth vested by the foresaid Act in the said General Commissioners, such Person or Persons shall be liable for every such Offence in a Penalty not exceeding Five Pounds and not less than One Shilling, which the said Judge is hereby authorized and required to impose. Penalty imposed for each Offence not exceeding 5*l.*

XXII. And be it further enacted, That the said General Commissioners shall and they are hereby authorized and required to make Payment of the Sum of Thirty Pounds Sterling annually to the resident Magistrate of *Easter Portsburgh*, and the like Sum of Thirty Pounds Sterling annually to the resident Magistrate of *Wester Portsburgh*, for defraying the Expense of their Offices. Provisions to Magistrates of Portsburgh.

XXIII. And be it further enacted, That no Action for Damages at the Instance of any Person or Persons convicted in the Police Court in which Proceedings shall not have commenced previously to the Thirteenth Day of *March* in this present Year shall be competent against any of the said Judges, or against the Superintendent of Police, or any other Person or Persons whatsoever who may have been concerned in such Conviction, or in the Punishment of the Person convicted, on the Ground that the Proceedings upon which such Conviction was obtained were not warranted by the said Act, and took place before the passing of this Act; and the said Judges, Superintendent of Police, and others are hereby indemnified for and discharged from all Disabilities, Penalties, and Claims for Damages which they may have incurred in consequence of such Proceedings, Conviction, and Punishment. Indemnity to Commissioners and Superintendent against Actions not commenced within a certain Time.

XXIV. And be it further enacted, That the Expenses of preparing, applying for, and obtaining this Act shall be defrayed from the Funds vested in the said General Commissioners, or the Rates and Assessments authorized to be assessed and levied by the before-recited Act. Expenses of this Act how to be defrayed.

XXV. And be it further enacted, That this present Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others without being specially pleaded. Act made Public.

XXVI. And be it further enacted, That this Act shall commence from and after the passing thereof, and shall continue in full Force during the Endurance of the before-recited Act of the Third Year of His present Majesty, and no longer. Commencement and Continuation of this Act.

SCHE-

SCHEDULE of PRISONERS transmitted from the Police Court of Edinburgh to the Sheriff or Magistrates of the City (as the Case may be), from the Day of to the Day of 18 .

Names of Prisoners.	Crime of which accused.	Date when apprehended	Date when transmitted.	Court to which transmitted.	How disposed of by Court to which sent.	Date of such Disposal.	Observations.

(Signed) *A. B.* Clerk of Police. *C. D.* Procur Fiscal.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1850.