CHAPTER cxxxii.

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An Act to amend and consolidate the Acts relating to the Municipality and Police and Roads and Streets of the City of Edinburgh; and for other purposes.

[21st July 1879.]

WHEREAS the following Acts have been passed in regard to the municipal and police administration of the royal burgh and city of Edinburgh; viz., the Edinburgh Police Act, 1848; the Edinburgh Police Amendment Act, 1854; the Edinburgh Municipality Extension Act, 1856, by which last-mentioned Act the municipal boundaries of the said city were made co-extensive with the parliamentary boundaries, and the whole powers and authorities, duties and obligations, properties and rights of the then commissioners of police were transferred to and vested in the lord provost, magistrates, and council of the said city; the Edinburgh Provisional Order Confirmation Act, 1867, and the Edinburgh Provisional Order thereby confirmed, and the Edinburgh Improvement Act, 1876:

11 & 12 Vict. c. cxiii.
17 & 18 Vict. c. cxviii.
19 & 20 Vict. c. xxxii.
30 & 31 Vict. c. 58.
39 & 40 Vict. c. cxxx.

And whereas an Act was passed in the twenty-fifth year of the reign of Her present Majesty, intituled the Edinburgh Roads and Streets Act, 1862, under and by virtue of which the carriageway of the roads, streets, and bridges, and certain of the footpavements and footpaths within the district of the city of Edinburgh, as defined or referred to in the said Act, were maintained and repaired by a body of trustees called the city of Edinburgh road trust; and by an Act of the last session of Parliament, intituled the Roads and Bridges (Scotland) Act, 1878, the whole undertaking, including the whole powers and authorities, duties and obligations, and rights of the said city of Edinburgh road trust, was transferred to and vested in the said lord provost, magistrates, and council:

25 & 26 Vict. c. liii.
41 & 42 Vict. c. 51.

And whereas it is by the said Roads and Bridges (Scotland) Act, 1878, provided that on the commencement of the said Act within

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a county the roads, streets, and bridges within any burgh in a county shall be maintained and managed by the local authority of such burgh:

And whereas it is expedient, notwithstanding that the said Roads and Bridges (Scotland) Act, 1878, has not yet commenced within the county of Edinburgh, that the roads, streets, foot-pavements, and footpaths within the burgh of Edinburgh after defined should be vested, maintained, and repaired under the provisions of this Act, and that the provisions of the Edinburgh Roads and Streets Act, 1862, should as regards the said burgh be repealed and in part re-enacted, and that until the commencement of the said Roads and Bridges (Scotland) Act, 1878, within the county of Edinburgh the roads and streets beyond the said burgh sometime maintained by certain district road trustees of the said county, thereafter by the city of Edinburgh road trust, and now by the lord provost, magistrates, and council, should continue to be maintained as far as may be under the provisions of the Edinburgh Roads and Streets Act, 1862, as amended by the Roads and Bridges (Scotland) Act, 1878, and by this Act, and that other provision should be made in regard to the repair and maintenance of roads, streets, foot-pavements, and footpaths:

And whereas it is expedient that the provisions of the said recited Municipal and Police Acts, or of some of them, should be repealed or amended and consolidated, and also that certain of the provisions of the Edinburgh and Leith Sewerage Act, 1864, should be repealed or amended, and provision be made in place thereof, and that further powers should be granted for the better regulation and government of the said city and burgh:

27 & 28 Vict. c. cliii.

But these objects 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 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:

I.—Short Title and Incorporation of Acts.

Short title.

1. This Act may be cited for all purposes as the Edinburgh Municipal and Police Act, 1879.

Division of Act into parts.

2. This Act is divided into parts, as follows:

I. Short title and incorporation of Acts.

II. Interpretation.

III. Commencement of Act and repeal of former Acts.
IV. Vesting and saving prior rights and obligations.
V. Definition of boundaries.
VI. Provisions affecting the city.
VII. General powers and duties.
VIII. Officers.
IX. Finance.
X. Ordinary police purposes.
XI. Streets, foot-pavements, and footpaths.
XII. Dean of Guild Court.
XIII. Sanitary provisions.
XIV. General police regulations.
XV. Prevention of fraud.
XVI. Disorderly houses, gambling houses, &c.
XVII. Places of public entertainment and resort.
XVIII. Public clocks.
XIX. Fires and fire establishment.
XX. Smoke and steam.
XXI. Gunpowder and other explosives.
XXII. Hackney carriages.
XXIII. Chairmen, carters, porters, chimney sweepers, &c.
XXIV. Byelaws.
XXV. Execution of works.
XXVI. Jurisdiction and procedure of police court.
XXVII. Miscellaneous provisions.

Incorporating 8 & 9 Vict. c. 19. and 23 & 24 Vict. c. 106.

3. The Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, shall be and the same are hereby incorporated with this Act, and are in this Act referred to as the Lands Clauses Acts.

Incorporating 25 & 26 Vict. c. 101.

4. The provisions of the General Police and Improvement (Scotland) Act, 1862, in this Act called the General Police Act, so far as after specified, shall be incorporated with and form part of this Act, and shall apply to the burgh: Provided always, that the word "commissioners" in such Act shall be held to mean the Magistrates and Council as defined in this Act.

II.—Interpretation.

Interpretation of terms.

5. In this Act the following words and expressions shall have the several meanings by this section assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

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The word "person" and words applying to any person or individual shall apply to and include companies and corporations.

The word "city" shall mean and include the city of Edinburgh as extended by the Edinburgh Municipality Extension Act, 1856, before recited.

The word "burgh" shall mean and include the whole territory within the police boundaries as defined in the recited Acts and this Act.

The expression "lord provost" shall mean the lord provost of the city and royal burgh of Edinburgh.

The word "magistrates" shall mean the magistrates of the city of Edinburgh, and shall include the lord provost and bailies.

The expression "Magistrates and Council" shall mean the lord provost, magistrates, and councillors of the city of Edinburgh.

The word "councillor," except where otherwise expressed or limited, shall mean any member of the town council.

The expression "the judge of police" shall mean and include the magistrates of Edinburgh, and the sheriff and his substitutes, or any of them, sitting in the police court.

The word "sheriff" shall mean the sheriff of the county of Edinburgh or Mid-Lothian, or any one of his substitutes, excepting where specially provided to the contrary.

The expression "town clerk" shall mean the clerk of the city and royal burgh of Edinburgh.

The word "treasurer" shall mean the treasurer of police.

The word "collector" shall mean the collector of police and other local rates leviable under this or any general or local Act of Parliament.

The word "prosecutor" shall mean the person appointed in virtue of the Edinburgh Provisional Order and his successors appointed in virtue of this Act, and as in this Act used shall mean the person authorised to act as prosecutor for the public interest in the police court, and shall include the interim prosecutor.

The word "constable," where not otherwise provided, shall mean and include the chief constable, the prosecutor, and all superintendents, inspectors, lieutenants, sergeants, and other officers of police appointed in virtue of this Act.

The word "street" shall include any street, square, close, wynd, alley, highway, lane, road, thoroughfare, or other public passage or place, and bridges open to be used by the public, and, subject to the special provisions of this Act as to private streets, shall include such private streets, and shall also

include foot-pavements and footpaths, except where the same are separately referred to; and in the incorporation of clauses of the General Police Act such word therein shall bear the construction attached to it in this Act, and the inclusion of bridges in the construction of the said word shall not imply the maintenance by the Magistrates and Council of the fabric of any bridge which they are not now bound to maintain.

The expression "private street" shall mean any street maintained by persons other than the Magistrates and Council.

The word "court" shall include any court or passage used solely for foot passengers, and open and accessible to the public from a street or private street, and forming a common access to lands and heritages separately occupied.

The expression "meuse lane" or "stable lane" shall mean and include any lane wholly or partially used or occupied in connexion with stable premises.

The word "carriageway" shall mean such part of a street or private street as shall be within the foot-pavement or footpath, if there be any, and if not, then within the houses or buildings or side of the street or private street, and in the incorporation of clauses of the General Police Act shall include the word "causeway."

The word "foot-pavement" or "footpath" shall mean the pavement or path betwixt the carriageway and the houses or buildings, or areas, or gardens in front of houses or buildings or side of the street or private street, and shall, except where referred to as separate from such street or private street, be included therein.

"Causeway" shall include all modes in which the carriageway of streets or private streets are or may be constructed and maintained.

The expression "lands and heritages" and the word "premises" shall mean and include all lands and other heritages, and shall have the meaning attached to the words lands and heritages in the Act of the seventeenth and eighteenth year of the reign of Her Majesty Queen Victoria, chapter ninety-one, intituled An Act for the Valuation of Lands and Heritages in Scotland, or any Act amending the same.

The word "house," where not otherwise expressed, shall mean dwelling-house.

The word "building" shall extend to and comprise all buildings and erections of what kind and nature soever, and every part of such buildings, excepting dwelling-houses.

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The expressions "yearly rent" or "yearly value" shall mean the full yearly rent and full yearly value as ascertained by the valuation roll.

The expression "hackney carriage" shall include any coach, omnibus, minibus, chariot, fly, car, cabriolet, gig, brougham, or other carriage licensed under this Act.

The word "carriage" shall include any coach, omnibus, minibus, chariot, fly, car, cabriolet, gig, brougham, bicycle, or velocipede, or other carriage not licensed to ply for hire.

The word "cart" shall include any waggon, timber carriage, lorry, sledge, dray, truck, hand-cart, wheelbarrow, or hand-barrow.

The word "driver" shall include the driver, conductor, or carter, or person in charge of any hackney carriage, carriage, or cart.

The word "horse" shall include any horse, mare, gelding, foal, colt, filly, ass, or mule.

The word "cattle" shall include any bull, cow, heifer, ox, calf, ram, ewe, wether, lamb, goat, kid, or swine.

The expression "offensive matter or thing" shall include any night soil, offal, putrid meat or fish, entrails of fish, carrion, dead animals, blood, dung, manure, fish shells, bones, rags, dust, ashes, soot, refuse of vegetables or fruits, waste paper, and soap lees.

The word "owner" shall include joint owner, fiar, life renter, feuar, bondholder, or other person in the actual possession or receipt of the rents of lands and heritages, 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.

The word "occupier" shall include the actual occupier or tenant or sub-tenant.

The word "broker" shall extend to and include any person dealing in second-hand goods or articles, or in woollen yarn or waste, or in other unwrought woollen materials, or in marine stores, old metals, bones, or rags.

The expression "common lodging-house" shall signify a house or part thereof where lodgers are housed at an amount not actually exceeding fourpence per night for each person, whether the same be payable nightly or weekly or at any period not longer than a fortnight, or where the house is licensed to lodge more than twelve persons.

The word "keeper," when referring to a common lodging-house, shall include any person having or acting in the care and management of a common lodging-house.

III.—Commencement of Act and Repeal of former Acts.

Commencement of Act.

6. This Act shall come into operation from and after the Friday following the first Tuesday of November one thousand eight hundred and seventy-nine (in this Act called the commencement of the Act), except in regard to the provisions in this Act contained having reference to the estimating, imposing, and levying assessments and the powers as to borrowing money, as to which provisions this Act shall come into operation from the date of the passing of this Act; provided that if the date of passing of this Act shall not admit of estimates being made and assessments imposed at the dates by this Act provided, the Magistrates and Council shall, in the year in which this Act is passed, estimate, impose, and levy the burgh assessments at dates as nearly corresponding to those fixed by this Act as shall be practicable.

Repeal of Acts.

7. From and after the commencement of this Act the first four recited Acts, including the Edinburgh Provisional Order, 1867, shall be and the same are by this Act repealed; and the following several Acts recited in the said recited Acts, and in so far as not already repealed, shall also be and the same are by this Act repealed; viz., the following Acts of the reign of His Majesty King George the Third: of the seventh year, chapter twenty-seven; of the eleventh year, chapter thirty-six; of the twelfth year, chapter fifteen; of the twenty-fifth year, chapter twenty-eight; of the twenty-sixth year, chapter one hundred and thirteen; of the twenty-seventh year, chapter fifty-one; and local and personal of the forty-ninth year, chapter twenty-one; of the reign of His Majesty King George the Fourth, of the third year, chapter seventy-eight; and of the seventh year, chapter one hundred and fifteen; of the reign of His Majesty King William the Fourth, of the second and third year, chapter eighty-seven; of the fourth and fifth year, chapter seventy-six; and of the seventh year of the reign of His said last-mentioned Majesty, and first year of the reign of Her Majesty Queen Victoria, chapter thirty-two: Provided always, that the foregoing repeal shall be subject to the reservation of the several sections or portions of sections contained in Schedule (A.) to this Act annexed in so far as now operative.

IV.—Vesting, and Saving Prior Rights and Obligations.

Vesting the property of the city and burgh in Magistrates and TownCouncil.

8. The common good and property, heritable and moveable, and means, revenues, and income of every description, leviable within or belonging to the city and burgh, and all assessments and property whatsoever to which the Magistrates and Council are entitled at the

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commencement of this Act, under the Acts by this Act repealed and otherwise, and also under the Edinburgh Roads and Streets Act, 1862, and the Roads and Bridges (Scotland) Act, 1878, or which are held or administered by any person for or on behalf of the community of the said city and burgh, shall remain and continue vested in the Magistrates and Council, with full power, right, and authority to hold and administer, levy, adjudge, sue for, and recover the same.

Deeds granted and debts contracted under former Acts confirmed and secured.

9. All bonds, assignments, leases, grants, conveyances, or other deeds or securities made or granted to or by any person under the authority of the recited Acts or of previous Acts shall be as good, valid, and effectual to all intents and purposes as if the same had been made or granted under the authority of this Act; and all debts contracted, and all lawful contracts entered into by virtue of such Acts, shall remain valid and binding upon the Magistrates and Council as fully as if the same had been contracted and entered into under the authority of this Act.

Proceedings under repealed Acts valid.

10. Notwithstanding the repeal of the Acts before referred to, and except only as is by this Act otherwise expressly provided, everything done or suffered under the repealed Acts shall be as valid as if the same were not so repealed, and such repeal and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered, and to all rights, liabilities, claims, and demands, both present and future, which, if the said Acts were not so repealed and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered; and with respect to all such rights, liabilities, claims, or demands which affect, or should or might affect, the Magistrates and Council, the Magistrates and Council shall represent the Magistrates and Council under the said Acts, and may enforce and shall be liable in respect of such rights, liabilities, claims, and demands in the same manner and to the same extent as the Magistrates and Council, under the recited Acts, could have enforced or would have been liable to the same: Provided that the generality of this enactment shall not be restricted by any of the sections or provisions of this Act; provided also, that nothing in this section contained shall affect the provisions of the Roads and Bridges (Scotland) Act, 1878, in regard to the transfer of the undertaking of the city of Edinburgh road trust to the Magistrates and Council, and the rights and obligations by that transfer conferred and imposed.

Agreements, &c. may be enforced by

11. The Magistrates and Council may enforce against any person, and any person may enforce against the Magistrates and

Council, to the same extent and effect as might have been enforced by or against the Magistrates and Council if this Act had not been passed:

and against the Magistrates and Council.

All Acts of Parliament and provisions of Acts, other than those hereby repealed, conferring any right on the Magistrates and Council or on such person or his predecessors;

All claims for compensation or damages, or for debts, penalties, costs, or expenses payable or recoverable by or from the Magistrates and Council, or in consequence of any act, deed, matter, or thing done or omitted to be done by such person or his predecessors or by the Magistrates and Council;

All contracts or agreements for the sale or purchase of lands and heritages, and other contracts or agreements whatsoever, entered into or adopted by the Magistrates and Council and such person or his predecessors;

All grants, conveyances, leases, discharges, or other deeds or writings granted to the Magistrates and Council by such person or his predecessors, or to such person or his predecessors by the Magistrates and Council, or to which any of the parties have acquired right:

Provided that, excepting where inconsistent therewith, nothing in this section contained shall affect any of the provisions in the Roads and Bridges (Scotland) Act, 1878, for transfer of the undertaking of the city of Edinburgh road trust to the Magistrates and Council, or any of the rights and obligations by such transfer conferred and imposed.

Byelaws to remain in force till altered.

12. The byelaws and the rules and regulations of the Magistrates and Council and of the Magistrates respectively which at the commencement of this Act are in force shall, so far as not inconsistent with this Act, be deemed to be the byelaws, rules, and regulations of the Magistrates and Council and the Magistrates, and shall, until altered or repealed, continue in force.

Books, &c. to be evidence.

13. All books, maps, and other documents whatsoever by the repealed Acts, or any of them, authorised or directed to be kept, and thereby made evidence, shall be admitted as evidence in all courts of law or elsewhere, notwithstanding the repeal of such Acts.

Arrears of assessments may be recovered.

14. All assessments, rates, charges, fines, penalties, and expenses imposed under or by virtue or in pursuance of the repealed Acts, and remaining unpaid, may be levied and recovered in the same way and manner that they would have been recoverable if this Act had not been passed, but reserving power to remit or adjust

such arrears of assessments and other charges as the Magistrates and Council may deem expedient.

Actions not to abate.

15. No action, suit, arbitration, prosecution, or other proceeding whatsoever commenced by or against the Magistrates and Council, or devolved on them, shall abate, cease, be discontinued, or prejudicially affected by this Act, but the same shall continue and take effect both in favour of and against the Magistrates and Council.

V.—DEFINITION OF BOUNDARIES.

Municipal and police boundaries.

16. The municipal boundaries of the city shall remain identical with the parliamentary boundaries of the city, and the police boundaries shall continue to include the whole lands and heritages locally situated and comprehended within the following limits; (that is to say,)

From a point on the road from Leith to Queensferry which is distant four hundred yards (measured along such road) to the west of the point at which the same meets the Inverleith Road, at the house called Golden Acre, in a straight line to the north-western corner of the enclosure of John Watson's Institution; thence in a straight line to the site of the third stone bridge on the Union Canal, recently demolished, the position of which is thirty-four yards or thereby south-west from the new iron bridge over said canal, recently erected in continuation of Gillsland Road; thence in a straight line to the point at which the western wall of the enclosure of the lunatic asylum at Morningside meets the Jordan or Powburn; thence down the Jordan or Powburn to a point which is distant two hundred and forty-four yards (measured along such burn) below the arch over the same on the Carlisle Road; thence in a line to the southmost house at Cellarbank, on Dalkeith Road, at present or some time occupied by James McNally; thence in a line straight with the summit of Arthur's Seat to a point where the said line intersects the boundary wall dividing the Queen's Park from the lands of Prestonfield, one hundred and thirty-three yards, or thereby, eastward from the parliamentary boundary of the city; thence in an irregular line eastwards and northwards, embracing Duddingston Loch, the Queen's Park, and Arthur's Seat, or any part thereof, to a point in the northern wall of the park adjoining Parson's Green, nearly half-way between Parson's Green House and the lodge at the western extremity of the

grounds entering from the Queen's Park; thence in a straight line to the junction of the old and new roads at Meadowbank; thence by a line through the grounds now or formerly belonging or reputed to belong to the Orphan Hospital, Sir Graham Graham Montgomery, Baronet, and the Earl of Moray, to the Lochend Road, and along the centre of the said roadway to the point where the parliamentary and municipal boundary of Leith intersects; thence in a straight line south-westwards through Lochend Loch to the point at which the feeder enters the western side of the said loch; thence in a straight line to the centre of the street of Leith Walk, in line with the centre of Pilrig Street; thence along the centre of Pilrig Street and the Bonnington Road to the point at which the latter meets the road from Leith to Queensferry; thence along the road from Leith to Queensferry to the point first described.

VI.—Provisions affecting the City.

Continuance in office of Magistrates and Council.

17. Notwithstanding the repeal of the Edinburgh Municipality Extension Act, 1856, and the passing of this Act, the Magistrates and Council as at present constituted shall continue in office subject to the provisions of the statutes regulating the election of councillors, and the order of their retirement shall not be affected.

Municipal jurisdiction.

18. The Magistrates and Council and the magistrates shall, subject to the provisions of this Act, continue respectively to possess the same rights, powers, and jurisdictions of every kind over the city and over the inhabitants thereof as they before the passing of the Edinburgh Municipality Extension Act, 1856, possessed and now possess within the royalty of the city.

Qualification of electors.

31 & 32 Vict. c. 108.

19. The right of electing the Magistrates and Council shall be in and belong to all such persons as have or shall have the qualifications specified and described in section 3 of the Municipal Elections Amendment (Scotland) Act, 1868, and the proceedings at the elections of the Magistrates and Council shall be and remain regulated by the said Act and other operative public Acts of Parliament before and since passed.

Number and description of Magistrates and Council.

20. The number of persons to be elected councillors for the city shall continue to be thirty-nine, being three councillors for each ward into which the city is divided; and the number of such councillors to be elected magistrates shall continue to be seven,

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of whom one shall be lord provost and six shall be bailies; and the dean of guild and convener of the trades elected to these offices respectively in manner mentioned in the Act of the third and fourth year of the reign of His Majesty King William the Fourth, chapter seventy-six, shall, in virtue of their elections and while they hold their offices, be constituent members of council, making forty-one members in whole, whereof a majority shall constitute a quorum: Provided always, that where in any Act of Parliament the four bailies are appointed as trustees or members of any governing body under such Act, the four senior of the six bailies elected under the Edinburgh Municipality Extension Act, 1856, or to be elected under this Act, shall continue to be held to be the four bailies as aforesaid.

Quorum.

Wards not to be affected.

21. Nothing in this Act contained shall affect the existing arrangement and division of the city into wards under authority of the Municipal Elections Amendment (Scotland) Act, 1868.

Councillors for wards.

22. At all annual elections of councillors, the electors of each ward shall continue to choose one councillor in room of the councillor of such ward who shall have retired under the provisions of the Edinburgh Municipality Extension Act, 1856, of this Act, and the various Acts regulating municipal elections in Scotland, and also in the case of the death, disability, or resignation of any councillor in room of such councillor if he shall not be the councillor who would have retired under the provisions aforesaid.

Weights and measures. 41 & 42 Vict. c. 49.

23. The provisions of the Weights and Measures Act, 1878, relating to weights and measures, shall within the burgh be enforced exclusively by the magistrates, and by the inspectors appointed or to be appointed by them, in terms of the said Act and this Act; and the assessment necessary to be levied for the purposes of that Act shall be levied over the whole territory within the burgh.

Parochial arrangements not to be affected; tithes reserved.

24. The lands within the burgh shall remain parts and portions of the parishes within which they now lie respectively, quoad omnia, and shall not in so far as regards the settlement, relief, or management of the poor, the payment of public or parochial burdens which now affect or which may hereafter affect the said parishes respectively or other parochial arrangements, be affected by any of the provisions of this Act; and the teinds or tithes held or payable in respect of the said lands shall be saved and reserved to the true owners thereof.

Tenures and records preserved.

25. Nothing in this Act contained shall alter to any legal effect whatsoever the holdings or tenure of any lands and heritages or the records wherein the rights thereof or any deed or writing affecting the same may be registered.

Thirlage not to be extended.

26. The territory within the burgh, and the lands and heritages and inhabitants thereof, shall not by reason of this Act be subjected to any thirlage to which such territory, lands, and heritages or inhabitants were not previously subject.

Trusts in behalf of city vested in magistrates, &c.

27. All mortifications, endowments, trusts, however constituted, charitable bequests, or other grants, now held or administered by the Magistrates and Council, or by the magistrates or by the office bearers of the city or of the regality of Canongate, barony of Calton or barony of Portsburgh, or otherwise (but subject to the liabilities to which the same are legally subject), shall continue to be vested in, held, and administered by the Magistrates and Council, or by the magistrates or office bearers, or by so many of their number to be chosen by them for that purpose as are appointed by the deeds under which such mortifications, endowments, trusts, bequests, or other grants are constituted, for the purposes and with the rights, powers, and authority, and subject to all the conditions and provisions under and upon which the same were conveyed, granted, and settled by the granters or makers of such mortifications, endowments, trusts, bequests, and other grants: Provided always, that nothing in this Act contained shall affect the rights or powers conferred on any private individual nominated or appointed by any trust, deed, or other conveyance whereby any mortification, endowment, trust, bequest, or other grant is constituted.

Rights of superiority vested.

28. All rights of superiority belonging to any former magistracy heretofore abolished shall, without any formal deed or act of conveyance or process of law or registration in regard thereto, continue and remain vested in the Magistrates and Council.

Extensions of royalty of city reserved.

29. Nothing in this Act contained shall affect the extensions of the royalty of the city of Edinburgh effected under the various Acts specified in Schedule (A.) to this Act annexed, whether such Acts or any of them shall by this Act be repealed or not.

Council chamber of Canongate to be maintained.

30. The Magistrates and Council shall continue to maintain the council chamber of Canongate, and appendages of the same, for the advantage of the inhabitants of that district, and for such other public purposes as the Magistrates and Council may deem expedient.

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Land tax, how to be raised.

31. The land tax payable by the city shall continue to be assessed and paid as heretofore, and the proportions thereof to be paid by the several districts in the city and the burgh of Leith respectively shall continue to be ascertained and fixed by the assessors for the said city and burgh respectively, appointed under the Act for the valuation of lands and heritages in Scotland, in place of the stentmasters formerly in use to ascertain and fix the same; and the Magistrates and Council of Edinburgh shall, in reference to the said land tax, be and remain in place of the former magistrates of Canongate and the former commissioners of the southern districts: Provided always, that no property shall be subjected by this Act in any portion of the land tax payable by the city which was not or could not be subjected thereto previous to the commencement of this Act.

VII.—General Powers and Duties.

Powers and duties of Magistrates and Council.

32. It shall be the duty of the Magistrates and Council to carry into execution the provisions of this Act in so far as they are by this Act authorised and empowered, and, among other things, to appoint and employ such officers and other persons as they may consider necessary, and whose appointments are not in this Act otherwise specially provided for, and (subject to any legal rights of the town clerk) to suspend or remove them at pleasure; to fix, increase, or diminish and regulate the number of and the salaries and wages to be paid to all persons employed in the execution of this Act, with the exceptions in this Act specially stated, and to provide and pay such retiring or other allowances to meritorious officers incapacitated from service by age or otherwise as they may deem proper; to estimate, assess, levy, raise, and apply the sums of money by this Act authorised to be assessed, levied, and borrowed for the purposes of this Act; to purchase, sell, lease, or exchange lands and heritages; to borrow money and grant securities therefor in manner by this Act authorised; to make, manage, maintain, and repair the streets, foot-pavements, and footpaths, and also under the conditions in this Act expressed to form streets, foot-pavements, and footpaths; to provide all necessary implements and take all measures which they shall deem necessary for watering, sweeping, and cleansing the streets, courts, and areas, foot-pavements, and footpaths, at such times and in such manner as they shall direct, and to enter into contracts for such purposes, and to sell or dispose of the sweepings of the streets and other products of the cleansing of the burgh, in such manner as they may think fit, the proceeds

of such sales being always applied to the purposes of this Act; to make provision for lighting the streets, courts, and areas in such manner as to them shall appear suitable, and to 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 to light, or enter into contracts for lighting, and cause to be lighted, such lamps by means of oil or gas, or such other light as they may find expedient; to make public sewers, to provide for the drainage of houses and buildings, and to carry out regulations as to the erection of houses and buildings and use of the streets and other regulations for the peace and good government and improvement of the public health or prevention of disease and in regard to the sanitary condition of the inhabitants, and generally to exercise all the other powers by this Act committed to them.

Committees may be appointed to carry Act into execution.

33. The Magistrates and Council shall have power to form committees of their number for carrying into execution the various purposes of this Act (other than the power to fix the number and pay of the constables and of the other officers and servants of police, and the power to lay on assessments), and to delegate to such committees the powers competent to the Magistrates and Council, to name the convener, and to fix the number of such committees which shall form a quorum; and the convener who shall preside at each such committee, or in his absence the preses to be elected by the committee for the time, shall be entitled to a deliberative and in the case of equality to a casting vote; and the committees so to be formed shall report their proceedings at each ordinary meeting of the Magistrates and Council.

Books of proceedings to be kept.

34. The Magistrates and Council shall cause to be provided and kept a proper minute book, and cause regular entries, written or printed, to be made therein of all their acts, orders, and proceedings, of the amount of the salaries and emoluments paid or ordered to be paid to every person employed for the purposes of this Act, and of the names of the Magistrates and Council present at their meetings; and all the minutes and entries written or printed in such book, being signed in accordance with the rules and sett of the burgh, shall be deemed originals, and shall be allowed to be read as evidence in all causes, actions, suits, prosecutions, and questions which may arise out of such acts, orders, or proceedings.

VIII.—Officers.

Officers acting under repealed Acts to continue.

35. Subject to the provisions of this Act, and any legal rights of the town clerk, the several officers appointed by virtue of or

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acting under the authority of the repealed Acts, shall hold and enjoy their respective offices and employments, and shall have the like power and authority for the purposes of this Act, and for carrying the same into execution, and shall account for their respective intromissions and conduct in the same manner, and be subject and liable to the like power of removal, and to like rules, regulations, pains, and penalties, in all respects as if they had been appointed by virtue of this Act, the office of superintendent of police being known as that of chief constable: Provided always, that nothing in this section contained shall affect the provisions in the Roads and Bridges (Scotland) Act, 1878, whereby the Magistrates and Council may continue any of the officers employed by the city of Edinburgh road trust or provide for their retirement or otherwise.

1.—*Treasurer and Collector.*

Security to be taken from treasurer and collector.

36. The Magistrates and Council shall take such security from the treasurer and collector appointed or to be appointed by them for the due execution of their offices respectively, and for their faithful accounting for all moneys received by them, as to the Magistrates and Council shall seem meet; and such security shall be taken from such treasurer and collector before either of them shall enter upon the duties of their respective offices.

Provision for insolvency of treasurer or collector.

37. If the treasurer or collector shall become insolvent, and any sum chargeable against him shall not have been paid from his estate or by his cautioners or sureties, and shall be irrecoverable, the sum deficient shall be chargeable against and form a burden upon the next or any subsequent annual burgh assessments, and shall be estimated and taken into account in fixing the rate of such assessments.

Treasurer and collector to lodge all moneys in bank in name of Magistrates and Council, &c.

38. The treasurer and collector shall and they are by this Act respectively required to lodge all moneys received by them respectively with such banks or banking companies as the Magistrates and Council shall direct, upon an account or accounts to be opened in the name of the Magistrates and Council, and to be operated upon by the treasurer. Neither the treasurer nor collector shall retain in his own hands at any one time a greater sum than fifty pounds; and if any treasurer or collector shall act in the contrary he shall be liable to a penalty of twenty pounds per centum per annum on all sums exceeding fifty pounds so and while retained by him in name of interest and damages.

Duties of collector and treasurer.

39. The collector shall receive, pursue for, and recover all moneys due to or receivable by the Magistrates and Council under this Act, with the exception of loans, which shall be receivable by the treasurer; and the treasurer shall disburse the whole moneys and make all the payments authorised by the Magistrates and Council as the same shall be certified under the hand of the town clerk, and only make drafts on the bank account or bank accounts for purposes so authorised: Provided always, that the office of treasurer may be held by the city chamberlain.

Books of accounts to be kept and to be open to inspection.

40. The Magistrates and Council shall and they are hereby required to order and direct that books be provided and kept by the treasurer and collector, in which books the treasurer and collector respectively, having regard to the separate duties imposed on them by this Act, shall enter or cause to be entered true and regular accounts of all sums of money received and paid, laid out, and expended for or on account of the purposes of this Act, which books, with the whole documents or vouchers of charge and discharge, shall, during ordinary business hours, for a period of six weeks from the second Tuesday of August in each year, be open to the inspection of the Magistrates and Council, and of any ratepayer or creditor on the burgh assessments, without fee or charge; and the Magistrates and Council, ratepayers and creditors, or any of them, may take copies of or extracts from the said books, or any part thereof, without paying for the same; and in case any treasurer or collector shall refuse to permit such inspection to be made or such copies or extracts to be taken as aforesaid, such treasurer or collector shall be liable to a penalty not exceeding five pounds.

Accounts to be balanced yearly, and an abstract prepared, which shall be open to inspection.

41. All such books and accounts shall be regularly fitted and balanced yearly as on the fifteenth day of May, and a balance sheet for the preceding year shall be laid before a meeting of the Magistrates and Council to be held on the second Tuesday of July annually, or within one week thereafter; and an abstract of the accounts for the preceding year shall be made out and printed on or before the second Tuesday of August annually, and a copy of such abstract shall be delivered to each of the Magistrates and Council, and shall be lodged with the town clerk and in the office of the treasurer, where it shall remain for six weeks open to the inspection of the ratepayers without fee or charge.

Police accounts, how to be kept.

42. The several accounts of the pecuniary transactions of the Magistrates and Council under this Act relating to the departments of police shall be kept distinct from those of the proper

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municipal affairs of the city, and shall be audited, laid open to inspection, and published in the same manner, at the same time, and under the same penalties as the accounts of the municipal revenues of the city are required to be kept, audited, laid open to inspection, and published.

2.—*Inspector of Lighting and Cleansing, &c.*

Duties of inspector of lighting and cleansing.

43. The inspector of lighting and cleansing appointed or to be appointed by the Magistrates and Council under this Act (which offices may be combined or disjoined as to the Magistrates and Council may seem proper) shall, when and as often as the Magistrates and Council have fixed the number of assistant inspectors, overseers, scavengers, lamplighters, keepers of depôts, and other officers and persons to be employed in his department, appoint, suspend, and dismiss, with the exception after provided, all officers and persons employed in his department, and in all respects direct, command, and control them in the execution of the duties to be assigned to them in carrying into effect the purposes of this Act; and the said inspector shall attend to the due fulfilment of all contracts made by the Magistrates and Council as to cleansing and lighting streets and courts; cause to be removed therefrom every offensive matter or thing; take care that the streets, courts, footpavements, and footpaths be properly and sufficiently and timeously cleansed by the scavengers employed under his charge and inspection; take possession of and remove all horse and cow dung when the same shall become the property of the Magistrates and Council, as in this Act provided; inspect shambles and other slaughter-houses, premises, and yards where carrion may be kept or sold, and take measures so that they shall always be kept in a cleanly state; enter at all reasonable hours (which he or any officer or person duly authorised by him is by this Act authorised and empowered to do) any house, building, garret, cellar, yard, or other premises in which he has reason to believe there are swine or any offensive matter or thing which may affect the health or comfort of the inhabitants; see that all the lamps are lighted and kept lighted for the due times, and maintained in all respects in proper order; receive and, if necessary, forthwith communicate to the Magistrates and Council any complaints or remonstrances relating to the lighting or cleansing which may be made to him by any ratepayer or other person interested, with the result of his own inquiries on the subject; make reports to the Magistrates and Council if required, or when he may consider it requisite, upon the

state of the departments of lighting or cleansing; enforce all the regulations and provisions of this Act for the prevention of nuisances, and the improvement of the health and comfort, and the diminution of disease and mortality of the inhabitants, in so far as he may be required to do so by the Magistrates and Council; and generally execute all the other duties imposed on him by this Act or by any other general or local Act, and obey all the orders, instructions, and regulations which may from time to time be made by the Magistrates and Council relative to the execution of such duties; and the said inspector is by this Act authorised to require, and the constables shall report each morning to the said inspector, the state of the lamps during the preceding night, and whether the streets, courts, foot-pavements, and footpaths were properly and timeously cleansed; and the said inspector shall report to the Magistrates and Council the manner in which these duties shall be performed.

Duties of officers if offices of inspector of lighting and cleansing disjoined.

44. In the event of the disjunction of the offices of inspector of lighting and inspector of cleansing, the Magistrates and Council may devolve on each officer such of the duties before mentioned as shall be appropriate to his office, and as they shall see fit, and may make such changes in regard to the duties of such officers as shall from time to time appear to them to be expedient.

Manure salesman.

45. The Magistrates and Council may appoint a salesman or officer for the sale of the manure belonging to and vested in them by this Act, and may assign to such officer such other duties as they shall consider necessary.

3.—*Burgh Engineer.*

Duties of burgh engineer.

46. The burgh engineer appointed or to be appointed by the Magistrates and Council shall take the charge and superintendence of the whole streets, courts, foot-pavements, and footpaths, drains, common sewers, and cesspools, so far as these are under the control of the Magistrates and Council; and in particular the burgh engineer shall see that the provisions of this Act are carried into effect in relation to the making, repairing, and maintaining of streets, courts, foot-pavements, and footpaths; the superintendence, repair, and maintenance of house drains and other drains and common sewers; the removal or cleansing of cesspools; the erection of pipes for conveying rain water from roofs, of foul water pipes, sinks, and soil pipes; the repair and security of windows in common stairs; the repair of area gates and railings, and of

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railings and walls adjoining to or fronting any street or other place open to the public; the repair and removal of houses or buildings in an insecure, ruinous, or waste condition; the repair of chimney stalks, chimney heads and cans, and other similar matters; the removal of encroachments and projections on streets or courts; the naming of streets and numbering of houses; the consumption and prevention of smoke; that building materials, excavations for buildings, and other operations are sufficiently fenced and lighted, or where any building materials are deposited, or any erection is formed, that the same shall be so fenced or guarded while the operations are in progress as that the inhabitants may not suffer injury; and discharge such of the above duties and such other duties as the Magistrates and Council may from time to time assign to him: Provided always, that the Magistrates and Council may, if they see fit, appoint temporarily or otherwise any other officer to discharge any of the duties before referred to in regard to streets, courts, foot-pavements, and footpaths.

4.—Medical Officer of Health and Surgeon of Police.

Duties of medical officer of health and surgeon of police.

47. The medical officer of health, or surgeon of police, or any officer who has been or may be appointed by the Magistrates and Council, shall discharge the duties of these offices jointly; take the charge and superintendence of any hospitals or other places established by the Magistrates and Council for the treatment of disease; appoint, suspend, and dismiss all officers or other persons employed in such hospitals (the number and grade of such persons being always fixed by the Magistrates and Council, or under their authority); give medical and surgical attendance to the constables, and surgical attendance to men employed in other departments of police who have suffered bodily injury in the discharge of duty; ascertain the existence of disease within the burgh, especially of epidemic, endemic, contagious, or infectious diseases, point out any causes which, in his opinion, have occasioned or are likely to occasion or contribute to or continue such diseases, or otherwise injure the health of the inhabitants, and point out the best means of checking or preventing the spread of such diseases; and from time to time, as required by the Magistrates and Council or deemed necessary by such officer, report to them on the matters aforesaid; and perform all duties which have been or may be attached to the offices of medical officer of health or surgeon of police by public or local statute, or by order or regulation of the Magistrates and Council.

5.—*Chief Constable.*

Appointment of chief constable, and his salary.

48. The lord provost and magistrates and the sheriff (excluding his substitutes) are hereby empowered and required from time to time to appoint a chief constable, subject to the approval of one of Her Majesty's Principal Secretaries of State; and in the event of an equality of votes in regard to such appointment, such Secretary of State shall appoint a chief constable; and the salary to be paid to the chief constable shall not be less than six hundred pounds per annum: Provided that the office of superintendent of police under the recited Acts shall be merged in and superseded by the office of chief constable.

Removal of chief constable.

49. The lord provost and the sheriff (excluding his substitutes) shall have power to remove the chief constable on the ground of inefficiency or misconduct, and in the event of their differing in opinion the matter shall be referred to one of Her Majesty's Principal Secretaries of State, who shall have power to remove the chief constable if he shall think fit.

6.—*Prosecutor in the Police Court.*

Prosecutor for public interest in police court.

50. The Magistrates and Council shall appoint a prosecutor for the public interest in the police court, who shall conduct prosecutions and other proceedings in all cases cognisable by the judge of police, and such prosecutor shall have the like powers and privileges as in all such cases appertain to any procurator-fiscal by the law of Scotland; and the said prosecutor shall have the same rights and privileges as the chief constable and the constables in respect of any superannuation or retiring allowance provided for the said chief constable and constables.

Interim prosecutor.

51. The prosecutor may, with the consent of the judge of police, appoint a person from time to time to perform ad interim his duties in his name, and to insist in any proceedings which have been commenced in his name.

7.—*Clerk of Police Court.*

Appointmen of clerk of police court.

52. The Magistrates and Council shall appoint a clerk of the police court, and the clerk so appointed may, with the consent of the Magistrates and Council, appoint a person to act for him as his depute, with all the powers of the said clerk.

8.—*Firemaster.*

Appointment of firemaster.

53. The Magistrates and Council shall appoint a master of the fire establishment to carry out the provisions of this Act in relation

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to the prevention and extinction of fires, and to discharge such other duties in connexion with his office as the Magistrates and Council may from time to time appoint.

9.—*Inspector of Markets.*

Duties of inspector of markets.

54. The inspector of markets who may be appointed by the Magistrates and Council shall carry out the provisions of this Act in regard to diseased meat and also the provisions of any general or local Act administered by the Magistrates and Council in relation to the adulteration of food, and shall discharge such other duties in regard to his office as the Magistrates and Council shall from time to time appoint.

10.—*Constables.*

Chief constable to appoint constables.

55. When and as often as the Magistrates and Council shall fix the number of lieutenants, inspectors, sergeants, constables, and other officers of police which they shall judge necessary for guarding, patrolling, and watching within the burgh, the chief constable is hereby authorised and empowered to appoint proper persons for such offices, to direct their distribution or otherwise, and also to suspend or remove such constables appointed by him at pleasure, and the constables shall, in addition to the special powers conferred upon them by this Act or by any local or general Act of Parliament, have and exercise all the powers belonging to constables by the law of Scotland.

Duties and powers of chief constable and other constables.

56. The chief constable, and the constables appointed by him, shall guard, patrol, and watch within the burgh, according to rules and regulations to be prescribed by the chief constable, under the control of the Magistrates and Council; apprehend and bring before the judge of police all persons who may be found within the burgh committing any crime or offence, or accused or suspected of having committed any crime or offence, of whatever description, and at what place and period soever the same may have been or is suspected to have been committed, whether the same be of such a kind as can be competently tried in the police court or be of a nature requiring to be tried before a higher tribunal, or which, from having been committed beyond the burgh, falls to be tried in another jurisdiction; carry into full effect the whole provisions and regulations in this Act contained, and the rules and regulations which may be made by the Magistrates and Council for the proper guarding, patrolling, and watching within the burgh; and at all times afford their aid and assistance to the magistrates and dean of guild of the

city, and the sheriff, in all matters relative to the preservation of peace and good order and public safety, the suppression of nuisances, and the removal of obstructions within the burgh; and enforce the observance of all regulations made or to be made by the Magistrates and Council with respect to the public markets, public parks, gardens, bleaching greens, drying greens and grounds, public baths and wash-houses, gymnasiums, and open spaces, and the conduct of persons resorting to the same.

Penalty for assaults, &c. on constables, &c.

57. Every person who shall be convicted of an assault on any constable in the execution of his duty, or of rescuing or attempting to rescue any prisoner whom such constable shall have in custody, shall be liable to a penalty not exceeding ten pounds; and every person who shall not, when required by a constable, afford him every reasonable aid and assistance in preventing the escape of any person whom he has taken into custody shall be liable to a penalty not exceeding five pounds.

Provision may be made for disabled constables.

58. The Magistrates and Council may make suitable provision out of the burgh assessments for any constable who may at any time be disabled or wounded, or incapacitated on account of advanced age and long service, or for the family of such constable who may lose his life in the execution of his office, and in case of any such constable being so disabled, wounded, or incapacitated as to be unable to perform his duty, or losing his life as aforesaid, and the chief constable being thereby obliged to engage another person to supply his place, which he is hereby authorised to do, such constable so disabled, wounded, or incapacitated, and the widow and children of any constable losing his life as aforesaid, in the event of his leaving a widow or children, shall receive the ordinary pay or wages of such constable till the next meeting of the Magistrates and Council, when the special circumstances of the case shall be reported, and the Magistrates and Council shall give such orders respecting the same as to them shall appear proper.

Rewards to constables, &c.

59. For the purpose of rewarding any constable or other person aiding or assisting, for extraordinary trouble, and according to their exertions in important and difficult cases, and for enabling the lord provost and the sheriff to remunerate persons necessarily employed for special services, the Magistrates and Council may order their treasurer to place at the disposal of the lord provost and the sheriff, for the purposes before mentioned, such sum or sums of money as to the Magistrates and Council shall seem proper, not exceeding in the whole the sum of five hundred pounds in any one year; which

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sum or sums the said treasurer shall pay, on orders signed by the lord provost or sheriff, countersigned by the town clerk.

Penalty for neglect of duty.

60. Every constable who is convicted of any neglect or violation of duty shall be liable to a penalty not exceeding ten pounds or to imprisonment for a period not exceeding sixty days, and shall also, if the judge of police shall see fit, forfeit his claim to any arrears of salary or wages due to him.

12.—*Constables and other Officers.*

Constables and other officers not to resign without notice.

61. Every constable, scavenger, carter, or lamplighter employed under this Act who resigns his office or withdraws himself from the duties thereof, unless expressly allowed to do so in writing by the head of the department to which such person is attached, without giving one month's notice in writing of his intention so to do, shall forfeit all arrears of pay then due to him, and every constable so offending shall in addition be liable to a penalty not exceeding five pounds.

Constables and other officers dismissed to deliver up accoutrements.

62. Every constable, scavenger, carter, or lamplighter employed under this Act who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver over all the clothing, accoutrements, appointments, and other requisites which have been supplied to him for the execution of his duty, to the head of the department to which he has been attached, shall be liable to a penalty not exceeding five pounds; and the head of the department may seize, for the Magistrates and Council, all the clothing, accoutrements, appointments, and other requisites which shall not have been delivered over, wherever the same may be found.

Penalty for unlawful possession of clothing, &c.

63. Every person, not being a constable or person employed under this Act, who shall have in his possession any of the clothing and accoutrements or appointments of such constable or person, or who shall put on the dress, or take the name or designation, or otherwise assume the character of such constable or person, or do or cause to be done any act which such person would not be entitled to do or procure to be done of his own authority, shall be liable to a penalty not exceeding five pounds.

Penalty for conveying spirits into police office or station-houses.

64. Every person who shall bring or convey any excisable liquors into any police office or station-house, other than such in kind and quantity as have been prescribed by the surgeon of police, shall be liable to a penalty not exceeding five pounds.

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Superannuation fund.

65. The Magistrates and Council may establish, under such conditions as they shall see fit as to the contributions to be made by constables or other officers employed under this Act, a fund for providing a superannuation allowance by way of annuity or otherwise for such constables or other officers as may be employed by them, and may make such regulations as to such superannuation allowance as shall seem to them expedient.

IX.—Finance.

1.—*Assessments.*

Expenses to be estimated.

66. The Magistrates and Council shall annually, at a meeting to be held on the second Tuesday of August, or at a meeting to be held for the special purpose as soon thereafter as may be, estimate and fix the sums of money necessary to be levied for the year then current, namely, from the fifteenth day of May preceding to the fifteenth day of May succeeding, under the provisions of this Act; viz.,

1. For watching, lighting, cleansing, maintenance of the fire brigade and fire establishment, maintenance of public parks, gardens, and bleaching greens, drying greens and grounds, public buildings, public wash-houses, baths, gymnasiums, and open spaces, damages occasioned by mobs, expenses in connexion with the Weights and Measures Act, 1878, the annuity payable out of the police assessment under the Edinburgh Markets and Customs Act, 1874, and all other purposes of this Act not herein otherwise specified, payable by the occupier:

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2. For repair and maintenance of streets, courts, foot-pavements, and footpaths, and also works undertaken for the public safety, payable one half by the owner and one half by the occupier:
3. For general improvements under this Act, including the purchase and acquisition of lands and heritages, public parks, gardens, and bleaching greens, drying greens and grounds, and open spaces, and for the erection of public buildings, public wash-houses, baths, and gymnasiums, and also the liquidation of obligations under the Edinburgh Improvement Act, 1876, payable one half by the owner and one half by the occupier:
4. For formation and maintenance of sewers and drains, including the amount to be paid to the Water of Leith Sewerage Commissioners, by the Magistrates and Council under the

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provisions of this Act, in lieu of the sums which the said commissioners are entitled to receive under the Edinburgh and Leith Sewerage Act, 1864, within the Edinburgh district, from the owners of all lands, houses, and other property, any sewer, outfall, or drain from which shall, after construction of the main and branch sewers and works by the said Act authorised, be connected with the same, payable by the owner:

5. For the sums required for carrying out the provisions of any other local or any public general Act in operation within the city or burgh for the time being, exclusive of the Acts relating to the land tax, payable by the persons and in the proportions mentioned in such Acts respectively:

Provided always, that such estimate shall show the aggregate amounts payable by owners and occupiers respectively; and the same and the assessment to follow in respect thereof shall not, in so far as regards the items specified under the first three heads of this section, exceed in whole the rate of two shillings in the pound of the yearly rent; provided also, that the amount of the yearly proportion of the expense of all purchases, and of the construction of public buildings, streets, sewers, or other works of a permanent nature, or for any purpose implying extraordinary expenditure, for which money shall have been borrowed under the authority of any of the recited Acts or this Act, including interest and payments to account of sinking fund in extinction of sums borrowed, and also interest on all sums raised in advance of the current annual expenditure, shall in like manner be estimated yearly under the several heads of estimate; for which purpose of estimating the sums required under such other local or public general Act, the persons charged with the execution of the same shall timeously in each year intimate to the Magistrates and Council the sums for which provision must be made.

Burgh assessments to be imposed.

67. On or before the last day of September in each year the Magistrates and Council (being convened by notices, which shall state the object of the meeting,) shall, subject to the restrictions in this Act contained, lay on an assessment sufficient to provide the sums of money estimated as aforesaid upon the owners or occupiers and owners and occupiers, as the case may be, of all lands and heritages within the burgh or within the city as to any portion of the assessment which is by law so restricted, subject to the exceptions in this Act after provided; and such assessment shall be fixed and assessed on owners and occupiers respectively as nearly as may be in the proportions which the aggregate amounts esti-

mated as payable by owners and occupiers respectively bear to each other, excluding fractions lower than the fourth part of a penny; and the rate of assessment so fixed shall within one week be intimated by advertisement in one or more newspapers published in the burgh: Provided always, that the burgh assessments shall not be imposed on the occupiers (not being owners) of lands and heritages rented or valued under five pounds; provided also, that such aggregate assessment shall be imposed, as from the fifteenth day of May in any one year to the fifteenth day of May in the following year, and shall be called the burgh assessments; provided also, that the burgh assessments shall be due and payable at the office of the collector on the eleventh day of November or on the next lawful day thereafter yearly.

Penalty for nonpayment.

68. If any person shall be in arrear of the burgh assessments by nonpayment previous to the first day of March in any year, one penny upon each pound of the yearly rent of the lands and heritages in respect of which such person is so in arrear, in addition to the amount of the assessments then due, shall be leviable from such person by way of penalty for neglect or failure in payment, and the Magistrates and Council and the collector are hereby authorised and required to levy and collect the same.

Payment of damages occasioned by riot.

69. The Magistrates and Council may, out of the burgh assessments, defray to such extent as they think proper such claims for damages sustained in consequence of any riot or tumult as may be established to their satisfaction.

Certain premises not to be assessed.

70. The burgh assessments shall not be imposed in respect of the Royal Palace of Holyrood, Queen's Park, Arthur's Seat, Duddingston Loch, nor houses or buildings in the Castle of Edinburgh, nor the Courts of Justice, General Register House, City Chambers, County Buildings, Prison of Edinburgh, nor the University of Edinburgh, and the buildings connected therewith, except those parts which are used as houses, nor the Royal Infirmary, the Royal Edinburgh Hospital for Sick Children, nor the Assembly Hall of the Church of Scotland, the Free Church College, the Free Church Assembly Hall, the Synod Hall of the United Presbyterian Church and the buildings connected therewith, so long as these shall continue to be solely used for ecclesiastical purposes or shall not be let for hire for other purposes, except those parts which are used as houses; or in respect of any house or building which is solely occupied for purposes of public charity, or any premises exempted from taxation by public law; and the public parks, gardens, and bleaching greens, drying greens

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and grounds, public buildings, public wash-houses, baths, gymnasiums, open spaces, the police offices, station-houses, and other buildings or grounds connected with the police establishment or provided or upheld out of the burgh assessments, shall be exempted from the payment of such assessments, and the said police offices, station-houses, houses, and other buildings or grounds connected with the police establishment shall also continue to be exempted from the payment of all cess or poor rates imposed or to be imposed.

Relief may be granted from assessments in case of poverty.

71. The Magistrates and Council may, on the ground of the poverty or inability to pay of any person liable in the burgh assessments, remit, in whole or in part, payment of the said assessments in such manner as the Magistrates and Council shall think just and reasonable.

Occupiers to pay assessments, &c.

72. The whole of the burgh assessments authorised to be levied under this Act shall be levied and collected from the occupiers of lands and heritages rented or valued at and above five pounds per annum, and such occupiers shall be entitled to deduct from their rents any portion of such burgh assessments by this Act or otherwise by law laid on the owner.

Deduction for partial occupation, &c.

73. Deduction may be allowed by the Magistrates and Council of the burgh assessments for any period during which any lands and heritages shall not be let, retained for occupation, or occupied for three months consecutively in any one year; and every owner who shall let for rent or hire lands and heritages for less than a year shall himself, as well as the occupier, be responsible for the burgh assessments, and the same may be recovered either from such owner or from such occupier: Provided always, that the occupier of any lands and heritages let for a period less than a year, by whom the burgh assessments shall be paid, shall be entitled to deduct from his rent the amount of the burgh assessments in excess of the proportion thereof applicable to the period of his occupancy; and provided further that the proportion of the burgh assessments falling by law on the owner may be levied and recovered directly from such owner whenever payment shall not have been made by the occupier.

Lands, &c., how to be valued.

74. The yearly value of the lands and heritages after specified shall, for the purpose of the burgh assessments, be held to be the nearest aggregate sum of pounds sterling to one fourth of the yearly value thereof; viz.,

(1.) All lands and works used as a canal or basin of a canal, or towing-path for the same, or as a railway constructed

under the powers of any Act of Parliament for public conveyance, excepting stations, depôts, wharves, and buildings connected therewith, which shall be assessable to the same extent as other lands and heritages:

(2.) All underground gas and water pipes and underground works connected therewith:

(3.) All woodland, arable, meadow, and pasture land, and other land used for agricultural purposes:

And in the event of any dispute arising as to the lands and heritages falling under the above exceptions, the owner or occupier of such lands and heritages may present a petition to the sheriff praying to have the same declared for the time being liable to assessment upon the said proportions of their value only; and the sheriff shall thereupon order the petition to be served on the Magistrates and Council upon an induciæ of not less than five days, and after hearing parties and taking such evidence as he shall think necessary shall pronounce such judgment as to him shall seem just and right.

Assessment rolls to be made up.

75. The Magistrates and Council shall annually cause to be made up rolls or books of assessment from the valuation roll, showing the yearly rent or yearly value of the lands and heritages liable to be assessed for the burgh assessments; and in such rolls and books of assessment there shall in no case be entered any fractional part of a pound of the assessable yearly rent or yearly value aforesaid; and when such fractional part shall not amount to ten shillings the same shall not be entered in such rolls or books; and when such fractional part shall amount to or exceed ten shillings the same shall be entered as one pound of such yearly rent or yearly value in addition to the actual number of pounds of such rent or value, and shall be assessed accordingly; and such rolls or books of assessment shall be open to inspection by all ratepayers; and the Magistrates and Council shall have power to rectify any error which may be found in such rolls or books.

Recovery of burgh assessments.

76. If any person assessed under the provisions of this Act shall refuse or neglect to pay the burgh assessments on or before the expiry of three months after such assessments are payable, the collector may make an attestation, written or printed, or partly written and partly printed, setting forth that such person has failed to pay such burgh assessments, notwithstanding the same have been demanded from him by the collector by a notice delivered to or left for him on the premises in respect of which

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such assessments are made, or at his house or place of business; and such attestation being made, the collector may make application to the sheriff, who, upon such application and production therewith of such attestation, shall grant summary warrant for recovery of the burgh assessments, and also for recovery of one penny upon each pound of the yearly rent of the lands and heritages in respect of which such person is in arrear, in name of penalty, in respect of the nonpayment of the burgh assessments, previous to the first day of March, as herein-before provided, which attestation, application, and warrant shall be in the form, as near as may be, contained in Schedule (B.) to this Act annexed: Provided always, that nothing in this Act contained shall prejudice the right of the collector at any time after the burgh assessments shall be payable, whether before or after such warrant shall have been obtained, to prosecute, as he is by this Act empowered to prosecute, for and recover at common law all or any part of such burgh assessments in arrear, with the addition, if such prosecution or proceeding for the burgh assessments, or any portion thereof, shall not have been instituted previous to the first day of March, of one penny upon each pound of the yearly rent of the lands and heritages in respect of which such person is so in arrear in name of penalty; and the collector shall preserve the warrants of all seizures or sales made under this section, and shall enter in a book to be kept for that purpose the names of the persons proceeded against, the amount of the burgh assessments due, the expense of the proceedings, and the true proceeds of each sale, which book shall be open to the inspection (without any fee) of all persons interested for three months after the date of each sale respectively.

Misnomers not to affect proceedings for recovery of assessments.

77. No misnomer, mistake, or informality committed in any proceedings for recovery of such burgh assessments, or any other charges or expenses under the provisions of 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 Magistrates and Council, but the collector may 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: Provided always, that it shall not be competent for any person to sue, nor for any court of law to entertain, any action or proceeding against the Magistrates and Council, or the collector or officers or other persons

employed in executing any warrant in reference to the burgh assessments, charges, or expenses under the provisions of 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 possession of the person actually liable in payment thereof.

Recovery of assessments, &c. in cases of persons resident beyond burgh.

78. In case any person liable in payment of the burgh assessments, or of any charges or expenses authorised to be levied under this Act, shall not occupy any house or building within the burgh, and shall fail in payment of the burgh assessments, charges, or expenses due by him, the collector may pursue for and recover the burgh assessments, charges, or expenses from the occupier of the lands and heritages in respect of which such burgh assessments, charges, or expenses arise, and the occupier shall, on payment, be entitled to deduct from his rent the amount of all such sums recovered from him, with the expenses of recovery.

Treasurer to pay over assessments. 30 & 31 Vict. c. xliv.

79. The treasurer shall from time to time transfer and pay over to the proper accounts, from the produce of the burgh assessments, the proportions thereof applicable to the heads of estimate for the purposes of the Edinburgh Improvement Act, 1867, the Edinburgh Markets and Customs Act, 1874, and of the Public General Acts under which the Magistrates and Council are or may be authorised to levy assessments; and such proportions of the burgh assessments shall not form the subject of security for any money to be borrowed for the purposes of this Act.

Application of surplus assessments and provision for deficiency.

80. If a surplus under any of the branches of estimate included in the burgh assessments shall remain at the end of any year after payment of the expenses for which such branch of estimate was so included, every such surplus shall be applied in reduction in the year following of the particular branch of estimate on which such surplus arose; and if any of the branches of estimate included in the burgh assessments for any year shall not be sufficient for the purpose for which it was imposed and levied, the Magistrates and Council shall, in fixing the burgh assessments for the succeeding year, have regard to the state of the accounts for the year preceding under such several heads of estimate.

2.—*Borrowing of Money.*

Power to borrow money for the purposes of this Act.

81. The Magistrates and Council may borrow and take up at interest for the purposes of this Act such sum or sums of money as may be necessary for the purchase of lands and heritages, the

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erection of public buildings, or the construction of streets or sewers or other works of a permanent character, or for any purpose implying extraordinary expenditure, as may be determined by the Magistrates and Council, in addition to the moneys already borrowed for such or the like purposes, and they may grant mortgages of the portions of the burgh assessments applicable to such purposes respectively in security of the sums so borrowed in so far as such portions of the burgh assessments may be realised under the provisions of this Act; and if, after having borrowed the said sum or sums, or any part thereof, the Magistrates and Council shall pay off the same, or any portion of the sums contained in such mortgages or any of them, otherwise than by means of the sinking fund by this Act established, the Magistrates and Council may reborrow the amount of the sum or sums so paid off on the same security, either by granting new mortgages in security therefor, or by means of assignations of existing mortgages or otherwise, and so from time to time as they shall think proper; and the mortgages to be made and granted by the Magistrates and Council, and assignations thereof, and the interest warrants relative thereto, may be in the forms respectively contained in the Schedule (C.) to this Act annexed, or as near thereto as may be; and the Magistrates and Council may, in the exercise of the borrowing powers by this Act authorised, borrow such sum or sums of money belonging to or administered by them, or by any number of them, or as governors, trustees, or administrators, as the Magistrates and Council shall see fit, and apply such sum or sums for the purposes of this Act, or any of them: Provided that the rate of interest shall in no case be less than the rate of interest on landed securities in Scotland current at the time; provided also, that the Magistrates and Council shall not borrow any sum or sums of money vested in or administered by them, or any number of them as aforesaid, when the lending of such money shall be contrary to the trusts, terms, purposes, or conditions upon or for which such money is held.

Power to borrow on cash credit.

82. The Magistrates and Council may, in the exercise of the said borrowing powers, take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company, in the name of the Magistrates and Council, according to the usage of bankers in Scotland, for the sum or sums which the Magistrates and Council are hereby authorised to borrow, or any part thereof, on the security of the burgh assessments or portions of them; and make and grant mortgages and assignations of such burgh assessments or portions of them, under the

provisions of this Act, in security of the payment of the amount or of the sums advanced from time to time on such cash account, and the interest thereon.

Mortgages to be recorded and assignations to be registered.

83. Before such mortgage shall be delivered to the creditor, or the bond for such cash credit shall be delivered to the bank or banking company, or shall form a valid lien on the burgh assessments as aforesaid, the same shall be minuted or noted in the minute book of the Magistrates and Council, and a certificate of such registration shall be indorsed on such mortgage or bond and signed by the town clerk or depute town clerk; and assignations of such mortgage or bond shall be notified to the town clerk, who shall enter in the said minute book the date of such assignation, the names of the parties thereto, the number, mark, or description of such mortgage or bond, and the rate of interest thereon, as such interest shall be certified by the treasurer, and a certificate of such entry shall be indorsed on such mortgage or bond and signed by the town clerk or depute town clerk; and on such mortgage or bond being so certified, the mortgagee or assignee, and his executors and assignees, shall be entitled to the full benefit of such mortgage or bond in terms of such assignation; and the whole expense attending the said principal mortgage or bond, including the minuting or noting and entering thereof, with the relative certificate, shall form a charge against the portion of the burgh assessments to which it relates.

Sinking fund.

84. The Magistrates and Council shall annually set apart out of the moneys to be levied for the purpose under this Act a sum or sums equal to not less than one-twentieth part of the sums borrowed under the authority aforesaid on the security of any portion of the burgh assessments; and the Magistrates and Council shall from time to time apply the sum or sums so set apart as a sinking fund in paying off the principal sums so borrowed.

Existing debts to have priority.

85. Nothing in this Act contained shall affect the priority of securities for moneys borrowed under the recited Acts, but such securities shall attach to and be preferable burdens upon the portion of the burgh assessments applicable to the particular purposes for which such existing debts and securities have been incurred and constituted.

Borrowing power for current expenses.

86. In order to raise such money as may be necessary to defray the current annual expenditure for the purposes of this Act until the burgh assessments hereby authorised are levied and collected, the Magistrates and Council may borrow during the currency of

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any year from the fifteenth day of May in one year to the fifteenth day of May in the succeeding year, in addition to the sums before authorised to be borrowed on the security of the burgh assessments, in such way and manner as they may deem most expedient, any sum or sums not exceeding in whole two third parts of the estimated amount of such burgh assessments for the year then current from any bank or banking company or other company or person, on such terms and conditions and in such form as may be agreed on between the parties: Provided always, that such sums so borrowed shall, as nearly as may be, be paid off and extinguished at or before the fifteenth day of May concluding the year to which such borrowing applies.

Arrears may be enforced by appointment of judicial factor.

87. In the event of any principal money borrowed on mortgage or cash credit bond on the security of the burgh assessments or any interest thereon not being paid within one month after such payment shall have become due, and demand thereof made in writing, any mortgagee holding a mortgage or any bank or banking company holding a cash credit bond in arrear as to payment of interest to the amount of one hundred pounds, or as to principal to the amount of one thousand pounds, or several mortgagees holding mortgages, or any banks or banking companies holding cash credit bonds in arrear as to payment of interest to the amount of two hundred pounds, or as to principal to the amount of two thousand pounds in the aggregate, may render his or their security effectual by the appointment from time to time of a judicial factor; and the application for such appointment shall be made by summary petition to the court of session, or in time of vacation to the lord ordinary on the bills, which appointment shall be made accordingly, unless previously to such application being advised the amount of such interest or principal with expenses shall have been paid, or unless the said court or lord ordinary, as the case may be, shall be satisfied that consignation thereof should, under the circumstances, be accepted in lieu of payment, and such consignation be made accordingly, and the interlocutor making such appointment shall not be subject to review or appeal.

Powers and duties of judicial factor.

88. The judicial factor so appointed, on finding security in common form, shall exercise all the powers conferred by this Act upon the Magistrates and Council for and in relation to levying and recovering the burgh assessments; and the Magistrates and Council shall deliver to him all books and documents necessary for that purpose, and after providing for the other purposes of this Act, and also defraying the expense of such application and levying of such burgh assessments, the said judicial factor shall

from time to time apply and pay over the balance of the sums received by him to the several parties entitled to payment therefrom, according to their respective priorities and preferences under the recited Acts and this Act; and the judicial factory shall continue not only until all arrears of mortgages or bonds due at the date of the appointment of such judicial factor, and all interest due on any of the said sums which shall have become due during his continuance in office, with interest and expenses, including the expenses of the appointment and of the carrying the purposes thereof into execution, shall have been paid, but also until any half year's interest which, although not due, may become current during his continuance in office, and a sufficient sum to meet expenses shall have been paid or consigned in one of the banks in Scotland incorporated by Act of Parliament or Royal Charter; and upon payment or consignation as aforesaid of such arrears of mortgages, or bonds, interest, and expenses, the Magistrates and Council may apply to the court of session or lord ordinary as aforesaid for the recall of the appointment of the judicial factor, who may recall such appointment accordingly.

Magistrates and Council not to be personally liable.

89. No magistrate or councillor or officer acting under the Magistrates and Council shall be personally liable for the repayment of any money so borrowed, but all such obligations shall be deemed and taken to be granted on the sole security of the burgh assessments authorised to be assessed and levied, and to such extent as before provided.

Burgh assessments to come in place of existing assessments.

90. The burgh assessments by this Act authorised under the respective heads of estimate shall, in so far as regards money borrowed by the Magistrates and Council or the city of Edinburgh road trust on security of any of the rates or assessments levied under any of the recited Acts, come in room and place of such rates or assessments assigned in security, and shall be subject to the terms and provisions of the assignments or other deeds containing such securities.

Power of borrowing for purposes of 39 & 40 Vict. c. cxxx.

91. The powers of borrowing money for the purposes of the Edinburgh Improvement Act, 1876, under the forms provided in the Edinburgh Police Act, 1848, shall, so far as not exercised at the commencement of this Act, be exercised under the conditions and according to the forms provided by this Act.

This Act not to affect 33 & 34 Vict. c. 87.

92. Nothing in this Act contained shall in any way affect an Act of the thirty-third and thirty-fourth year of the reign of Her Majesty Queen Victoria, chapter eighty-seven, intituled "An

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" Act to amend the Act twenty-third and twenty-fourth Victoria, " chapter fifty, intituled 'An Act to abolish the annuity tax in " ' Edinburgh and Montrose, and to make provision in regard to the " ' stipends of the ministers in that city and burgh, and also to make " ' provision for the patronage of the church of North Leith;' and " also to make provision for the abolition of the annuity tax within " the parish of Canongate, and for the payment of the minister of " said parish," or Acts therein recited.

X.—Ordinary Police Purposes.

1.—*Lighting*.

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

93. In regard to the lighting of the burgh, clauses 126, 127, 128, and 130 of the General Police Act are hereby incorporated: Provided that such clauses shall apply to the whole streets and courts, and that in the sense of this Act the word "causeway" in such clauses shall mean "carriageway"; the word "buildings" shall include houses and buildings; and the word "magistrates" shall mean the judge of police; and that the mode of lighting shall be by means of gas or oil, or such other light as the Magistrates and Council may find expedient.

Magistrates and Council may remove, &c. lamp-posts, &c. where not lighted according to regulations.

94. If the Magistrates and Council shall have given permission to any person to erect any lamp-posts, lamp-globes, gas-fittings, or other articles, and if any such lamp-posts, lamp-globes, gas-fittings, or other articles erected by any such person shall not be kept lighted, or otherwise disposed of according to the byelaws and regulations of the Magistrates and Council, the Magistrates and Council may take possession of or remove such lamp-posts, lamp-globes, gas-fittings, or other articles as they shall deem proper, without compensation being made therefor.

Lighting of common stairs.

95. The owner of any common stair, passage, or court belonging to lands and heritages shall, in addition to providing the necessary lamps, brackets, and other means of lighting, provide the necessary supply of gas; and the occupier of such lands and heritages shall be bound to clean, light, and extinguish such lamps or lights at such hours as shall be fixed by special order of the Magistrates and Council, or, failing such special order, at such times and hours as may be fixed by any byelaw or regulation of the Magistrates and Council.

Penalty for not keeping stairs, &c. lighted.

96. If the lamps and other provision for lighting as aforesaid, erected in any common stair or passage or court, are not regularly

cleaned and lighted by the occupier of any house or building or part of such house or building to which access is obtained by such common stair or passage or court, and extinguished at such hours as shall be fixed by any special order of the Magistrates and Council in regard to such cleaning, lighting, and extinguishing, or, failing such special order, at such times and hours as may be fixed by any byelaw or regulation for the time being in force under the authority of this Act, every such occupier so failing to clean, light, or extinguish shall be liable to a penalty not exceeding ten shillings.

2.—Cleansing.

Dung and ashes, &c. to belong to the Magistrates and Council.

97. The whole dung, soil, dirt, ashes, and filth within the burgh, excepting engine ashes and refuse from factories, the refuse of the slaughter-houses, and the manure of stables, byres, and piggeries kept subject to the provisions of this Act, shall belong to and be the property of the Magistrates and Council; and they may erect and construct tanks, cesspools, and other works for collecting liquid manure, and purchase ground by agreement for that purpose, and sell and dispose of the said dung, soil, dirt, ashes, and filth in such manner as the Magistrates and Council shall think fit, and the money thence arising shall be applied to the purposes of this Act.

Penalty for throwing filth upon streets, &c.

98. Every person who shall throw or cast, from any window or other opening or place above the street level of any house or building, any water, soil, dirt, filth, or any offensive matter or thing into or upon any street or court, back ground, garden, or place, shall be liable to a penalty not exceeding forty shillings; and in the event of the person committing any such offence not being discovered, the occupier of any room or other apartment or passage, from the window or other opening or place of which any such water, soil, dirt, filth, or any offensive matter or thing shall be thrown or cast, shall be liable to the said penalty.

Penalty for allowing rubbish to lie on streets beyond a certain time.

99. Every person who shall collect or authorise the collection of or shall lay or cause to be laid down any rubbish on any street or court, and permit the same to lie for more than six hours, shall be liable to a penalty not exceeding forty shillings; and in the event of such rubbish not being removed within the time above specified the inspector of cleansing, or other person under his direction, may remove the same at the expense of the person collecting or authorising the collection of or laying or causing it to be laid down, and the cost of the removal thereof shall be

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recoverable from such person by the collector as a debt at common law: Provided always, that it shall not be deemed an offence to lay sand or other materials in any street or court 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 shall cause them to be removed as soon as the occasion for them shall cease.

Penalty for allowing offensive matter to run into streets.

100. Every person who shall cause or permit any offensive matter or thing to run from any manufactory, dye-work, brewery, butcher's shop, shambles, stable, byre, pigstye, dunghill, or other premises into any street or court, or any place open or enclosed, shall be liable to a penalty not exceeding forty shillings.

As to accumulation of manure, &c.

101. It shall not be lawful for any person to have in any street or court any middenstead or other receptacle for the accumulation of horse or cow dung or other refuse without the consent of the Magistrates and Council; but in regard to any such middenstead and receptacle which may be so permitted, as well as middensteads and other receptacles for horse and cow dung in meuse and stable lanes, or in or adjoining any stables, byres, or piggeries, no manure shall be continuously accumulated therein for a period exceeding fourteen days; provided, nevertheless, that the medical officer of health or the inspector of cleansing may in any case limit such period of accumulation if in his opinion such limitation is required in order to secure the proper sanitary condition of the neighbourhood, and may order, by notice, the removal of such accumulation at such intervals as he may fix; and every person who shall accumulate or permit to be accumulated dung in any such middenstead or receptacle beyond the maximum period of fourteen days, or shall contravene the order of the medical officer of health or inspector of cleansing as to limited intervals of removal, shall be liable to a penalty not exceeding forty shillings, and the inspector of cleansing may seize, remove, and appropriate such accumulations.

If offensive matter deposited in receptacles for horse and cow dung the whole may be seized.

102. If any person having a middenstead or receptacle for horse or cow dung shall deposit or permit to be deposited therein any refuse or other offensive matter or thing other than horse or cow dung, the contents of such middenstead or receptacle may, without notice to the owner thereof, be seized, removed, and appropriated by the inspector of cleansing.

Exception as to manure on fields, &c.

103. Nothing in this Act contained shall have the effect of prohibiting any person laying down dung or other refuse on any field, nursery, or garden ground for the purpose of manuring the

same: Provided always, that if in any case the medical officer of health shall certify that manure so laid down in any place within the burgh is offensive or prejudicial to health, the judge of police may order such manure or other refuse 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, and the judge of police may order the forfeiture of such manure if he shall see fit.

Horse or cow manure in certain cases not subject to removal or forfeiture.

104. Horse or cow manure brought from any place within the burgh to the wharves of the Edinburgh and Glasgow Union Canal, now belonging to the North British Railway Company, for the purpose of being removed to a distance by boats for agricultural purposes, shall not be subject to an order of removal or forfeiture unless the same shall have remained on such wharves for the space of fourteen days, or for any shorter space that may at any time or from time to time be fixed by the Magistrates and Council, and provided the said wharfage ground is not let as a manure depôt, but kept for the collection of such manure as aforesaid in order to the same being shipped and removed: provided that the provision contained in the Public Health (Scotland) Act, 1867, for prohibition of any accumulation of police manure within a quarter of a mile of the municipal boundaries of any burgh shall not apply to the city or burgh.

30 & 31 Vict. c. 101.

Dust boxes may be erected, &c.

105. The Magistrates and Council may cause any number of moveable or fixed dust boxes or other conveniences wherein dust, fulzie, and ashes may be temporarily deposited to be provided and placed in such positions in streets or courts as they shall think proper, and may require the occupiers of premises within such streets or courts to cause all dust, fulzie, and ashes removed from their premises to be deposited in such dust boxes or other conveniences; and every person who shall fail to deposit or cause to be deposited any dust, fulzie, or ashes in one of such dust boxes or other conveniences so to be provided shall be liable to a penalty not exceeding ten shillings.

Erection of public water-closets, &c.

106. The Magistrates and Council may take on lease or purchase ground by agreement for the purpose of forming dungsteads, and may erect and maintain public waterclosets, privies, lavatories, and urinals in any street or place and in such positions and situations as shall, in the opinion of the Magistrates and Council, be most convenient and suitable, and all expenses connected therewith shall form a charge upon the burgh assessments.

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Waterclosets and urinals in public-houses, &c.

107. The Magistrates and Council may make an order on the owner or occupier of any hotel, public-house, beerhouse, eating house, or other place of public entertainment or resort, to provide and maintain, within or adjoining to his premises, waterclosets and urinals to their satisfaction, and every such order shall specify the time within which it shall be incumbent on such owner or occupier to provide such waterclosets and urinals; and every person who shall fail to comply with such order shall be liable to a penalty not exceeding five shillings for every day during which such failure continues after the expiration of the period specified in such order; and the Magistrates and Council may order any owner or occupier as aforesaid to remove any watercloset or urinal in or adjoining such place of entertainment or resort if it appear to them to be so situated or constructed or to be in such a state as to be a nuisance or offensive to public decency or otherwise objectionable, and may order the substitution of such other convenience as they may deem proper; and all such urinals shall be cleansed once in twenty-four hours, by or under the direction of the occupier of the house or place to which they belong, to the satisfaction of the inspector of cleansing, and in default thereof such occupier shall be liable to a penalty not exceeding forty shillings.

Common stairs, &c. to be swept and washed.

108. The occupiers of every house, flat, or storey having entrance by a common stair or passage, shall cause the stair and passages immediately below the flat or storey possessed by them to be swept every lawful day, and washed at least twice a week, and all areas connected therewith to be swept every lawful day. If any flat or storey of the tenement be unoccupied, the occupiers of the flats or storeys above shall cause the stairs and passages below such empty flat or storey to be swept and washed downwards to the next house which shall be occupied, or to the street; and the passages from the bottom of the stair, landing-places, and steps to the street, and also any passage or continuation of a passage to any area, back green, or any ground used in common, shall be swept and washed by the occupiers of the several houses in such tenement alternately; 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 above, the occupiers of every house, flat, or storey shall sweep every lawful day and wash twice a week the passage and stair from the 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 sweep and wash the stair and passages upwards to the 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; and every person failing in any of the above matters shall be liable to a penalty not exceeding five shillings.

Common stairs to be ventilated, &c., and houses let for short periods to be cleansed.

109. The owners of all common stairs and common passages shall have the same provided with proper means of ventilation to the satisfaction of the Magistrates and Council, and shall whitewash or paint the same as often as required so to do by their order; and the owners of all premises occupied as houses let for a period less than six months shall whitewash and properly cleanse such premises and every part and pertinent thereof at least once in the year, or oftener, if required by order of the Magistrates and Council; and every owner failing to comply with such order shall be liable to a penalty not exceeding forty shillings, and to a farther penalty not exceeding five shillings for every day during which such failure shall be continued.

Houses may be inspected and cleansed at owner's expense.

110. The medical officer of health, burgh engineer, inspector of cleansing, or other officer duly authorised for that purpose may at all reasonable times enter any house, building, and other premises and pertinents thereof where there is reason to believe that such are not in a cleanly condition, and order the same to be cleansed and purified by the owner of such house, building, and other premises, reserving to the said owner his recourse against the occupier thereof if any accumulation of filth shall have been caused or suffered to remain by such occupier; and every owner who shall fail to comply with such order within forty-eight hours from the date thereof shall be liable to a penalty not exceeding forty shillings.

Penalty on conveying offensive matter at improper hours or in improper manner.

111. The Magistrates and Council may from time to time fix the hours within which only it shall be lawful to remove any rubbish or offensive matter or thing from any premises; and when they have fixed such hours and given notice thereof in such manner as they may deem proper, every person who removes from any place and conveys along any street any such rubbish or offensive matter or thing at any time except within the hours so fixed, and every person who at any time, whether such hours have been fixed by

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the Magistrates and Council or not, uses for any such purpose any cart or carriage not having a covering sufficient to prevent the escape of the contents of such cart, or of the stench thereof, or who spills any such offensive matter or thing in the removal or transit thereof, and does not carefully sweep and cleanse every place in which any such offensive matter or thing has been placed or unavoidably spilled, shall be liable to a penalty not exceeding forty shillings.

XI.—Streets, Foot-pavements, and Footpaths.

Vesting and maintenance of streets within the burgh.

112. From and after the commencement of this Act, and subject to the provisions in this Act contained, the carriageway of all the streets within the burgh at present maintained by the Magistrates and Council, or the maintenance of which they may hereafter undertake or assume, shall be vested in and the carriageway thereof maintained, repaired, and improved by the Magistrates and Council who shall have the sole charge and superintendence of the same, and shall also have the charge, control, and superintendence of the carriageway of all streets and courts and foot-pavements and footpaths within the burgh by whomsoever maintained, and the provisions of the Edinburgh Roads and Streets Act, 1862, remaining unrepealed in so far as regards the burgh shall be and the same are hereby repealed.

Provision for temporary maintenance of certain roads beyond burgh.

113. From and after the commencement of this Act and until the commencement of the Roads and Bridges (Scotland) Act, 1878, in the county of Edinburgh, the Magistrates and Council shall, in addition to the repair and maintenance of those streets within the burgh formerly maintained by the district road trustees aftermentioned of the said county, continue to maintain the portions of such of the roads and streets at present maintained by the Magistrates and Council as are situate within the area lying between the burgh and the boundaries of the district defined in section 23 of the Edinburgh Roads and Streets Act, 1862, which latter boundaries shall remain as presently existing until the commencement of the Roads and Bridges (Scotland) Act, 1878, in the county of Edinburgh, or until the same shall be altered by the authority of Parliament, and no toll-bar or check-bar shall be erected within the said area; and the Magistrates and Council shall continue yearly to assess, levy, and recover from the tenants and occupiers of lands and heritages situate within the area aforesaid an assessment for the maintenance and repair of the roads and streets which are or may be upheld by the Magistrates and Council,

not exceeding fivepence on each pound of the yearly rent or value of the said lands and heritages, all as in manner and subject to the exemptions provided in the Edinburgh Roads and Streets Act, 1862, and apply the said assessment as heretofore; and shall continue to exercise with respect to the roads and streets within the said area and the said assessment the whole powers and authorities vested in them by the last-mentioned Act and the Roads and Bridges (Scotland) Act, 1878; and the trustees of the Cramond district, the Lasswade and Wright's Houses district, the Dalkeith and Post Road district, and the Calder, Slateford, and Corstorphine district of turnpike roads in the county of Edinburgh shall continue conjunctly and severally to make payment annually to the Magistrates and Council of the sum of one thousand five hundred pounds, beginning the first payment under this Act at the first term of Martinmas following the passing of this Act, and continuing the said payment at the term of Martinmas in each year thereafter, and which annual payment shall be for the year from the term of Whitsunday preceding to the term of Whitsunday following each year of payment.

Saving certain provisions of 25 & 26 Vict. c. liii.

114. Nothing in this Act contained shall before the commencement of the Roads and Bridges (Scotland) Act, 1878, within the county of Edinburgh alter or affect sections 27 and 28 of the Edinburgh Roads and Streets Act, 1862.

Provision as to roads in Leith.

115. From and after the commencement of this Act, and until the commencement of the Roads and Bridges (Scotland) Act, 1878, in the county of Edinburgh, the Magistrates and Council shall continue to maintain the roads and streets within the burgh of Leith at present maintained by them, and nothing in this Act contained shall alter or affect sections 25 and 77 of the Edinburgh Roads and Streets Act, 1862.

Reservation as to construction of new streets.

116. Nothing in this Act contained shall operate to prevent the Magistrates and Council, if they shall see fit, from exercising the powers conferred on burgh local authorities as to the construction of new streets under section 58 of the Roads and Bridges (Scotland) Act, 1878, after the commencement of such Act within the county of Edinburgh.

Vesting and maintenance of foot-pavements and footpaths.

117. From and after the commencement of this Act, and subject to the provisions of this Act, all foot-pavements and footpaths of or connected with the streets which are at present maintained by the Magistrates and Council, and such other streets the maintenance of which they may hereafter undertake or assume,

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and also the foot-pavements and footpaths specified in Schedule (D.) to this Act annexed, heretofore maintained by them, shall be vested in the Magistrates and Council who shall have the sole charge and superintendence of the same: Provided always, that the obligation to maintain and repair the said foot-pavements and footpaths other than those specified in Schedule (D.) aforesaid shall not devolve on the Magistrates and Council until the said foot-pavements and footpaths shall have been put by the persons now under obligation to maintain and repair the same, or by the Magistrates and Council at the expense of such persons, into such a condition of repair as shall be satisfactory to the Magistrates and Council as in this Act provided.

Duty called causeway mail.

118. Until the abolition under the Roads and Bridges (Scotland) Act, 1878, of the duty called causeway mail heretofore levied within the city, the Magistrates and Council shall continue to levy the said duty within the city according to Schedule (E.) to this Act annexed, and they may compound with any person liable in payment of the same by accepting of a quarterly, half-yearly, or yearly sum in lieu of specific duties; and the said duty may be recovered by the collector as a debt at common law.

Private streets to be put into repair.

119. On the commencement of this Act, or as soon thereafter as the Magistrates and Council shall deem expedient, they may require by notice the owners of lands and heritages in private streets where houses or permanent buildings have been erected on three fourths of the ground fronting the same, and which private streets have been made up, constructed, causewayed, and paved, to put the carriageway and the foot-pavements or footpaths, or any of them, of such private streets into a complete and efficient state of repair; and if any such owner shall fail or neglect within the period which may be specified in such notice to put the carriageway and the foot-pavements or footpaths, or any of them, of such private streets into a complete and efficient state of repair to the satisfaction of the Magistrates and Council, the Magistrates and Council may execute all such works as to them may seem proper and necessary for such purpose, and levy the expense of such works as the same shall be ascertained by an account under the hand of the burgh engineer or other officer appointed under this Act from such owner failing or neglecting as aforesaid, and the same may be recovered by the collector as a debt at common law: Provided always, that the Magistrates and Council shall be the sole judges of the nature and extent of the works necessary to put the carriageway and foot-pavements or footpaths,

or any of them, of such private streets into a complete and efficient state of repair; provided also, that the expense of such works as may be executed by the Magistrates and Council in putting the carriageway and foot-pavements or footpaths, or any of them, of any private street into a complete and efficient state of repair shall for a period of three years after the date of the notice be a burden on the lands and heritages in such private street and be recoverable from the owners of such lands and heritages whether they were such owners at the date of the notice or not.

Unfinished streets and foot pavements, &c. to be temporarily repaired or made up, constructed, or paved.

120. Where the carriageway, foot-pavements, and footpaths, or any of them, of any private street have not been made up, constructed, causewayed, or paved, or shall have only been partially or imperfectly made up, constructed, causewayed, or paved, and where in the opinion of the Magistrates and Council it would be for the public advantage and convenience that any such carriageway, foot-pavement, or footpath, or any part thereof respectively, should be made up, constructed, and put into a state of temporary repair, or should be made up, constructed, causewayed, or paved, the Magistrates and Council may, by notice, require the owners of lands and heritages in any such private street, or such part thereof, in the case where houses or permanent buildings have not been erected on three fourths of the ground fronting such private street, to make up, construct, and put into a state of temporary repair, or in the case where houses or permanent buildings to the extent aforesaid shall have been erected to make up, construct, causeway, or pave the same to their reasonable satisfaction; and if such owners shall fail or neglect within the period to be specified in the notice, being not less than one month, to make up, construct, and repair as aforesaid, or to make up, construct, causeway, or pave, as the case may be, any such carriageway, foot-pavement, or footpath, or any such part thereof respectively, the Magistrates and Council may make up, construct, and repair as aforesaid, or make up, construct, causeway, or pave, as the case may be, such carriageway, foot-pavement, or footpath, or such part thereof, in such manner as to them may seem proper and necessary, and shall levy the expense thereof as the same shall be ascertained by an account under the hand of the burgh engineer or other officer from such owners failing or neglecting as aforesaid: Provided always, that the expense of such works as may be executed by the Magistrates and Council shall for a period of three years after the notice be a burden on the lands and heritages in such private street or such part thereof, as the case may be, and such sums shall be recoverable by the collector as a debt at common law.

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Magistrates and Council to assume private streets when put into repair.

121. Nothing in this Act contained shall be held or construed to infer an obligation on the Magistrates and Council to undertake or assume the maintenance of the carriageway or of the foot-pavements or footpaths of any private street which have been or shall be made up, constructed, causewayed, or paved, until the same shall have been put into a complete and efficient state of repair as in this Act provided; or to undertake or assume the maintenance of the carriageway, or foot-pavements, or footpaths of any private street where the carriageway, foot-pavements, and footpaths, or any of them, shall not have been made up, constructed, causewayed, or paved, or have only been partially or imperfectly made up, constructed, causewayed, or paved, until the same shall have been made up, constructed, causewayed, or paved, as in this Act provided; but as soon as the carriageway or foot-pavements or footpaths, or any of them, of any such private street shall have been put into a complete and efficient state of repair, or shall have been made up, constructed, causewayed, or paved, the Magistrates and Council shall undertake and assume the maintenance of the same to the extent to which the same shall have been put into such repair, or shall have been made up, constructed, causewayed, or paved in all time thereafter: Provided always, that all private streets when assumed by the Magistrates and Council shall be at all times open to the public.

Temporary repair of private streets.

122. In the case of all private streets which shall be open for public passage or use, the Magistrates and Council may cause such temporary repairs to be made thereon as they may deem necessary.

Expenses on private streets how to be assessed.

123. The expenses which may be incurred by the Magistrates and Council under this Act in putting the carriageway and foot-pavements and footpaths, or any of them, of any private street open for public passage or use into a complete or efficient state of repair, or in making up, constructing, and causewaying or paving the carriageway, foot-pavements, and footpaths, or any of them, of any such private street, shall be assessed and allocated by the Magistrates and Council on the owners of lands and heritages in such private street according and in proportion to the lineal frontage of the same, subject to this provision, that the proportion leviable according to frontage from the owners of such lands and heritages as consist of houses and buildings shall be assessed and allocated on them as among themselves according and in proportion to the yearly rent or value of such houses and buildings, but in respect of corner houses, tenements, or other lands and heritages, with two fronts, each fronting a private street according to the

one half of the lineal frontage of the same to each private street; and the collector shall recover the amount of such expenses from such owners as a debt at common law: Provided always, that where such owners may not be the persons liable in the maintenance of the carriageway, foot-pavement, or footpath, they shall be liable to be relieved by the persons liable in the same from payment of such assessed expenses.

Laying out of new streets.

124. Every person who proposes to lay out or make any new street or court, or part of a street or court, shall give notice of such proposal, and shall submit plans and sections thereof for the approval of the Magistrates and Council, and such plans and sections shall show the levels and width thereof, and the arrangements for drainage and other sanitary purposes; and the levels and width of every such new street or court, and the arrangements for drainage and other sanitary purposes shall be considered and determined on by the Magistrates and Council within four weeks after the giving of such notice; and the levels and width, and other arrangements aforesaid so determined upon, shall be adhered to by every person laying out or making any such new street or court, or erecting or altering any house or building therein, and the plans approved of shall be retained by the burgh engineer, and shall be open to inspection by all persons on payment of the sum of one shilling.

If Magistrates and Council fail to fix level and width, &c., persons may proceed.

125. If the Magistrates and Council do not fix the levels and width and the arrangements for drainage and other sanitary purposes within the period aforesaid the person having given notice as aforesaid may proceed to lay out such street or court according to the plans and sections lodged with such notice; and in such case every change of the levels and width which the Magistrates and Council afterwards deem requisite, and the works consequent thereon, shall be made by the Magistrates and Council, and the expense thereof, and any damage which any person may sustain in consequence of such alteration, shall be defrayed by them.

Persons laying out streets without notice to be liable to expense of subsequent alterations of level and width.

126. Every person who lays out or makes any new street or court without giving notice to the Magistrates and Council as by this Act provided shall be liable to give effect to and defray all expenses consequent upon any change of the levels and width of such street or court that may be deemed requisite by the Magistrates and Council; and every person who, in erecting any house or building in such street or court, does not adhere to the levels and width fixed by the Magistrates and Council, shall give effect to and defray all the expenses consequent upon any

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alteration on any such house or building, or any change of the levels and width of that part of such street or court on which such house or building abuts, which the Magistrates and Council deem requisite.

Width of streets and height of houses.

127. It shall not be lawful to form or lay out any street or court unless the same shall be of a clear width of at least twenty feet measuring from the house or building or intended house or building therein, or to erect any house or building in any street or court which shall be of greater height than one and one-half times the width of such street or court; and in no case shall any house or building be of greater height than sixty feet without the consent of the Magistrates and Council, which height shall be measured from the level of the street or court in front to the eave of the roof, and there shall not be more than one habitable storey in any part of the roof of any new house: Provided always, that where a house or building shall be situated so as to abut on two streets or courts of different levels the height shall be measured from the street or court which lies on the higher level.

Agreements between John Hope and Heriot's Hospital not to be affected.

128. Nothing in this Act contained shall affect agreements entered into prior to the commencement of this Act between John Hope, writer to the Signet, and the feoffees of trust and governors of George Heriot's Hospital, for the mutual laying out of their lands at Gayfield, and Broughton adjoining; and the Magistrates and Council shall not be entitled to enforce any of the provisions of this Act which are inconsistent with the stipulations of such agreements in regard to the plan of laying out streets or the levels or width thereof, or which would have the effect in any way of altering or affecting any of the rights and obligations between the said John Hope and the said governors under such agreements.

Height of houses in existing streets.

129. Houses or buildings in any existing street or court shall not be increased in height above the prescribed height of one and one-half times the width of the street or court in which such houses or buildings are situate without the sanction of the Magistrates and Council.

Foot-pavements to be made.

130. The owners of all houses and buildings, or of gardens and grounds, whether houses or buildings are erected on the same or not, which are adjoining to or fronting any street or court, shall, where foot-pavements or footpaths shall be deemed requisite, cause the same, to the extent of their respective houses and buildings, to be well and sufficiently formed and paved or surfaced in such

manner and way and of such width as the Magistrates and Council may direct.

Owners of property in a court not public to pave such court.

131. Every owner of lands and heritages in any court, the maintenance of which shall not have been assumed by the Magistrates and Council, shall at all times have and keep such court well and sufficiently paved or surfaced in such manner and way as the Magistrates and Council shall direct, and shall have and keep the water channels and drain traps therein in a fit and proper state.

Magistrates and Council may order pavements, &c. in private streets, &c. to be made at cost of owner.

132. In any case where, under the two immediately preceding sections, any owner shall fail to comply with an order to form and lay any foot-pavement or footpath or pave any court the maintenance of which shall not have been assumed by the Magistrates and Council, and to complete the same within the time and in the manner specified in an order addressed to him to that effect, or to have and keep the water channels and drain traps therein in a fit and proper state, the Magistrates and Council may cause such foot-pavements, footpaths, courts, water channels, and drain traps to be laid and put in a proper state at the cost of such owner, and such cost may be recovered by the collector as a debt at common law.

Streets, &c. may be repaired and levels altered.

133. The Magistrates and Council may, in executing the purposes of this Act, remove the causeway, pavement, road, metal, or materials of any street or court maintained or repaired by them, or of such street or court as they may hereafter undertake or assume the maintenance and repair of, and relay the same in the same way or in a different manner with the same or different materials as they shall think proper; and they may cause the ground or level of such street or court to be raised or lowered, and for that purpose raise, lower, divert, or alter the course of drains, common sewers, water channels, soil pipes, gas pipes, water pipes, and other pipes in such street or court, and in lieu thereof make and construct, at the expense of the Magistrates and Council, other drains, common sewers, and water channels, and relay the soil pipes, gas pipes, water pipes, and other pipes in a proper and sufficient manner: Provided always, that in the event of the last-mentioned operations injuring any of the houses or buildings in such street or court the owners of such houses or buildings shall be entitled to compensation for such injury.

Streets, &c. may be widened or altered.

134. The Magistrates and Council may, for the purpose of improving any street, court, foot-pavement, or footpath, cause the same to be widened or altered by including any portion of the

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carriageway in the foot-pavement or footpath, or by converting any portion of the foot-pavement or footpath into carriageway as they may consider necessary, and may also order the alteration or removal of all carriage step-stones on the side of the carriageway or foot-pavement.

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

135. When any house or building has become ruinous or has been demolished, and is to be rebuilt or restored, the Magistrates and Council may require that the same be set backwards to or towards such line as they may consider expedient to widen any street for the public convenience: Provided always, that the Magistrates and Council shall make compensation to the owner of any such house or building for any damage he may thereby sustain, which compensation may be settled in the same manner as compensation for land to be taken under the provisions of the Lands Clauses Acts are directed to be settled.

Power to purchase lands, &c. for improvements.

136. The Magistrates and Council may acquire by agreement lands and heritages for the purpose of widening, enlarging, or otherwise improving any of the streets or courts, and they may resell any parts of such lands and heritages which shall not be required for such purposes; and they may also drain, repair, pave, or otherwise improve streets or courts where there may be doubt as to the liability of owners to execute such works; and the Magistrates and Council may acquire by agreement lands and heritages for the purpose of reserving them as vacant spaces, or of opening up thoroughfares, or of improving houses or buildings, or of otherwise disposing of them so as to improve the sanitary condition of localities in which they are situate.

Penalty for making unauthorised openings or alterations, &c.

137. Every person who displaces, takes up, or makes any alteration or openings on the causeway, pavement, flagstones, or other materials of any street open to be used by the public or any court without the consent of the Magistrates and Council, shall be liable to a penalty not exceeding forty shillings, and a further sum not exceeding two shillings for every square foot or part of a square foot of the causeway, pavement, flagstones, or other materials of such street or court, exceeding one square foot, so displaced, taken up, or altered; and every person having obtained such consent shall restore such causeway, pavement, flagstones, or other materials in a substantial manner to the satisfaction of the Magistrates and Council, failing which the Magistrates and Council shall have power to restore the causeway, pavement, flagstones, or other materials at the expense of such person, and to enforce payment of the costs and charges thereby incurred.

Gas and water companies, &c. not to lay main pipes without notice, &c.

138. It shall not be lawful for any gas or water company, trust, or incorporation privileged to lay pipes, or any person acting by or under their authority, to break or take up, or cause to be broken or taken up, any part of the streets, courts, foot-pavements, or footpaths for the purpose of laying down any main gas pipes or main or service water pipes, or for relaying, replacing, altering, raising, or lowering the same without giving to the Magistrates and Council notice of such intention at least three days before commencing operations; and in such notice they shall state distinctly which of the streets, courts, foot-pavements, or footpaths are proposed to be opened or taken up for such purpose; and the said gas or water company, trust, or incorporation, in so far as not inconsistent or at variance with the Acts of Parliament authorising such company, trust, or incorporation to lay pipes, shall lay or relay the said main or service gas or water pipes in such lines as shall be approved of by the Magistrates and Council, and shall immediately, on the said pipes being laid or relaid, close up any opening formed by them, and causeway or relay in a good and sufficient manner, to the satisfaction of the Magistrates and Council, not only the portion of the said street, court, foot-pavement, or footpath which may have been broken up by such company, trust, or incorporation as aforesaid, but also an additional space of not less than six inches in breadth on each side of the space so broken up; and such portion of street, court, foot-pavement, or footpath so causewayed or laid by such company, trust, or incorporation shall be upheld and maintained by them to the satisfaction of the Magistrates and Council for the space of twelve months from and after the period of such company, trust, or incorporation causewaying or relaying the same: Provided always, that such company, trust, or incorporation shall, from and after the commencement of this Act, make a weekly return to the Magistrates and Council of all openings in the streets, courts, foot-pavements, or footpaths which such company, trust, or incorporation severally may have made or cause to be made for any other purpose than that of laying or relaying main or service gas or water pipes.

Power to gas and water companies in cases of accident, &c.

139. In case of accident or danger or apprehended danger any gas or water company, trust, or incorporation privileged to lay pipes, or any person acting by or under their authority, may make openings in the causeway of any street or court, foot-pavement or footpath: Provided always, that such company, trust, or incorporation shall, within forty-eight hours thereafter, give notice to the Magistrates and Council, and as soon after making any such

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openings as practicable close up the same, and causeway in the same manner as is in this Act provided in regard to the laying and relaying of gas and water pipes, not only the portions of the street, court, foot-pavement, or footpath which may have been opened up, but also an additional space of not less than six inches in breadth around each opening; and shall also relieve the Magistrates and Council and their officers of all injury, loss, and damage which may be occasioned to any of the streets, courts, foot-pavements, or foot-paths, or be sustained by any person by or in consequence of such openings, or the operations therewith connected; and shall also be bound to maintain and uphold the portions of streets, courts, foot-pavements, or footpaths so recausewayed, repaired, or relaid to the satisfaction of the burgh engineer or other officer, for the space of twelve months from and after the time of recausewaying, repairing, or relaying the same.

When streets, &c. injured by non-repair of pipes, companies, &c. to repair same.

140. For the more speedy and effectual repairing and relaying any street, court, foot-pavement, and footpath which shall at any time hereafter happen to be sunk, broken, injured, or damaged by reason or means of the breaking, bursting, or want of repair of any pipe belonging to any water or gas company, trust, or incorporation privileged to lay pipes, and laid beneath the surface of such street, court, foot-pavement, or footpath, or of relaying or repairing any such street, court, foot-pavement, or footpath which shall be broken or taken up for the purpose of repairing any such pipe, the Magistrates and Council may cause notice to be left at the office of such company, trust, or incorporation requiring them forthwith to repair and make good such street, court, foot-pavement, or footpath; and if any such company, trust, or incorporation for whom such notice shall be left as aforesaid shall not within eight clear days next after such notice take up such street, court, foot-pavement, or footpath, and well and sufficiently repair such pipe, and cause the ground to be well and sufficiently filled in and rammed down, and such street, court, foot-pavement, or footpath to be relaid and repaved to the satisfaction of the Magistrates and Council, then the Magistrates and Council may cause the necessary works to be executed at the expense of such company, trust, or incorporation so offending, and such expense shall be recoverable by the collector as a debt at common law.

Situation of gas and water pipes to be altered when required by the Magistrates and Council, &c.

141. If the Magistrates and Council deem it necessary to raise, lower, or otherwise alter the situation of any water or gas pipe or other works connected with water or gas laid in any street, court, foot-pavement, or footpath, they may from time to time by notice require the company, trust, or incorporation to whom any

such pipes or works belong, to cause within such period as the Magistrates and Council may prescribe, not being less than eight clear days, any such pipes or works to be raised, lowered, or otherwise altered in position in such manner, not inconsistent with the purposes for which any such pipes or works have been laid, as the Magistrates and Council may direct; and the expenses attending such raising, lowering, or altering, and compensation for all damage done thereby, shall be paid by the Magistrates and Council; and if the company, trust, or incorporation to whom any such pipes or works belong do not proceed in accordance with such notice to cause the same to be raised, lowered, or altered in such manner as the Magistrates and Council require as aforesaid, the Magistrates and Council may themselves cause such pipes or works to be so raised, lowered, or altered: Provided that the risk of the sufficiency of the works and their future maintenance and repair shall rest with the company, trust, or incorporation failing to comply with the notice to be given them as above provided.

Position of water plates, gas plugs, &c.

142. Every water or gas company, trust, incorporation, or person who shall place any water plates, gas plugs, stopcocks, tobies, coverings, or openings connected with the service pipes of gas or water, excepting in such positions as the Magistrates and Council shall direct, shall be liable to a penalty not exceeding forty shillings; and the Magistrates and Council may at their own expense remove or cause to be removed all water plates or other articles aforesaid to such other positions as the Magistrates and Council shall consider proper.

Gas and water companies, &c. to lodge Acts and Ordnance map showing lines of pipes, &c.

143. Every gas or water company, trust, or incorporation privileged to lay pipes shall, within three months after being required by the Magistrates and Council, transmit to them a copy of their respective Acts of Parliament, and also a copy of the Ordnance Survey map for the time comprehending the district within the burgh on the scale of five feet to the mile, on which, in so far as streets, courts, foot-pavements, and footpaths are shown on such map, shall be delineated the course of main gas pipes and main and service water pipes belonging to such company, trust, or incorporation respectively in the streets, courts, foot-pavements, and footpaths, and in so far as practicable the portions of streets, courts, foot-pavements, and footpaths in which the same are laid; and shall in the month of December yearly delineate on such copy of the Ordnance Survey map any alterations on the course of such pipes or additions thereto; and also all openings, plates, eyes, watercocks, and plugs, or other communications of the said main

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gas pipes and main and service water pipes, with the surface of the streets, courts, foot-pavements, and footpaths wherever situated.

Powers of gas and water companies, &c. reserved.

144. Subject to the provisions of this Act, all rights, privileges, or powers possessed by any gas or water company, trust, or incorporation privileged to lay pipes in the burgh are by this Act reserved.

In the event of neglect, Magistrates and Council to repair carriageway, &c.

145. If any person shall omit or neglect to relay or repair in a good and sufficient manner the carriageway of any street, or any court, foot-pavement, or footpath broken or taken up by such person, or to maintain the same in good and sufficient repair for twelve months thereafter, the Magistrates and Council, after giving forty-eight hours previous notice of such their intention to the person failing or neglecting as aforesaid, may relay or repair the said carriageway, court, foot-pavement, or footpath, and charge the expenses thereof as the same may be ascertained by an account under the hand of the burgh engineer or other officer against such person.

Warrants for operations.

146. In the case of all warrants to be issued by the Magistrates and Council authorising any operations upon any of the streets, courts, foot-pavements, or footpaths, except as in this Act otherwise provided, the Magistrates and Council, or burgh engineer or other officer, may fix the site or place of such operations and the extent of ground to be enclosed, opened, or occupied; and such warrant shall be signed by the town clerk or burgh engineer or other officer who shall charge for each warrant the sum of two shillings and sixpence, to be accounted for to the Magistrates and Council.

Streets to be named and houses numbered, &c.

147. The Magistrates and Council shall from time to time name the streets and courts, and number or re-number the houses, buildings, and places therein; and they may alter the name of any street or continuation of streets or courts, and cause to be affixed or painted on a conspicuous part of any house, building, or place, at or near each end, corner, or entrance to every such street or court, the name by which such street or court is to be known, and from time to time affix or paint on any house, building, or place in any street or court the number thereof; and every person who shall remove or deface any such name or number, or shall put up or continue and retain any name or number different from the name or number put up by the Magistrates and Council, shall be liable to a penalty not exceeding forty shillings; and the Magistrates and Council shall be entitled to cause the name or number to be altered, and to affix the proper name or number at the

expense of the person so offending, and which expense shall be recoverable by the collector as a debt at common law.

Open spaces and squares to be kept in good condition.

148. The Magistrates and Council may require the owners of open spaces and squares held in common to keep the fences and enclosures of the same in a proper state of repair, and to lay out and maintain such open spaces and squares in a suitable manner; and every such owner who shall fail to put the same in a proper state of repair, or to properly lay out, fence, and maintain such open spaces or squares to the satisfaction of the Magistrates and Council within one month after receiving notice requiring him so to do, shall be liable to a penalty not exceeding forty shillings for every week during which such failure shall continue; and in the event of such failure continuing for one month the custody and management of such open spaces or squares may, if the Magistrates and Council shall so resolve, be transferred to them, to be thenceforward maintained for the public benefit and advantage.

Openings in streets for cellars, &c.

149. It shall not be lawful, without the consent of the Magistrates and Council first had and obtained, to form any openings for cellars or other places underground in any part of the streets, courts, foot-pavements, or footpaths; and all such openings when allowed shall be covered in such manner as the Magistrates and Council shall direct; and the Magistrates and Council may cause all unauthorised plates or coverings to be removed; and when, from accident or negligence, any aperture shall become insecure, or be left open so that any person may be endangered, the burgh engineer or other officer may cause the same to be fenced or guarded at the expense of the owner or the occupier of any premises with which such aperture may be connected; and every person who shall permit any such opening or aperture to be in a condition dangerous to the public shall be liable to a penalty not exceeding five pounds.

Area gates and railings, &c. to be kept in repair.

150. Every owner of any area or place which is of a lower level than any street, court, foot-pavement, or footpath adjoining the same who shall fail to fence the same in a sufficient manner for the protection of the public, and every owner who shall fail to maintain sufficient railings in any common stair, or shall fail to provide and maintain a sufficient door for any back-green or area with suitable lock and fastening, shall be liable to a penalty not exceeding twenty shillings, and the judge of police may order such owner to execute such works as the burgh engineer or other officer may consider necessary within a period fixed by him, and every such owner who fails to execute such works within the period so fixed shall for every day during which such failure continues be liable to a penalty not exceeding ten shillings.

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Prevention of encroachments and projections on streets.

151. No person shall make any encroachment, obstruction, or projection in, upon, or over any street, court, foot-pavement, or footpath, or put up any steps, railings, gratings, erections, or projections which shall in any way interrupt, obstruct, limit, narrow, or interfere with the same, or any signboard, signpost, pole, or other projection which shall overhang such street, court, foot-pavement, or footpath; and the Magistrates and Council may order the removal of such encroachments, obstructions, or projections, and their order shall specify a time within which such removal must be effected; and every person failing to comply with such order shall be liable to a penalty not exceeding forty shillings for each day during which such encroachment, obstruction, or projection has been continued beyond the period fixed in such order.

Water from the roofs of houses, &c. to be conveyed in pipes.

152. The owners of all houses and buildings erected or to be erected shall cause the water from the roof thereof to be conveyed in leaden, cast-iron, or other pipes to suitable drains or other outlets, and such pipes when placed on the side of any house or building which shall front to any street or court shall be conducted below the foot-pavements or footpaths so that they shall discharge into the contiguous water channels or into the nearest common sewer, or in such other manner as that the water from such house, building, or any portico or projection therefrom shall not fall upon the street or court, or flow over the foot-pavement or footpath; and all such pipes and conduits shall be kept clean and in repair by such owners at their own expense; and every owner who shall refuse or neglect to cause the water to be conveyed from the roof as aforesaid, and the pipes to be kept clean and in repair, shall be liable to a penalty not exceeding forty shillings, and a further penalty not exceeding ten shillings for every day in case of continued failure; and every owner who shall connect any watercloset, soil pipe, or foul water pipe, or pipe constructed to convey and discharge kitchen soil, with any pipe for the conveyance of rain water from the roof of any house or building to the street or court, and which shall discharge on the said street or court or into the open water channel thereof, shall be liable to a penalty not exceeding forty shillings.

Tramway Acts not to be affected.

153. Nothing in this Act contained shall affect the provisions of the several Acts for and relating to the construction and maintenance of tramways and the traffic thereon within the burgh.

XII.—Dean of Guild Court.

Constitution and powers of Dean of Guild Court.

154. From and after the first Friday following the election of councillors in the month of November one thousand eight hundred

and seventy-nine the Dean of Guild Court, as at present constituted, shall cease and determine, and shall on and after that date consist of the Dean of Guild appointed by the guildry of the city, as use is, and of ten members then and at the corresponding date in each succeeding year to be appointed by the Magistrates and Council, five of the said members being councillors and the other five registered electors of the city not being councillors, and of whom three shall be persons carrying on or who have carried on business as architects, civil engineers, ordained surveyors, or master builders; and three members of the court, with or without the Dean of Guild, who, when present, shall preside, shall form a quorum; and the said court shall have power from time to time to appoint one of their number to preside and act in the court in the absence of the Dean of Guild; and such court as so reconstituted shall possess and exercise within the burgh all the rights, powers, privileges, functions, and jurisdictions which are possessed and exercised by the existing Dean of Guild Court, by law or usage, within the limits of its present jurisdiction, which are not inconsistent with and which are by this Act conferred.

Master of works.

155. The Magistrates and Council may appoint a master of works in connexion with the Dean of Guild Court 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 procurator fiscal of the said court any deviation therefrom, and also to perform any other duties which he may be required to perform by the Magistrates and Council; and such master of works shall not engage, directly or indirectly, in any service or employment connected with the professions of architect, civil engineer, or surveyor; nor shall he be connected, directly or indirectly, with or interested in any contract or works belonging to any branch of the building trade.

Clerk of Dean of Guild Court and procurator fiscal.

156. The Magistrates and Council may appoint, upon such terms and conditions as they may consider reasonable, a clerk of the Dean of Guild Court, and such clerk may, with approval of the Magistrates and Council, appoint a person to act for him as his depute; and the procurator fiscal in the Burgh Court shall be the procurator fiscal in the Dean of Guild Court.

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Court may make rules and regulations.

157. The Dean of Guild Court may from time to time make such rules and regulations with respect to the forms of procedure in the said court as to the said court shall seem meet, subject to approval by act of sederunt of the Court of Session.

Fees and application thereof.

158. The Dean of Guild Court shall have power to fix such fees and charges 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 procurator fiscal of the Dean of Guild Court, clerk of Dean of Guild Court, master of works, or other officers; and any balance of such fees and charges and of the fines imposed by the said Court shall annually be paid to the credit of the burgh assessment, and an account of such fees, charges, and fines shall be made annually to the Magistrates and Council.

Petition with plans and sections of new houses, &c. to be lodged.

159. Every person who proposes to erect any new house or building or to alter the structure of any existing house or building within the burgh shall lodge with the clerk of the Dean of Guild Court 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, foot-pavement, or footpath from which the property has access or upon which it abuts; and also plans, sections, and such detailed drawings as are necessary to show the 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 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 scale of one and one-half inch to every ten feet; 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 Dean of Guild Court; 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

160. The clerk of the Dean of Guild Court shall forthwith, on receiving such petition, give notice thereof to the burgh engineer,

who shall, before such petition is heard, report to the court whether in his opinion the plans sufficiently provide for ventilation and other sanitary objects; and the Dean of Guild Court may decline to grant warrant for the erection of any new house or building, or the alteration of the structure of any existing house or building, until satisfied that the plans provide suitably for such ventilation and other sanitary objects.

burgh engineer and proceedings thereon.

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

161. The Dean of Guild Court may, on the application of the burgh engineer, 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 may, after hearing the persons interested, direct such means to be taken for the proper ventilation, or for the providing of proper means of access and exit to such buildings, and for protection from fire and other dangers to the public, as to the court shall seem fit.

Penalty for erecting or altering any house or building without sanction of Dean of Guild Court.

162. 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, without a warrant or otherwise than in conformity with a warrant of the Dean of Guild Court, and every person who shall, in the erection of any house or building the erection of which has been sanctioned by the Dean of Guild Court, deviate from the plan or plans and section or sections so sanctioned shall be liable to a penalty not exceeding five pounds, besides being bound, if and in so far as required by the Dean of Guild Court, to take down and remove the said house or building, or to restore it to the state it was in previously to the alterations thereon, or to alter it in such way as the Dean of Guild Court shall direct, so as to make it in conformity with the warrant of the court; and the Dean of Guild Court may grant an interdict for the prevention of any such erection or alteration or deviation being proceeded with till the warrant of the court shall be obtained for the same.

Open space in rear of houses.

163. Every new house shall have in the rear thereof an open space adjacent thereto at least equal to one half of the area to be occupied by the intended house, and such place shall be free from any erections thereon other than waterclosets, privies, ashpits, coal houses, or other conviences for the use of such house, all which conveniences shall, as to height, position, and dimensions, be erected subject to the consent and approval of the Dean of Guild Court: Provided always, that in cases where the thorough ventilation of such house is otherwise secured, or under other special circumstances, the said court may allow the open space to be

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reduced in limits; provided also, that in cases of conversion of a house into a building for business premises the court may sanction the erection of saloons upon such open space of such height and construction as to the court shall seem proper, such saloons to continue so long only as such building is so used for business purposes.

Division walls to prevent spread of fire.

164. It shall not be lawful to erect continuous tenements of houses or buildings without having the party walls carried up to a height of at least two feet above the timbers of the roof so as to break the continuity of the said timbers.

New houses, &c. to be surveyed before occupation.

165. 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 Dean of Guild Court 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 burgh engineer, master of works, or other officer appointed by the Magistrates and Council, 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 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 two pounds for every day during which such occupation shall continue, which penalties shall be recoverable by the collector as a debt at common law.

Dangerous houses or buildings to be taken down or secured by owners.

166. If any house, building, wall, or other erection of whatever form or material, or anything affixed thereon, be deemed by the burgh engineer to be in a ruinous or insecure state and dangerous to passengers or to the occupiers thereof or of the neighbouring houses or buildings, the burgh engineer shall immediately cause such occupiers endangered thereby to remove from the occupancy of such houses or buildings until the same are put into a safe condition, and shall, if he judge it necessary, cause the same wholly or partially to be taken down, or cause a proper hoarding or fence or sufficient props to be put up for the protection of passengers, and shall also cause, if he shall judge necessary, the neighbouring houses or buildings to be properly shored up, and shall

cause a notice to be given to the owner of such house or building, wall, or other erection if he be known and resident within the burgh, and shall also cause such notice to be put on the door of such house or building, or on such wall or erection, on a conspicuous part of the same, or otherwise to be given to the occupier thereof, if any, requiring such owner forthwith to take down, secure, or repair such house or building, wall, or other erection, as the case shall require; and if such owner do not begin to repair, take down, or secure such house, building, wall, or other erection within the space of three days after 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, the Dean of Guild Court shall, on the complaint of the procurator fiscal of such court, order the owner of such house or building, wall, or other erection, to take down, rebuild, repair, or otherwise secure the same to their satisfaction within a time to be fixed by the court; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so fixed, the court shall cause all or so much of such house or building, wall, or other erection as shall be in a ruinous or insecure condition or dangerous, 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 hoarding or fence, or of propping up or of shoring up such house or building, or of taking down, repairing, rebuilding, or securing the same, shall be paid by the owner thereof.

Expenses to be levied on owner.

167. If the owner of any house, building, wall, or other erection, on demand of the expenses aforesaid, shall neglect or refuse to pay the same, the Dean of Guild Court shall grant decree against such owner for payment thereof, on which decree all legal diligence may proceed.

Court may sell materials, restoring to owner overplus arising from sale.

168. If any such house, building, wall, or other erection as aforesaid, or any part of the same, be taken down by virtue of the powers aforesaid, the Dean of Guild Court may sell the materials thereof, or so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house, building, wall, or other erection; and the Dean of Guild Court shall restore any surplus arising from such sale to the owner of such house, building, wall, or other erection, on demand; nevertheless, the Dean of Guild Court, although such court shall direct the sale of 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

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of the proceeds of such sale as are given to them for compelling the payment of the whole of the said expenses.

If expenses not recovered house or ground may be taken, &c.

169. If such owner cannot be found within the burgh, or if such expenses are not otherwise fully recovered, the Dean of Guild Court, after giving twenty-eight days notice by intimation to the reputed address of the owner, and by advertisement in one or more newspapers published in the burgh of their intention to do so, may deal with such house, building, wall, or other erection, or land whereon the same stood, as waste and ruinous, and bring the same to sale as in this Act provided, and after deduction of the expense of sale pay the purchase money into bank upon a receipt or voucher, subject to the order of the said court: Provided always, that the Magistrates and Council may take such house, building, wall, or other erection, or land, making compensation to the owner of such house, building, wall, or other erection, or land, in the manner provided by the Lands Clauses Acts in the case of lands to be taken otherwise than with the consent of the owner and occupiers thereof, and the Magistrates and Council shall be entitled to receive out of the price obtained for such house, building, wall, or other erection, or land, or to deduct out of such compensation the amount of the expenses aforesaid, and if they shall take such house, building, wall, or other erection or land, and make compensation therefor as aforesaid, they may thereupon sell or otherwise dispose of the said house, building, wall, or other erection, or land, for the purposes of this Act.

Ruinous houses or buildings to be taken down, and areas or spaces to be cleansed and fenced.

170. The burgh engineer shall give notice to the owner of any ruinous house or building, or of any area or space occupied by the walls or rubbish of any house or building, or by other rubbish, or of any open area or space which ought to be fenced, requiring such owner, within six days after such notice, to cause the same to be taken down, cleared out, or fenced and secured to the satisfaction of the burgh engineer, so as to prevent the same being or becoming the cause of nuisance or danger to the inhabitants; and every such owner who shall fail to comply with the terms of such notice within the time specified shall be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding ten shillings for each week during which he shall fail to comply with such notice; and the Dean of Guild Court may further order such ruinous house or building to be taken down, and the same, or such area or open space, to be cleared out, built up, or fenced and secured to the satisfaction of the burgh engineer, and may find such owner liable in the expense of the same, and in all charges connected therewith,

which charges and expenses may be sued for and recovered by the collector as a debt at common law: Provided always, that where there are one or more such owners and such owner or owners shall, either in terms of the said notice or in consequence of the order of the Dean of Guild Court, disburse the expense of the work required, he or they shall have recourse against the other owner or owners liable, in proportions according to their respective interests; and where such ruinous house, building, area, or open space is unclaimed, or the owner thereof cannot be found, the burgh engineer may take down, clear out, build up, or fence and secure the same, and charge the expense thereof against the burgh assessments: Provided always, that any expense so incurred and paid out of the burgh assessments shall be chargeable against and form a burden upon the house, building, area, or open space in respect of which such expense shall be incurred and paid, and shall be recoverable out of such property, or from any owner who may have or claim right thereto; and the procurator fiscal may apply to the Dean of Guild Court to deal with such house, building, area, or open space as waste and ruinous, and bring the same to sale in manner after provided with reference to ruinous houses or buildings held by two or more joint owners.

Proceedings with respect to ruinous houses or buildings belonging to two or more owners.

171. If any house or building, area, cellar, or open space have become waste or ruinous within the burgh, or have become receptacles for filth or other nuisances, or unsafe and unfit for use and occupation, and which, being held by two or more owners, cannot be rebuilt or disposed of to advantage without the consent of all the persons interested therein, and the same is allowed so to continue in consequence of the persons being unable or unwilling or delaying to agree as to the sale or rebuilding thereof, the Dean of Guild Court may, on application by the procurator fiscal of such court, or by any owner or person interested in any such house, building, area, cellar, or open space, call all persons interested therein before the said court, and order such house, building, area, cellar, or open space to be valued by one or more valuators, upon oath, who shall distinguish the portions of such house, building, area, cellar, or open space, and the corresponding proportion of the ascertained value which belongs to the several persons interested, and thereupon give each the option to buy and acquire from or to sell and convey to the others their respective portions of or interests in such house, building, area, cellar, or open space, according 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 Dean of Guild Court, not exceeding six weeks.

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Mode of sale.

172. If none of such owners shall take advantage of the said option within the time so fixed, or the owners shall not be able to agree as to which shall be the buyer, the Dean of Guild Court may cause such house, building, area, cellar, or open space to be exposed for sale by public auction at a price not being less than the value ascertained as above, and in case of no offerers to reduce the upset price from time to time, and to sell the same to the highest bidder, upon such conditions and after such public notice by advertisement in newspapers published in the burgh or otherwise as the Dean of Guild Court shall appoint; and the purchaser shall, within ten days after the sale, or within such time as may be fixed by the Dean of Guild Court, deposit the whole amount of the purchase money in any one of the banks established by Act of Parliament or Royal Charter, upon a receipt or voucher, subject to the control or orders of the Dean of Guild Court, otherwise the sale shall be null and void, and the money so deposited shall remain at interest for the behoof of all persons interested therein.

Completion of purchaser's title.

173. Upon such deposit being so made, the Dean of Guild Court may pronounce decree or warrant declaring the purchase duly completed, and authorising immediate possession of the house, building, area, cellar, or open space 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, houses, &c. may be resold.

174. In case the purchaser at any such sale as aforesaid shall fail to fulfil the conditions thereof within the time thereby prescribed, the Dean of Guild Court may cause such house, building, area, cellar, or open space to be re-exposed and sold anew; and such sale shall be proceeded with in every respect in like manner as before provided in regard to a first sale; and the Dean of Guild Court shall continue, in case of failure as aforesaid, to cause such house, building, area, cellar, or open space to be re-exposed for sale until the same shall be sold, and the price thereof deposited in bank as aforesaid.

Application of price.

175. Upon the completion of any such sale, the Dean of Guild Court, on the application of any of the persons concerned, shall proceed to ascertain and determine the extent and value of the share of each person claiming interest in the house, building, area, cellar, or open space so sold, and apportion and divide the price obtained for the same and deposited as aforesaid, and order payment thereof to the several persons accordingly, subject always to such finding or order in respect of costs as the Dean of Guild Court may pronounce,

XIII.—Sanitary Provisions.

1.—*Public Sewers.*

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

176. In regard to the public sewers of the burgh, clauses 183, 192, 193, and 194 of the General Police Act are hereby incorporated: Provided that the word "sewers," referred to in the said clauses, shall apply to sewers and drains under this Act, and that the "surveyor" shall mean the burgh engineer.

Burgh formed into one drainage district.

177. From and after the commencement of this Act the whole burgh shall be treated as one drainage district, and the Magistrates and Council are hereby empowered, subject to such notices as are by this Act prescribed, to order or authorise the construction of such sewerage and drainage works, and works in connexion therewith, as they shall consider necessary for the effectual drainage of the burgh.

Sewers, &c., with certain exceptions, vested in Magistrates and Council.

178. All sewers and drains within the burgh, whether existing at the commencement of this Act or at any time thereafter, (excepting sewers and drains formed entirely within the private property of any person, made and used as of private right by any person for his own benefit,) shall remain vested and vest in and belong to and be entirely under the management and control of the Magistrates and Council: Provided always, that, subject to the provisions in this Act contained, the undertaking of the water of Leith Sewerage Commissioners shall continue to be vested in the said Commissioners appointed under the Edinburgh and Leith Sewerage Act, 1864.

Power to Magistrates and Council to construct sewers and drains.

179. The Magistrates and Council shall from time to time cause to be made and maintained, under streets or courts, or elsewhere within the burgh, such sewers and drains as shall be necessary for the effectual draining of any portion of the burgh, and shall also cause to be made and maintained all such reservoirs, sluices, engines, and other works as shall be necessary for cleansing such sewers and drains, and, if needful, they may carry such sewers and drains through and across any enclosed or other lands and through any underground cellars and vaults, making full compensation for any damage done, which compensation shall be ascertained in the same manner as compensation for land to be taken under the provisions of the Lands Clauses Acts, and the Magistrates and Council shall have right of access for maintenance of all such sewers and drains.

Watercourses, &c. which have

180. Wherever any watercourse, burn, or ditch within the burgh (including such as may form any portion of the boundary of

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become sewers.

the burgh) shall have come to be used as a sewer by the introduction into the same of foul and offensive matter, whereby a nuisance in the sense of the Public Health (Scotland) Act, 1867, shall, in the opinion of the Magistrates and Council, have arisen, they may, after advertisement for two weeks in two newspapers published within the burgh, declare such watercourse, burn, or ditch to be a sewer in the sense of this Act, and such watercourse, burn, or ditch shall be subject to all the provisions with regard to public sewers contained in this Act: Provided always, that it shall be competent to any person claiming right in such watercourse, burn, or ditch, within fourteen days after such declaration, to appeal to the sheriff on the question of such watercourse, burn, or ditch being a nuisance as before mentioned, and such sheriff shall hear parties on such appeal, and shall dispose of the same in a summary way, and his decision shall be final, and not subject to review or appeal; provided also, with regard to the burn or watercourse known as the Broughton Burn, that in case the said burn or watercourse in any part of its course shall be declared under the provisions of this Act, or shall be ascertained under the provisions of the Public Health (Scotland) Act, 1867, to be a nuisance, the said burn or watercourse shall thereupon be deemed throughout its whole course to be a watercourse within the meaning of section 24 of the said Public Health Act, so far as the same is not inconsistent with this proviso, and thereupon the Magistrates and Council shall, for the purposes of outfall from that part of the said burn or watercourse which is within the burgh, take all steps necessary to render the said burn or watercourse from the point at which it issues from the boundary of the burgh till it discharges into the main pipe or conduit constructed under the powers of the Edinburgh and Leith Sewerage Act, 1864, free from nuisance; and all expenses in so far as incurred by the Magistrates and Council in relation to the said burn or watercourse, or in carrying into effect the provisions in this section contained, shall be defrayed from the burgh assessments.

Power to Magistrates and Council to deepen, &c. sewers.

181. The Magistrates and Council shall have power from time to time to deepen, divert, or cover over any sewer, or may cause pipes to be laid along the course of such sewer, as they shall determine, and carry such sewer into or through any enclosed or other lands in order to make junctions with existing sewers, making compensation to the owners and occupiers thereof, which compensation shall be settled in the same manner as compensation for land to be taken under the Lands Clauses Acts is directed to be settled.

Compensation for prejudice to existing legal rights.

182. If by the exercise of the powers of this Act the contents of any sewers or drains at present carried into any existing outlet shall be diverted therefrom to the prejudice of any actual legal right existing at the commencement of this Act, the Magistrates and Council shall be bound to make compensation therefor, which compensation 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.

Mill-lades, &c. to be protected.

183. The Magistrates and Council may order the owners of any mill-lades or dams within the burgh which they may consider to be offensive or dangerous to sufficiently fence or protect the same in such manner as they may direct, or they may acquire such mill-lades or dams by agreement, and divert, cover over, fence, protect, or otherwise deal with them as they may deem proper: Provided always, that this section shall not extend to the mill-lade referred to in section 27 of the Edinburgh Police Amendment Act, 1854, reserved in Schedule (A.) to this Act annexed, but the fences of such mill-lade shall continue to be repaired and maintained in manner provided by such section.

17 & 18 Vict. c. cxviii.

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

184. Whenever the Magistrates and Council shall have caused pipes or other works to be laid in or along any stream, burn, ditch, or watercourse for the purpose of intercepting and conveying away the sewage which would otherwise flow into and pollute the same, whether such stream, burn, ditch, or watercourse shall have been declared a sewer under this Act or not, it shall not be lawful for any person or local authority to introduce from any source, whether within the burgh or before passing into the same, into such stream, burn, ditch, or watercourse any sewage or other offensive matter or thing; but the Magistrates and Council are by this section authorised and required to allow junctions to be made with such pipes or works for the purpose of drainage of any lands and heritages which would naturally fall towards or into such stream, burn, ditch, 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 by this section required to hear and determine any questions affecting such drainage that may be submitted to him: Provided always, that if, in carrying out the provisions of this section, costs and expenses shall be incurred which fall to be defrayed by more than one owner of lands and heritages beyond the burgh, the local authority under the Public Health (Scotland) Act, 1867, for the district within which the lands and heritages, the owners of which

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are liable for such costs and expenses, are situate, is by this section authorised and required to cause such works to be executed, and to assess such owners rateably, according to the yearly value, for the payment of such costs and expenses; and every person or local authority who shall infringe the provisions of this section shall be liable to a penalty not exceeding five pounds, and a further penalty not exceeding one pound for each day during which such infringement shall be continued, which penalties shall be recoverable, when the offender is resident within the burgh, by the collector before the judge of police, but where resident beyond the same before the sheriff.

Magistrates and Council may alter, &c. sewers.

185. The Magistrates and Council may from time to time repair, enlarge, alter, deepen, divert, arch or cover over, and otherwise improve all or any of the sewers or drains vested in them; and if any of such sewers or drains at any time appear to them to have become useless they may fill up and discontinue such sewers or drains or any portion thereof.

Penalty for injuring sewers.

186. Every person who, without the written consent of the Magistrates and Council, shall make or cause to be made any opening into any of the sewers or drains vested in the Magistrates and Council, or who shall destroy or injure or cause to be destroyed or injured any of the said sewers or drains, or any works in connexion therewith, vested in or constructed under authority of the Magistrates and Council, shall be liable to a penalty not exceeding ten pounds, over and above the expenses incurred in making good the damage thereby occasioned, and such penalty and expenses shall be recoverable by the collector as a debt at common law.

Authorised junctions, how to be made.

187. In order to effect a junction with any sewer or drain vested in the Magistrates and Council, permission shall first be obtained from the Magistrates and Council, and the person proposing to effect such junction shall do so at his own expense under the direction and to the reasonable satisfaction of the burgh engineer.

Magistrates and Council to pay to Water of Leith Sewerage Commissioners sums heretofore paid for junctions.

188. The sums authorised to be exacted by the Water of Leith Sewerage Commissioners under section 47 of the Edinburgh and Leith Sewerage Act, 1864, shall no longer be exacted by the said commissioners from the owners within the Edinburgh district, as defined under the Edinburgh and Leith Sewerage Act, 1864, but such sums shall henceforth be paid by the Magistrates and Council in lieu of such owners, and shall, in order to the equalisation of the portion of the burgh assessments applicable to sewers and drains, from time to time be paid by the Magistrates and Council, out of such last-mentioned assessment, to the Water

of Leith Sewerage Commissioners for the purposes of their Act as amended by this Act: Provided always, that the said commissioners shall be bound to furnish to the Magistrates and Council from time to time an account of the sums so chargeable, and the Magistrates and Council shall have the same right to object to the amounts inserted in such account by the said commissioners as would have been open to the owners of lands, houses, or other property but for the passing of this Act; provided also, that nothing in this Act contained shall prejudice or affect the collection by the said commissioners from the owners of the arrears of such sums outstanding at the date of the commencement of this Act.

Water of Leith Sewerage Commissioners to pay over surplus moneys, and as to application of the same.

189. The Water of Leith Sewerage Commissioners shall continue to distribute and pay over to the Magistrates and Council, and to the provost, magistrates, and town council of Leith, all surplus moneys in their hands in the proportions provided for in the Edinburgh and Leith Sewerage Act, 1864, and subject to the provisions thereof in regard to such distribution; but the Magistrates and Council, in the application of such surplus, shall place the same to the credit of the account for sewerage and drainage works within the burgh, and shall apply the proportion that shall be received by them towards the expense generally of such sewerage and drainage works within the burgh: Provided always, that the amount of all surplus sums at present in the hands of the Magistrates and Council received from the said commissioners, and their proportion of that which may have accumulated in the hands of the said commissioners up to the time of the commencement of this Act, shall be applied by the Magistrates and Council in the reduction of the assessment leviable under this Act for formation of sewers and drains within the Edinburgh district of the Water of Leith Sewerage Commissioners; provided also, that when the balance of surplus sums so to be applied shall not be sufficient in one year to afford relief from assessment within the district to the extent of one halfpenny in the pound such balance shall be set aside and applied by the Magistrates and Council for the benefit of the district in manner provided by section 85 of the Edinburgh and Leith Sewerage Act, 1864.

Sums payable to Water of Leith Sewerage Commissioners for maintenance and repair.

190. Any sums required to be paid by the Magistrates and Council to the Water of Leith Sewerage Commissioners for maintenance and repair of their main and branch sewers and works shall hereafter be paid by the Magistrates and Council to such commissioners out of the assessment leviable for sewerage and drainage purposes over the burgh, and the right to levy such sums

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within the Edinburgh and Leith district of such commissioners exclusively shall cease as regards the Edinburgh district.

Houses, &c. not to be built over sewers or vaults nor cellars under streets without consent of Magistrates and Council.

191. No house or building shall be erected over any sewer or drain belonging to or vested in the Magistrates and Council without previous notice to them, so that such works as they may deem necessary may be executed for the protection of the sewer or drain; and no vault, arch, cellar, or other excavation or erection shall be made under the carriageway of any street without the consent of the Magistrates and Council first obtained in writing; and all such vaults, arches, cellars, or other excavations or erections shall be substantially made, and so as not to interfere or communicate with any sewer or drain; and if any house or building be erected, or any vault, arch, cellar, or other excavation or erection be made therein contrary to the provisions in this Act contained, the Magistrates and Council may demolish or fill up the same, and the expenses incurred thereby shall be recoverable by the collector as a debt at common law from the person erecting such house or building, or making such vault, arch, cellar, or other excavation or erection.

Ventilation of sewers.

192. The Magistrates and Council may arrange with the owner or occupier of any manufactory, gaswork, brewery, or other premises having furnaces and chimney shafts so situated as to be available for the ventilation of the adjacent sewers and drains for such ventilation; and the Magistrates and Council are hereby authorised and empowered to acquire by agreement lands and heritages, and to construct all ventilating shafts, furnaces, and other works which may be found necessary from time to time for the efficient ventilation of all sewers and drains, and for that purpose may fix such ventilating pipes or shafts on or against such houses or buildings, as to them may seem proper, and as may be agreed on, making compensation to the owners of such houses or buildings.

Magistrates and Council to give notice before making or altering sewers.

193. Twenty-eight days at the least before fixing the level of any street or court which has not been theretofore levelled or paved, and before making any sewer or drain where none was before, or altering the course or level of or abandoning or stopping any sewer or drain, the Magistrates and Council shall give notice of their intention by posting a notice in a conspicuous place at each end of every such street or court through or in which such work is to be undertaken, and by giving notice to any gas or water company, trust, or incorporation privileged to lay pipes, which notice shall set forth the name or situation of the street or court

intended to be levelled or paved, and the names of the places through or near which it is intended that the new sewer or drain shall pass or the existing sewer or drain be altered or stopped up, and also the points of 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 and place where all persons interested in such intended work may be heard thereupon.

Proceedings on objections.

194. The Magistrates and Council, or a committee of their number appointed for the purpose, shall meet at the time and place mentioned in the notice referred to in the last section to consider, in the presence of the burgh engineer, any objections made against such intended works; and any person whose property is proposed to be passed through, or which, if the works were executed, would be injuriously affected thereby, shall be entitled to be heard before the Magistrates and Council or a committee at such meeting; and thereupon the Magistrates and Council or such committee may decide to proceed with, abandon, or make such alterations in the said intended works as they may judge fit: Provided always, that any gas or water company, trust, or incorporation authorised to lay pipes dissatisfied with such decision may at any time within seven days after the date thereof appeal to the sheriff against the same, and the work so appealed against shall not be begun until after the judgment of the sheriff upon such appeal, and the sheriff shall hear and determine the matter of the appeal, and shall make such order thereon and award such costs to either party as he shall think fit: Provided always, that compensation for any damage arising to any such company, trust, or incorporation from the execution of such works shall be ascertained in the same manner as compensation for land to be taken under the provisions of the Lands Clauses Acts.

Power to maintain the artificial works on bed and banks of Water of Leith.

195. The Magistrates and Council shall have power to maintain the artificial works in the bed and channel and on the banks of the Water of Leith within the burgh, executed under authority of the Edinburgh Police Amendment Act, 1854, and to make such repairs or improvements on these works, within the burgh, as they may from time to time deem necessary: Provided always, that the powers and provisions contained in the sections in Schedule (A.) to this Act annexed, from the said Edinburgh Police Amendment Act, 1854, so far as operative, are hereby reserved, the Magistrates and Council being in room and place of the commissioners of police referred to in the said Act.

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Penalty for polluting Water of Leith or other streams.

196. Every person who shall lay, throw, or cast any rubbish, earth, shale, refuse, soil, or filth, or any offensive matter or thing into the channel or on the banks or sides of the river of Water of Leith, so far as within the burgh, or any other burn or stream within the burgh, shall be liable to a penalty not exceeding forty shillings.

2.—*Drainage of Houses, &c.*

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

197. In regard to the drainage of houses within the burgh, clauses 199, 206, 207, 208, and 211 of the General Police Act are hereby incorporated: Provided always, that the surveyor referred to in such clauses shall mean the burgh engineer, and the word "reservoir" shall include tank, and the words "provisions of this Act" shall mean the provisions of this Act and the General Police Act, and the word "house" shall include house or building in the sense of this Act.

Cleansing of drains, cesspools, &c. by occupiers.

198. Every occupier of premises shall at least once in every year cause all drains, cesspools, tanks, or reservoirs belonging to or used by him, or connected with such premises, to be cleansed; and the occupier defraying such expense shall be entitled to retain the same from the next term's rent payable to the owner; and when any drain, cesspool, tank, or reservoir is used by the occupiers of two or more houses or buildings belonging to different owners, the cost of such cleansing shall be defrayed by the occupiers of such houses or buildings in the proportions of the yearly rent thereof, with relief from the owner as aforesaid; and whenever any such drain, cesspool, tank, or reservoir shall not be so cleansed, the occupier of each house or building connected therewith or using the same shall be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding twenty shillings for every day that such drain, cesspool, tank, or reservoir remains uncleansed after notice requiring him to do so shall have been given by the burgh engineer, inspector of cleansing, or other officer appointed by the Magistrates and Council.

Power to remove inefficient and substitute efficient drains, cesspools, &c.

199. Whenever in the opinion of the Magistrates and Council any drain, cesspool, tank, or reservoir is a nuisance, or is endangering health, or has become ineffective, they, or in case of emergency the burgh engineer, shall have power to order the owner to remove such drain, cesspool, tank, or reservoir, and to substitute a sufficient drain, cesspool, tank, reservoir, pipe, or other apparatus; and failing such removal and substitution by the owner within the time specified in such order, the Magistrates and Council or the burgh

engineer may execute such work at the cost of the owner, such cost to be recoverable by the collector as a debt at common law.

Power to inspect houses, &c. during construction and alteration.

200. The Magistrates and Council, or any person authorised by them, may at all reasonable times inspect any house or building during the progress of construction or reconstruction or alteration of such house or building, or any work or portion of work connected therewith; and it shall be imperative on the owner of such house or building, by himself or by an authorised agent or the builder, to give twenty-four hours notice to the burgh engineer before any sewer or drain connected with such house or building is covered up, and a similar notice after any work required by the Magistrates and Council to be done in amendment of any irregularity has been completed, and before the work is covered up; and every such owner, or his agent or builder, who shall neglect to give notice as aforesaid, or who shall cover up such sewer or drain or other work before an inspection of the same (which inspection shall take place within twenty-four hours from and after such notice) has been made to the satisfaction of the Magistrates and Council, or person authorised by them, such owner, agent, or builder shall be liable to a penalty not exceeding five pounds; and the Magistrates and Council may order such owner to uncover or open up such work at the expense of such owner.

Water and water-closets.

201. Within one month after notice given by the Magistrates and Council 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 introduce water into every such house or part of a house within the city by means of a pipe of not less than half an inch bore, fitted with a crane opening upon a sink as after mentioned, and shall fit up, in some window recess or other well lighted and ventilated place, a sink with a sufficient soil pipe to carry off the foul water into the nearest drain or sewer; and after like notice every owner shall also provide for such house or part of a house occupied by a separate family, wherever practicable, and in a position to be approved of by the Magistrates and Council, a sufficient watercloset; and such sink, soil pipe, and watercloset shall be properly supplied with water, trapped, and ventilated, so as to prevent any leakage or effluvium therefrom; and all sinks, soil pipes, waterclosets, and water pipes already existing or which may be fitted up under the provisions hereof shall be kept in complete

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repair: Provided always, that if in the opinion of the Magistrates and Council it shall not be advisable to introduce water or water-closets into any house or part of a house, they after a like notice may require the owners thereof to construct on each flat or in some convenient place or places adjacent to such house, but in every case in a position approved of by them, a sufficient number of waterclosets, earth closets, or other conveniences for the separate use of each sex of the occupiers of such house.

Ventilation of water-closets.

202. Wherever in any house or building at present existing waterclosets or other conveniences are constructed so as to ventilate into common stairs, the owner of such house or building shall, if and when the medical officer of health shall certify the same to be offensive or injurious to health, be bound to adopt all practicable means to ventilate such waterclosets or other conveniences by shaft or other means communicating directly with the open air, or in such other manner as the Magistrates and Council may direct; and every owner who shall fail so to ventilate such waterclosets or other conveniences shall be liable to a penalty not exceeding forty shillings for every day during which the default is continued.

Owners of floors or storeys may have water, gas, and soil pipes.

203. It shall be lawful for the owner of any one or more floors or storeys or part thereof of any house or building to have water pipes, soil pipes, and gas pipes laid in the common passage, and brought up the common staircase, or along and upon the outside walls of the house or building, or through any sunk storey thereof and any ground or area connected therewith, and such soil pipes shall be connected with the nearest suitable drain: Provided always, that authority to lay and put up such pipes shall be first obtained from the Magistrates and Council, and the works connected with the introduction of such pipes, and with their maintenance and repair, shall be so executed as to occasion the least possible inconvenience to any owner or occupier, and that any injury done in the execution of these works shall be forthwith repaired.

Penalty for introducing ashes, &c. into water-closets, &c.

204. The occupier of any premises, or any other person who shall cause or knowingly or by culpable neglect permit to enter into the watercloset, sink, cesspool, or soil pipe connected therewith any ashes or other matter calculated to obstruct the same, shall be liable to a penalty not exceeding forty shillings, besides being liable to repair any damage caused by such offence.

Waste pipes and position of cisterns.

205. In all houses or buildings waste pipes of water cisterns shall be discharged into sinks, baths, or open spaces, and the pipes

connected with wash-hand basins and sinks shall be discharged, where in the opinion of the Magistrates and Council practicable, over a trapped grating on the surface of the ground before passing into a drain; and cisterns for culinary and domestic use shall be placed in such positions and be so protected as that the water shall not be contaminated; and the Magistrates and Council shall have power to make rules and regulations with reference to inspection of such waste pipes and the periodical cleaning of cisterns, and in case of non-compliance with any of such rules and regulations the person offending shall be liable to a penalty not exceeding forty shillings.

3.—*Prevention of Disease.*

Houses, &c. unfit for human habitation.

206. If the medical officer of health and the burgh engineer shall certify in writing to the Magistrates and Council that any house or building or part of a house or building is unfit for human habitation, the Magistrates and Council may by their order, affixed conspicuously upon such house or building, declare that the same is not fit for human habitation, and it shall not after a date in such order to be specified be inhabited; and every person who shall, after the date or time mentioned in such order, let or occupy, or continue to let or occupy, or suffer to be occupied such house or building or part of such house or building, shall be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day during which such occupation is continued: Provided always, that before pronouncing any such order the Magistrates and Council shall call upon the owner to show cause against the said certificate within such reasonable time as they consider proper, and shall give such owner an opportunity of being heard before them, and if he appear shall hear him and such evidence as he may adduce; provided also, that if at any time after such order has been made the Magistrates and Council shall be satisfied that such house or building or part of such house or building has been rendered fit for human habitation they may revoke the said order, and the same shall thenceforward cease to operate. The Magistrates and Council shall also, at such times as they shall fix, hold open courts for the consideration and disposal of appeals against such certificates, and it shall not be necessary that a majority of the Magistrates and Council be present to constitute such courts; provided further, that the preses of such court shall have a deliberative as well as a casting vote.

Closes, &c. detrimental to public

207. The Magistrates and Council shall have power and they are hereby authorised to regulate the use of or shut up wholly or

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health, &c. may be shut up.

partially any closes, passages, or places which in their opinion are being so used as to be detrimental to public health or offensive to decency: Provided that in shutting up the same they shall not interfere with any private right of access.

Notice to be given by medical practitioners of infectious diseases.

208. In order to secure more prompt action in dealing with infectious diseases, every medical practitioner practising within the burgh shall, within twenty-four hours of the same coming to his knowledge, report to the medical officer of health every case of cholera, typhus fever, typhoid fever, diphtheria, small-pox, scarlet fever, scarlatina, and measles (in this Act characterised as infectious or contagious diseases) occurring in his practice, and stating the house or place where the patient is being treated, under a penalty not exceeding forty shillings; and if it be found on inquiry by the medical officer of health that the diagnosis of such practitioner was correct, such practitioner shall be paid the sum of two shillings and sixpence for each case reported and verified as aforesaid; and in order to facilitate the making of such report, every such practitioner shall from time to time be furnished, on application to the medical officer of health, with printed forms stamped for postal transmission.

Occupiers of dairies to give notice of infectious diseases in their premises.

209. Every occupier of premises where milk is sold who shall not, when any person residing in such premises is seized with any of the infectious or contagious diseases before mentioned, immediately intimate the same to the medical officer of health, shall be liable to a penalty not exceeding five pounds.

Sale of milk to be discontinued in infected premises.

210. When it shall be certified by the medical officer of health to the chief constable that any person is ill of any of the infectious or contagious diseases before mentioned in any premises within the burgh where milk is sold, the prosecutor shall apply to the judge of police for an order to prohibit the sale of milk in such premises from and after due intimation of such order until the person affected shall have been removed or shall have recovered from such illness, the premises been disinfected, and the bedding and clothing have been destroyed or thoroughly disinfected, and it is certified by the medical officer of health that the said premises are free from infection and that the sale of milk may be safely resumed therein; and every person contravening such order shall for the first offence be liable to a penalty not exceeding five pounds, and for a second and every subsequent offence to a penalty not exceeding ten pounds.

Provision as to milk brought from

211. When it shall be certified by the medical officer of health to the chief constable that milk is being brought within the burgh

from any farmhouse, dairy, or other place beyond the burgh in which any person is ill of any infectious or contagious disease before mentioned, and that the said milk is being sold or offered for sale in any shop or premises within the burgh, or distributed therein from carts or otherwise, the prosecutor shall apply to the judge of police for an order to prohibit the sale of milk so brought, from and after due intimation of such order until the person affected has been removed or shall have recovered from such illness, the premises been disinfected, and the bedding and clothing have been destroyed or thoroughly disinfected, and it is certified by the medical officer of health that the said premises are free from infection, and that the sale of milk from such place may be safely resumed; and every person contravening such order shall for the first offence be liable to a penalty not exceeding five pounds, and for a second and every subsequent offence to a penalty not exceeding ten pounds.

Infected premises beyond burgh.

212. When and as often as the medical officer of health shall be satisfied that by reason of insufficient accommodation or from being in a room occupied by others that any person labouring under any infectious or contagious disease aforesaid should be removed to the Royal Infirmary or other hospital, he shall cause such person to be removed in such way and manner as he may prescribe; and whatever expense may be so incurred shall form a charge against the burgh assessments, reserving to the Magistrates and Council their claim for repayment against any person liable therefor; and every person who shall obstruct the removal of such person so suffering shall be liable to a penalty not exceeding forty shillings.

Power to remove persons labouring under infectious or contagious diseases to infirmary, &c.

213. The Magistrates and Council may direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any infectious or contagious disease as aforesaid, and shall in such case give compensation for the same.

Destruction of infected bedding, &c.

214. The Magistrates and Council may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding and clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge.

Provision of means of disinfection.

215. The Magistrates and Council may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious or contagious disease aforesaid, and may pay the expenses of conveying therein any person so suffering to an infirmary or hospital or other place of destination.

Provision of conveyance for infected persons.

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Penalty on failing to disinfect public conveyances.

216. Every owner or driver of a public conveyance shall immediately disinfect such conveyance after it has to his knowledge conveyed any person suffering from an infectious or contagious disease aforesaid, and if he fails to do so he shall be liable to a penalty not exceeding five pounds; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

Penalty on letting without disinfection houses in which infected persons have been lodging.

217. Every person who knowingly lets for hire any house, room, or part of a house in which any person has been suffering from any infectious or contagious disease aforesaid without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the medical officer of health as testified by a certificate signed by him, shall be liable to a penalty not exceeding five pounds. For the purposes of this section the keeper of an hotel, inn, or public house for reception of guests shall be deemed to let for hire part of a house to any person admitted as a guest.

Penalty on persons letting houses making false statements as to infectious diseases.

218. Every person letting for hire or showing for the purpose of letting for hire any house or part of a house who, on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being or within six weeks previously having been therein any person suffering from any infectious or contagious disease aforesaid, knowingly makes a false answer to such question shall be liable to a penalty not exceeding five pounds.

Premises not to be used as infirmary or hospital without licence.

219. No house or building shall be used or occupied as an infirmary or hospital for the treatment of persons affected with the infectious or contagious diseases aforesaid until a licence shall have been obtained therefor from the magistrates; and no such licence shall be granted until the house or building shall have been certified to be suitable for such purpose by the medical officer of health, or some other duly qualified medical practitioner appointed by the magistrates to inspect and report on the same; but in no case shall a licence be granted for the use of any part of a common tenement for such purpose; and every such licence shall continue in force for one year only, and may at any time be revoked by the magistrates on cause shown by the medical officer of health.

Removal of corpses to funeratory, &c.

220. Whenever any person shall die in such circumstances as that the corpse while unburied would remain in an occupied room or apartment, or otherwise so as to be offensive or prejudicial to the health of persons in the same or any adjoining house or

building, the medical officer of health may cause the corpse to be removed to a funeratory or other premises to be provided by the Magistrates and Council for the purpose; and the expense of providing such funeratory or other premises, and of removing and, if necessary, of interring such corpse shall form a charge against the burgh assessments, reserving to the Magistrates and Council, in the case of such interment being made by them, their claim for the charges against any persons liable therefor.

Offensive trades may be prohibited.

221. The Magistrates and Council may, whenever they shall deem any place in which horses are killed or carrion is kept or sold to be a nuisance, or offensive, or injurious to health, prohibit the use of such place for such purpose, and every owner or occupier failing to discontinue the use thereof for such purposes, on being required to do so by order of the Magistrates and Council, shall be liable to a penalty not exceeding five pounds, and a further penalty of ten shillings for each day during which such place is continued to be used for the purpose before mentioned.

4.—*Common Lodging-houses.*

Keepers of common lodging-houses to report persons resorting thereto.

222. Every keeper of a common lodging-house shall, if required by any order, whether special or general, of the Magistrates and Council, served upon him, report each and every day to the chief constable, or other constable authorised by him, the name and description of every person who has resorted to such house during the preceding night or day; and every keeper who shall fail to comply with such order shall be liable to a penalty not exceeding ten shillings.

Common lodging-houses to be inspected before licence granted.

223. No common lodging-house shall be licensed by the chief constable until the same has been first inspected by the medical officer of health and certified by him to the chief constable as being fit to be occupied for that purpose, and such certificate shall state the number of persons who may be accommodated in each apartment of such lodging-house.

Granting of licence and condition as to rules, &c.

224. The chief constable may, by a written or printed ticket signed by him, license such certified common lodging-house accordingly, and order that a ticket, containing the number of lodgers for which each apartment in such common lodging-house is licensed, and any rules or regulations made by the Magistrates and Council for promoting health, cleanliness, and ventilation, and for the separation of the sexes therein, shall be hung up or placed in a

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conspicuous place of each apartment within such common lodging-house.

Penalty for not obtaining or for infringing licence.

225. Every keeper of a common lodging-house who shall receive or accommodate any lodger therein without having applied for and obtained a ticket of licence as aforesaid, and every person so licensed who shall receive or accommodate in any apartment of such common lodging-house at any one time a greater number of lodgers than is expressed in such ticket, shall be liable to a penalty not exceeding forty shillings, and a further penalty not exceeding twenty shillings for every day during which the offence is committed or continued.

Keepers of common lodging-houses to report cases of infectious or contagious disease.

226. Every keeper of a common lodging-house shall, in the event of any person becoming ill of any infectious or contagious disease, as described in this Act, within his house, forthwith make intimation thereof to the medical officer of health; and if any lodger or other person in any such common lodging-house shall have been confined to bed or affected for twenty-four hours by any such illness without the keeper of such house making intimation as aforesaid, such keeper shall be liable to a penalty not exceeding five pounds; and every keeper of any common lodging-house who shall refuse to give access when required to the medical officer of health, or to any constable, shall be liable to a penalty not exceeding forty shillings.

Saving for Part V. of 30 & 31 Vict. c. 101.

227. Nothing in this Act contained shall affect the provisions contained in Part V. of the Public Health (Scotland) Act, 1867, in so far as not inconsistent with the provisions of this Act, and all offences under such Act shall be tried before the judge of police, and the penalties may be recovered and applied in the same way as penalties are applied and recovered under this Act.

5.—*Small Houses.*

Single apartments let as houses to be sufficiently lighted and ventilated.

228. If in the opinion of the Magistrates and Council any single apartment let or occupied as a house is not sufficiently lighted and ventilated by a window of adequate dimensions and of proper construction placed in an outer wall of the house or through the roof, they may either order such apartment to be disused as a house or direct, if reasonably practicable, that a sufficient window be constructed therefor.

Fixing minimum cubic contents of small houses.

229. It shall not be lawful for any proprietor to let, or for any person to take on lease, or to use or suffer to be used as a

separate house, any house or building or part of a house or building which (exclusive of lobbies, closets, and presses, and of recesses not exceeding four feet in depth,) is not of the following dimensions; namely,

If such house consists of only one apartment, and was used as a separate house previous to the commencement of this Act, unless it contains at least seven hundred cubic feet of space, or, if it was not so used, unless it contains at least nine hundred cubic feet of space:

If such house consists of only two apartments, and was used as a separate house previous to the commencement of this Act, unless it contains at least one thousand two hundred cubic feet of space, or, if it was not so used, unless it contains at least one thousand five hundred cubic feet of space:

If such house consists of only three apartments, and was used as a separate house previous to the commencement of this Act, unless it contains at least one thousand eight hundred cubic feet of space, or, if it was not so used, unless it contains at least two thousand cubic feet of space:

Each such apartment shall have a separate window therein, and the cubic space shall be calculated free of all obstructions.

Penalty for letting or using prohibited premises for sleeping in.

230. Every person who lets any apartment for the purpose of sleeping in, or any house which is not in conformity with the provisions of this Act, shall be liable to a penalty not exceeding five pounds; and every person who uses or suffers to be used for such purpose any such apartment or house shall be liable to a penalty not exceeding five shillings for every day or part of a day during which it has been so used or suffered to be used.

Power to mark capacity, &c. of small houses.

231. Any person appointed by the Magistrates and Council for that purpose may at any time enter any house which consists of not more than three apartments for the purpose of measuring the space in cubic feet contained therein, (exclusive of lobbies, closets, and presses, and of recesses not exceeding four feet in depth, and of obstructions aforesaid,) and may mark on or over the outside of the door of any such house, if the cubic contents thereof do not exceed two thousand feet, or may affix thereto a ticket on which are marked in such position and style as the Magistrates and Council see fit the number of available cubic feet and the number of persons who may sleep therein; and every person who shall obliterate, deface, remove, or alter such marking or ticket shall be liable to a penalty not exceeding ten shillings.

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Penalty for excess of numbers.

232. Every person who shall suffer to be used any house of not more than three apartments for the purpose of being slept in by a greater number of persons than in the proportion of one person for every three hundred cubic feet of space, or by a greater number of persons than is marked thereon in pursuance of the provisions in this Act contained, shall be liable to a penalty not exceeding five shillings for every day or part of a day during which it is so used or suffered to be used; and any person authorised by the Magistrates and Council may from time to time enter such house if they suspect that these provisions are being contravened.

6.—*Public Parks, &c.*

Power to acquire lands for public parks, &c.

233. The Magistrates and Council may purchase, feu, lease, or otherwise acquire by agreement such lands in or adjacent to the burgh as they shall think suitable for public parks, gardens, and bleaching greens, drying greens, and grounds, and open spaces for the erection of public buildings, public wash-houses, baths, and gymnasiums, and other works of a permanent character, and such general improvements as may be conducive to the amenity of the burgh and the promotion of the health, convenience, and recreation of the inhabitants, and lay out, form, and maintain such works and improvements, and all proper and necessary accesses thereto, and support or contribute towards the support and maintenance of grounds provided for such purposes by any person whomsoever: Provided always, that nothing herein contained shall affect the powers of the Magistrates and Council to acquire lands compulsorily for public parks and pleasure grounds under the Public Parks (Scotland) Act, 1878.

41 & 42 Vict. c. 8.

XIV.—General Police Regulations.

1.—*Precautions during Building Operations.*

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

234. In regard to precautions during building operations, clauses 233, 234, 235, and 236 of the General Police Act are hereby incorporated, excepting in so far as regards operations on the streets by this Act otherwise provided for: Provided that the word "houses" and the word "buildings" shall mean "houses and buildings" in the sense of this Act, and the word "street" shall include court, and the word "surveyor" shall mean the burgh engineer in the sense of this Act.

Provisions as to hoardings and conve-

235. In every case where any hoarding, enclosure, or fence has been put up, the name and address of the builder must be

painted in conspicuous letters on the hoarding, and the person erecting the same shall provide, when required for the use of the workmen employed at the work, suitable conveniences to the satisfaction of the Magistrates and Council, and such conveniences shall be periodically cleansed to the satisfaction of the inspector of cleansing. Every person contravening the provisions of this section shall be liable to a penalty not exceeding five pounds. A.D. 1879. niences for workmen.

236. The Magistrates and Council may, on such reasonable grounds, on payment of such charge and subject to such conditions as they shall think proper, renew their authority for the maintenance of any hoarding, enclosure, and fence, and relative appliances. Renewal of authority for hoardings.

237. When any house or building is in course of erection, or is undergoing alteration or repair, the footpath or foot-pavement, immediately in front of such house or building, also in front of the house or building on either side thereof, or on the outside of the hoarding or fence enclosing the same, shall be regularly swept and kept free from mud or dust and other deposits by the person engaged in erecting or in altering or repairing such house or building to the satisfaction of the Magistrates and Council, and every such person who fails to sweep and keep clean from mud, dust, or other deposit such footpath or foot-pavement shall be liable to a penalty not exceeding forty shillings. Foot-pavements, &c. in front of houses, &c. being built or repaired to be kept clean.

238. The Magistrates and Council may seize, forfeit, and carry off any building materials or other things deposited on any street, court, foot-pavement or footpath unenclosed, and sell or otherwise dispose of the same as they shall see fit, accounting, in the case of sale or other disposal of such building materials or other things, to the owner thereof for the balance of the proceeds of such sale or disposal. Building materials may be forfeited.

239. Whenever any hole, excavation, or open place is in the opinion of the Magistrates and Council not sufficiently fenced or guarded, or is otherwise dangerous to the persons using or passing the same, or to the public, the Magistrates and Council may by notice order, within such time as they shall consider proper, the fencing or other repair thereof by the owner, and failing compliance with such order they may direct such works to be executed as they shall consider necessary to secure the public safety, and the cost of such works shall form a charge against the owner of the property concerned, and may be recovered by the collector as a debt at common law. Power to order fencing, &c. of excavations.

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Chimney stalks, &c. to be repaired and secured.

240. When from decay, or in consequence of storm or otherwise, chimney stalks or cans, slating, tiling, or other materials of roofs, lath and plaster, and rough casting of exterior walls of houses or buildings, or any rhone, signboard, or any other similar matter or thing appertaining to or connected with any house or building shall have become worn out, damaged, or out of repair, or in the opinion of the burgh engineer is dangerous to the public or to property in the vicinity, the burgh engineer may, in all cases where the owner liable to make such repairs shall reside within the burgh, give notice to him requiring him within a reasonable time, to be stated in such notice, to repair or secure the whole or any portion or portions of such chimney stalks, slating, tiling, or other materials of roof, lath and plaster, or rough casting of exterior walls, rhones, signboards, or other similar matter or thing pertaining to such house or building as aforesaid; and where such owner shall reside beyond the burgh give notice to the occupier of the house or building in reference to which the obligation to make the repairs arises of the nature and extent of the repairs or alterations which appear to the burgh engineer to be necessary; and, failing due attention being given by such owner or occupier within the time stated in such notice, it shall be competent to cite such owner or occupier to appear before the judge of police, who may require him to have such repairs or alterations executed within a specified time at the sight and to the satisfaction of the burgh engineer; and, failing compliance with the deliverance of the judge of police, such owner or occupier shall be liable to a penalty not exceeding forty shillings, and a further penalty not exceeding twenty shillings each day during which such failure continues: Provided always, that the burgh engineer in case of emergency, of which he shall be the sole judge, may take down or secure any chimney stalks or other similar matter or thing, and execute the necessary repairs, the expense of which shall be paid by the owner or occupier, and, failing payment, shall be recoverable by the collector as a debt at common law; provided also, that any occupier so paying such expenses shall be entitled to recover the same from the owner.

2.—*Street Regulations.*

Incorporation and application of certain

241. In regard to street regulations, clauses 252, 253, and 255 of the General Police Act are hereby incorporated: Provided that in such clauses the word "carriage" shall include hackney

carriage, and the word "officer" shall mean a constable under this Act. clauses of 25 & 26 Vict. c. 101.

Power to regulate traffic.

242. The magistrates may make regulations for, among other things, directing the traffic in all or any of the streets open to the public, and may fix that carts and other heavy vehicles shall travel along such streets in separate lines from carriages and hackney carriages, and every person guilty of any wilful breach of any such regulations shall be liable to a penalty not exceeding forty shillings.

Special regulations in regard to processions, &c.

243. The magistrates may from time to time sanction public processions and make orders prescribing the route for and regulating such processions and any band of music accompanying the same; for preventing obstruction of the streets on the occasion of any such procession, or of illuminations or rejoicings, or on any other occasion when such streets are crowded or liable to be obstructed; for removing obstructions from such streets or causing the same to be removed, and for regulating the traffic on such streets, or closing the same against such traffic as, for the public safety, they shall deem it necessary to prohibit thereon on such occasions; and may also make regulations for keeping order and preventing obstruction of streets, courts, and places in the neighbourhood of theatres and other places of public resort; and every person guilty of any breach of any such order or regulation shall be liable to a penalty not exceeding forty shillings.

Power to impound stray horses or cattle.

244. If any horse or cattle be at any time found at large without any person being in charge thereof, any constable may seize and impound the same, and the owner thereof shall be liable to a penalty not exceeding forty shillings besides the reasonable expenses of impounding and keeping such horse or cattle.

Power to sell stray horses or cattle after notice.

245. If the said expenses be not paid within three days after such impounding, the judge of police may order such horse or cattle to be sold; but previous to such sale seven days notice thereof shall be given to or left at the house or place of abode of the owner of such horse or cattle if he be known, or if not, then notice of such intended sale shall be given by advertisement to be inserted once seven days before such sale in some newspaper published within the burgh, and the balance, if any, of the proceeds of such sale, after deducting the expenses aforesaid and all other expenses attending the impounding, advertising, keeping, and sale of any such horse or cattle so impounded, shall be paid over by the clerk of the police court to the collector, and shall be paid by the treasurer, on demand, to the owner of the horse or cattle so sold,

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provided such balance is claimed within six months after such sale, and in default of such claim the balance shall be applied to the purposes of this Act.

Penalty on persons committing certain offences to obstruction, annoyance, or danger of others.

246. Every person who, to the obstruction, annoyance, or danger of the residents or passengers, shall commit any of the following offences in any street or court, or common stair or passage, or in any public park, garden, or place, shall be liable to a penalty not exceeding forty shillings; and in the case of a continuing offence the sum of five shillings for every day during which such offence shall be continued; that is to say,

(1.) Every person who exposes for show, hire, or sale (except in a market or market place or fair lawfully appointed for that purpose) any horse, cattle, or other animal; or exhibits in a caravan or otherwise any show or public entertainment; or shoes, bleeds, or farries any horse, cattle, or animal (except in cases of accident); or cleans, dresses, exercises, trains, or breaks in, or turns loose any horse, cattle, or animal; or makes or repairs any part of any cart, carriage, hackney carriage, or tramway car (except in cases of accident where repair on the spot is necessary):

(2.) Every person who allows any bull or other dangerous animal to be at large or not sufficiently secured by means of a rope attached to a ring through the nose of such animal or otherwise:

(3.) Every person who keeps any poultry:

(4.) Every person who slaughters any horse or cattle, excepting in the case of such being overdriven or overridden, or accident, or when for the public safety or other reasonable cause such horse or cattle ought to be killed on the spot:

(5.) Every person having the care of any cart, carriage, or hackney carriage, who rides otherwise than on the forepart of such cart or carriage, or hackney carriage, and in such a position as readily to see immediately before and on either side thereof; or who, without having reins with a bit attached thereto, and in the mouth of the horse drawing the same, and holding such reins, rides upon such cart or carriage, or hackney carriage, or any horse drawing the same, or who is at such a distance from such cart, carriage, or hackney carriage, or in such a position as not to have due control over every horse drawing the same; or who does not, in meeting any other vehicle, keep his cart, carriage, or hackney carriage to the left or near

side, or who, in passing any other vehicle, does not keep his cart, carriage, or hackney carriage on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation, or where otherwise provided for and regulated under the provisions of this Act); or who, by obstructing any street, wilfully prevents any person or vehicle from passing him, or any cart, carriage, or hackney carriage under his care:

(6.) Every person who causes any cart, carriage, or hackney carriage, with or without horses, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except hackney carriages and horses standing for hire in any place appointed for that purpose by the magistrates or other lawful authority); and every person who by means of any cart, carriage, or hackney carriage, or any animal or other means, wilfully interrupts any public crossing or wilfully causes any obstruction in any foot-pavement or footpath or other public thoroughfare:

(7.) Every person who causes any tree or timber, iron beam, stone, or other thing to be drawn or propelled otherwise than upon a cart:

(8.) Every person who causes any tree or timber, iron beam, stone, or other thing to be drawn in or propelled upon any cart without having sufficient means of safely guiding the same:

(9.) Every person who leads or rides any horse, or drives any cattle, or draws or drives any cart, carriage, or hackney carriage, upon any footpath or foot-pavement, or fastens any horse so that it shall stand across or upon any footpath or foot-pavement:

(10.) Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, basket, pail, or bucket, or places or makes any standing place, or places any stool, bench, stall, or showboard, on any footpath or foot-pavement:

(11.) Every person who places any blind, shade, covering, awning, or other projection over or along any footpath or foot-pavement, unless such blind, shade, covering, awning, or other projection be seven feet six inches at least in height in every part thereof from the footpath or foot-pavement:

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(12.) Every person who carries about on any cart, carriage, or hackney carriage, or on horseback, any picture, placard, notice, or other advertisement, whether written, printed, or painted upon, or posted or attached to any part of such cart, carriage, or hackney carriage, or on any board or otherwise:

(13.) Every person who places, hangs up, or exposes for sale any goods, wares, merchandise, matter, or thing whatsoever, so that the same project into or over any footpath or foot-pavement, or beyond the line of any house or building at which the same are so exposed:

(14.) Every person who hangs or places any linen or clothes, or other such article, on any rail or fence of any house or building:

(15.) Every person who writes upon, soils, defaces, or marks any footpath or foot-pavement, or any wall, fence, hoarding, or house or building, or the walls of any close, common passage, or common stair, or on public conveniences, with chalk or paint, or affixes thereto any bill, placard, or other notice:

(16.) 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 to or from any house or building:

(17.) Every person who carries any basket, creel, or other burden, so as to obstruct or incommode any passenger on the footpath or foot-pavement, except for the purpose of crossing the same to or from any house or building:

(18.) Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, log of wood, basket, board, or tray, upon any footpath or foot-pavement, except for the purpose of loading or unloading any cart or carriage, or of crossing the footpath or foot-pavement:

(19.) Every person who, by congregating with others, causes an obstruction in any footpath or foot-pavement, crossing, or in any close, passage, or stair:

(20.) Every person who by any means whatsoever wilfully obstructs or interrupts the thoroughfare:

(21.) Every vendor of coals or other person who, in vending coals or other articles, shouts or calls out, or uses any bell or horn, or other noisy instrument, or who obstructs any thoroughfare, and thereby annoys any inhabitant:

(22.) Every person who calls and announces vocally, or otherwise, any auction or sale, or notice of any public meeting, show, or exhibition at or near any house or building:

(23.) Every person who uses any steam whistle other than on or in connexion with a railway locomotive:

(24.) Every person who conveys in any open cart or otherwise the carcases, or any parts thereof, of horses or cattle, without the same being properly covered up from public view with clean cloths, or such other coverings as the Magistrates and Council may from time to time prescribe; or exposes such carcases, or any parts thereof, or the skins or offal of such, outside of the doors or windows of any house or building, or publicly uses machines to mince or hash animal food:

(25.) Every person who places any line, cord, or pole across, upon, or over any part of any street or court, or hangs or places any clothes thereon, or on the outside of any window fronting any street or court:

(26.) Every person who accumulates within any enclosure, area, house, building, garret, cellar, or other apartment, any dung, soil, dirt, ashes, filth, or other offensive matter or thing:

(27.) Every person who commits any nuisance:

(28.) Every person who discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire or throws or sets fire to any firework:

(29.) Every person who throws or places upon any footpath or foot-pavement any orange rind or peel, or other thing causing danger to passengers:

(30.) Every person who wilfully and wantonly pulls or rings any door-bell, or knocks at any door, or who wilfully and unlawfully extinguishes the light of any lamp:

(31.) Every person who flies any kite, except in public parks or gardens, or in public parks and gardens when prohibited by regulation of the Magistrates and Council in such parks and gardens:

(32.) Every person who throws any snowball, or who makes or uses any slide upon ice or snow:

(33.) Every person who cleanses, hoops, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone:

(34.) Every person who slacks, sifts, or screens any lime, or who, during the erection or demolition of any house or

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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:

(35.) Every person who throws or lays down and allows to remain longer than is necessary any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials properly enclosed):

(36.) Every person who beats or shakes any carpet, rug, or mat contrary to the byelaws of the Magistrates and Council:

(37.) Every person who fixes or places any flower-pot or box or other article on the sill of any upper window, without sufficiently guarding the same against being blown down:

(38.) Every person who throws from the roof or any part of a house or building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger:

(39.) Every occupier of a house or building, or other person, who orders or permits any person in his service to stand on the sill of any window, or any projection therefrom, in order to clean, paint, or perform any other operation upon the outside of such window, or upon a house or building, unless such window be in the sunk or basement story:

(40.) Every person who discharges any smoke or steam from a house or building (otherwise than from the top thereof), or suffers or permits the condensed water or moisture from any steam pipe, flue, or funnel to fall into or upon any street or court:

(41.) Every person who leaves open any vault or cellar, or the entrance from any street or court 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 who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer without a sufficient light after sunset, to warn and prevent persons from falling thereinto.

Penalty on persons committing any of the offences herein named.

247. Every person who shall commit any of the following offences shall be liable to a penalty not exceeding forty shillings, and in the case of a continuing offence the sum of five shillings for every day during which such offence shall be continued; that is to say,

(1.) Every person who rides on or hangs from the back of any cart, carriage, hackney carriage, or tramway car, without authority from the owner or person in charge thereof:

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(2.) Every person who drives more than two carts at the same time, and every person driving two carts who has not the halter of the horse in the last cart securely fastened to the back of the first cart, 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:

(3.) Every person who, without authority, affixes or causes to be affixed to any church, chapel, or school-house, or, without the consent of the owner or occupier, to any other house or building, any bill, placard, or notice, other than such as may be affixed thereto by law, or who wilfully breaks, defaces, destroys, or damages any wall, fence, hoarding, house, or building, or any tree, shrub, seat, or other thing:

(4.) Every person who shall injure or deface any church, chapel, or other public building, or any statue, public monument, monumental stone or inscription, or who shall write with chalk, paint, or other matter thereon:

(5.) Every person who persists in going upon the ice at Duddingston, Dunsappie, St. Margaret's, or other lochs or ponds within the burgh at any time when placards are exhibited, or other signals by the proper authority are shown, intimating that it is in a dangerous state; and every person who goes within the ropes or danger signals placed at any part of the said lochs or ponds:

(6.) Every person found drunk and incapable of taking care of himself and not under the care or protection of some suitable person:

(7.) Every person who shall destroy, pull down, injure, or deface any notice board issued or put up by or under the direction of the Magistrates and Council, or the magistrates:

(8.) Every keeper of a shop in which dressed provisions are sold who shall have the same open at an earlier hour than five of the clock in the morning, or at a later hour than twelve of the clock at night.

Penalty on persons committing certain higher offences.

248. Every person who in or near any street or court, or in any common stair or passage, or in any public park or garden, commits any of the following offences, shall be liable to a penalty not exceeding five pounds, or in the discretion of the judge of police may, without a penalty being inflicted, be committed to prison for a period not exceeding sixty days; (that is to say,)

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(1.) Every common prostitute or nightwalker who loiters or importunes passengers for the purpose of prostitution:

(2.) Every person who wilfully and indecently exposes his person:

(3.) Every person who offers for sale or distribution, or exhibits to view, any profane, indecent, or obscene book, paper, print, drawing, painting, photograph, or other representation:

(4.) Every person who shall be drunk and guilty of any riotous and disorderly conduct:

(5.) Every person who rides or drives furiously, recklessly, or carelessly any horse, cart, carriage, hackney carriage, or other vehicle, or who recklessly or furiously drives any cattle.

Power to remove, &c. articles placed in streets, &c.

249. If any rubbish, lead, iron, wood, goods, commodities, or other articles, matters, or things whatsoever shall be placed or allowed to remain in any street or court, any constable may remove or cause the same to be immediately removed and carried to a place of safety, there to remain at the risk of the owner and person offending, and detain the same until the expense of removal and detention are paid; and if such expense shall not be paid within seven days the judge of police may give directions to sell or dispose of the same, and apply the proceeds to the purposes of this Act.

Dogs or other animals, if a nuisance or annoyance, to be removed, &c.

250. Every person who shall have or keep, or suffer to be kept, within any house, building, cellar, court, or area, or other premises, any dog or other animal which shall be proved to be a nuisance or annoyance to the inhabitants in the neighbourhood, and shall not prevent the continuance of such nuisance or annoyance by removing such dog or other animal, or otherwise within such time as the judge of police 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 directing that dogs 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, 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 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.

Street musicians to depart when desired to do so.

251. Any householder, personally or by his servant, or by a constable, may require every 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 musical instrument, or to sing, after being so required to depart, shall be liable to a penalty not exceeding twenty shillings.

XV.—Prevention of Fraud.

1.—*Public Weighing Machines.*

Weighing machines to be provided for public use.

252. The Magistrates and Council shall provide, furnish, and maintain such number of permanent or portable or moveable steelyards, scales, or other machines for weighing goods or materials brought within or bought or sold within the burgh, 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 weighing or reweighing such goods or materials, and may employ proper persons to attend such machines, or let or farm the same, and fix the rates to be payable for such weighing or reweighing; and the inspector of weights and measures, the inspector of coal weighing, or any constable, may cause all goods or materials offered for sale from carts to be weighed or reweighed, and require the person delivering such goods or materials to produce a ticket or certificate, signed by a duly authorised person, certifying the weight or gross and net weight of such goods or materials.

2.—*Sale of Coals.*

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

253. In regard to sale of coals, clauses 266 and 267 of the General Police Act are hereby incorporated: Provided that the penalty in clause 266 shall not exceed five pounds.

Coals sold by retail to be weighed on sale or delivery if required.

254. For the purpose of ascertaining the weight of coals sold in quantities of less than half a ton within any yard, depôt, cellar, fold, or place where they may be kept, or from any cart on which they may be carried for sale, the coal dealer shall have and keep scales and weights of the legal standard within such yard, depôt, cellar, fold, or other place, and also have such scales and weights attached to any cart used for the sale of coals, whereby the coals so sold by retail may be weighed at the time of the sale or delivery; and such dealers shall weigh the same upon being required to do

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so, either by the person purchasing the same or by the inspector of coal weighing or any constable; and every such dealer failing to have and keep such scales and weights, or refusing to weigh coals as aforesaid, shall be liable to a penalty not exceeding forty shillings for the first offence, and five pounds for any subsequent offence: Provided always, that dealers in coals at the depôts and wharves of the North British Railway Company or Caledonian Railway Company shall not be required to provide at the said depôts and wharves any scales and weights in addition to those established thereat by the said companies; provided also, that such scales and weights shall be subject to the same regulation and inspection as those otherwise under authority of the Magistrates and Council, and the persons qualified to grant certificates with respect to coals weighed by such scales and weights shall only be appointed subject to the approval and subsequent control of the magistrates.

Weight of bags of coals.

255. All coals sold or exposed for sale from carts on the streets shall be put up in parcels or bags which shall be legibly marked with the true weight thereof, and the inspector of coal weighing or any constable may require the same to be weighed, and every dealer in coals in whose possession any parcel or bag deficient in weight shall be found shall be liable to a penalty not exceeding forty shillings, and the coals may be forfeited.

Dealer in coals to give ticket to carter for delivery to purchaser, &c.

256. Every dealer in or person selling coals who shall sell any quantity equal to or exceeding half a ton weight shall deliver to the carter or person in charge of such coals, to be given to the purchaser or person to whom the same are to be delivered, a ticket or account specifying the true tare of the cart conveying such coals, and the true weight and description of such coals, and the exact time at which the cart leaves the premises of such dealer or other person selling the same, and the weight of such coals and the time of weighing shall be certified by a duly authorised coal weigher; and every dealer or other person selling such quantity of coals who shall not deliver such ticket or account to the carter or person in charge of such coals, and every dealer or other person selling, and every coal weigher who shall in any such ticket or account untruly state any such particulars, shall be liable to a penalty not exceeding five pounds.

Carter to produce and deliver ticket.

257. The carter or person in charge of coals shall produce such ticket or account and the certificate of such coal weigher to the inspector of coal weighing or any constable who may demand the same, and immediately on his arrival at the place of delivery shall deliver the same to the purchaser or to any inmate or other

person in charge of the house or place of delivery; and every carter or person in charge of such coals who shall fail to have or who shall not produce and deliver such ticket or account and certificate as aforesaid shall be liable to a penalty not exceeding five pounds.

3.—*Bread, Butter, &c.*

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

258. In regard to bread, butter, &c., clauses 269 and 270 of the General Police Act are hereby incorporated: Provided that the power thereby conferred on the superintendent of police shall be exercised by any constable as defined in this Act, having instructions from the Magistrates and Council, and offences thereunder shall be tried by the judge of police.

4.—*Diseased Meat.*

Penalty on refusing access to markets, &c.

259. Every keeper, owner, or occupier of any market, shop, stall, or other place for the sale of butcher meat, fish, or other provisions, and every cowfeeder who shall not, at all hours during the day and night, allow the inspector of markets or any constable access to such places for the due performance of his duties, shall be liable to a penalty not exceeding forty shillings.

Power to search for carcases believed to be concealed.

260. The inspector of markets or any constable shall be entitled to search any place in which there is reason to believe that the carcase of any animal which shall have been smothered, or shall have died of disease, is concealed, and if found to seize the same; and the person guilty of such concealment shall be liable to a penalty not exceeding five pounds, or imprisonment for a period not exceeding twenty days, and the judge of police shall order such carcase to be destroyed or otherwise disposed of.

Penalty for sale of unwholesome provisions, &c.

261. Every person who shall sell or expose to sale, or have in his possession, as or for human food, the carcase or any part of the carcase of any animal which shall appear to have died of or been killed in consequence of disease, or any butcher meat, fish, poultry, or other article of provision of an unsound or unwholesome description, or in a state unfit or unsuitable for human food, shall be liable to a penalty not exceeding twenty pounds, and the articles shall be forfeited and disposed of as the judge of police shall direct; and every person who shall sell or expose to sale, or have in his possession for the purpose of sale, as or for human food, any blown, stuffed, or pricked veal, lamb, or butcher meat, and every person

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who shall sell or expose to sale any bull beef without having the words "bull beef" exhibited on a board, in roman letters of at least three inches in length and of a proportionate breadth, over the stall or place in which it shall be exposed to sale, shall be liable to a penalty not exceeding five pounds, and the articles shall be forfeited and disposed of as the judge of police shall direct.

Penalty for want of cleanliness in meat and provision shops, &c.

262. Every occupier of any shop or other premises used for the sale of butcher meat, poultry, game, fish, butter, meal, bread, or any other article of food, and every person who uses any cart, basket, or other article or thing for the disposal or sale of any article of food, who does not keep the same clean and in good condition, shall be liable to a penalty not exceeding twenty shillings.

5.—*Brokers and Pawnbrokers.*

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

263. In regard to brokers and pawnbrokers, clauses 311 to 316 both inclusive, 319 to 324 both inclusive, and 326 of the General Police Act are hereby incorporated: Provided that in the sense of this Act the words "from and after the adoption of this Act" in such clauses shall mean from and after the commencement of this Act; the word "magistrates," "magistrate," or "judge," shall mean the magistrates as defined in this Act; the word "clerk" the clerk of the burgh court; the words "superintendent of police" the chief constable; the words "police court" the burgh court.

Brokers to be furnished with books.

264. Every broker when licensed shall be furnished by the clerk of the burgh court with a book properly ruled, having at the beginning printed specimens of the entries to be made therein, together with the sections of this Act, and the clauses therein incorporated relating to brokers.

Penalty on brokers receiving stolen goods, &c.

265. Every broker who, having received information of the theft, or the embezzlement, or the acquisition by falsehood or fraud of any metals, goods, or articles of whatsoever description, shall purchase the same, or shall fail to detain the person offering the same for sale (which he is hereby authorised to do), and to give immediate information to the police of such detention, or who shall melt, alter, deface, destroy, or put away the same, or shall cause the same to be melted, altered, defaced, destroyed, or put away, shall be liable to a penalty not exceeding ten pounds, without prejudice to the offender being proceeded against according to law as a receiver or resetter of stolen goods or as being a party to the theft or fraud.

266. Every broker who shall not have his name, with the words "licensed broker," legibly painted over the door or principal entrance of his premises in letters not less than two inches in length and one fourth of an inch in breadth, painted either black on a white ground or white on a black ground, shall be liable to a penalty not exceeding twenty shillings.

Brokers to have their names and "licensed broker" painted on premises.

267. All offences under the Pawnbrokers Act, 1872, or any other public Act relating to pawnbrokers, shall be tried before the magistrates in the Burgh Court.

As to offences under 35 & 36 Vict. c. 93.

6.—Articles found or stolen or fraudulently obtained.

268. 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 judge of police within six months from the date of such report and deposit, the judge of police 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 judge of police 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 judge of police shall determine.

Goods, &c. found to be delivered to chief constable, &c.

269. 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 judge of police, 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, grant warrant for the sale or disposal of such goods, articles, or money, the proceeds to be applied for 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 in the burgh as the judge of police may direct.

Unclaimed stolen property, &c. to be disposed of.

7.—Suppression of Vagrancy.

270. Every person found begging, or exposing wounds or deformities, or who shall cause or permit the exposure of children

Vagrants, beggars, &c. may be imprisoned.

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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 gaining his livelihood, shall be liable for the first offence to be imprisoned for any period not exceeding thirty days, and for a second or any subsequent offence to be imprisoned for a period not exceeding sixty days.

Procedure as to persons sending out children to beg.

271. When any person, apparently under the age of fourteen years, who shall be found begging has been sent out or suffered to go out for that purpose by the parents, or either of them, or other person to whose control such person found begging is subject, the judge of police may punish such parents or person by imprisonment for a period not exceeding sixty days, and may direct any person so found begging to be placed under the protection of any institution established by law or otherwise for the care of such persons.

Suspected persons may be apprehended, &c.

272. Every suspected person or known or reputed thief 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, shall be deemed a rogue and vagabond, and may be apprehended and 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 the person suspected or known or reputed as aforesaid was guilty of 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 judge of police, it appears to such judge of police 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, may be forfeited and applied for the purposes of this Act.

Beggars and vagrants may be handed over to the parochial authorities.

273. Any constable shall apprehend and bring before the judge of police every beggar, vagrant, and idle person strolling or wandering, or seeking relief, or found lying in any street, court, house, building, outhouse, stair, area, or other place, and the judge of police may direct and cause any such person as he may not at the

time convict of begging and vagrancy to be handed over to the inspector of the poor, or other official of the parish within which such person shall have been found, in order that his claim as a pauper may be investigated and disposed of according to law.

Penalty for harbouring vagrants.

274. Every person who shall knowingly entertain or harbour any rogue, vagabond, vagrant, or beggar in any house, building, or outhouse belonging to him, and shall not give notice to a constable, in order that such rogue, vagabond, vagrant, or beggar may be apprehended, shall be liable to a penalty not exceeding forty shillings; and in order to more effectually discover the harbourer of such rogue, vagabond, vagrant, or beggar, any constable may enter, at all times of the day or night, all tippling houses, brothels, and low lodging houses; and if the entrance of the constable be resisted or refused he may force an entrance, and every person so resisting or refusing shall be liable to a penalty not exceeding five pounds.

Penalty on persons knowingly letting houses to harbourers of vagrants, &c.

275. Every person who, being the owner or occupier of any house, building, or apartment, shall knowingly let such house, building, or apartment to harbourers of vagrants or disorderly persons, or reputed thieves, shall be liable to a penalty not exceeding five pounds.

Punishment of chain droppers and swindlers, &c.

276. Every card sharper, chain dropper, thimbler, loaded dice player, or other similar swindler who shall, within the burgh or at any place in the county of Mid-Lothian within two miles of any part of the burgh, be found in possession of implements or articles for practising games of hazard, or who shall exhibit such implements or articles 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 art or device, shall cozen and cheat, or attempt to cozen and cheat, any person, may be apprehended within the burgh by any constable, and beyond the burgh by any constable, or any sheriff officer, or police officer for the said county, and may be summarily convicted by the judge of police, and imprisoned for any period not exceeding sixty days, and may also be adjudged to repay any money or restore any property which he may have obtained by means of any such offence, and, failing such payment or restoration, may be imprisoned for any further period not exceeding sixty days.

XVI.—Disorderly Houses, Gambling Houses, &c.

Suppression of brothels.

277. The judge of police may, on a complaint by the prosecutor, grant warrant to enter into and search from time to time, during

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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 judge of police 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, in order to be brought before the judge of police, 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.

Penalty for keeping or managing brothels.

278. Every person who shall keep or manage any brothel, or who shall knowingly harbour prostitutes for the purpose of prostitution, or shall aid or assist or take any part in the management of any brothel, and every tenant, lessee, or occupier who shall knowingly and wilfully permit or suffer any house or building or part of a house or building to be used as a brothel, shall in respect of the first offence be liable to a penalty not exceeding twenty pounds, or to imprisonment without the option of a fine for any period not exceeding sixty days; and in respect of the second or any subsequent offence to a penalty not exceeding forty pounds, and, failing payment of the penalty, to imprisonment for any term not exceeding three months, or to imprisonment without the option of a fine for any period not exceeding three months; and the judge of police may for a third or any subsequent offence, in addition to such penalty or imprisonment, order the person convicted to find caution for good behaviour for twelve months, and, in default of such caution being found, may sentence such person to a further term of imprisonment for any period not exceeding three months.

Leases, &c. of premises used as brothels to be void.

279. The conviction of the tenant, lessee, or occupier of any house or building, or part of a house or building, under the provisions of this Act as to the keeping of brothels, 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 that any right of hypothec for rent or other legal right of the owner for the year current at the date of such conviction and consequent voidance of lease or let or arrangement to let shall remain unaffected, and may be enforced in the same manner as if no such discharge of lease or let or arrangement had taken place.

Notices to owners of conviction of occupiers.

280. Upon conviction of the tenant, lessee, or occupier of any house, or part of a house or building, for a breach of the provisions of this Act for keeping a brothel, the clerk of the police court shall, within two days from the date of such conviction, intimate the same by a notice to the owner of such house or building or part of a house or building, provided he be not the occupier of such house or building or part of a house or building; and such notice shall contain the date of such conviction, the name of the person convicted, and the situation of such house or building or part of a house or building, and shall have appended thereto a copy of the provisions of this Act attaching, in so far as the owner is concerned, obligations and penalties in respect of such conviction.

Penalties on owners in case of second or subsequent conviction of occupier.

281. In the event of a second or any subsequent conviction for keeping a brothel of the tenant, lessee, or occupier of the same house or building or part of a house or building, whether by the same offender or by any other tenant, lessee, or occupier, the judge of police may, if satisfied by evidence that the owner, after such notice as before provided, has knowingly or wilfully permitted or suffered such house or building or part of a house or building to be occupied as a brothel, or has by negligence or otherwise failed to take due precaution for the proper, lawful, and orderly occupation of the same, direct the owner to find caution to an amount not exceeding fifty pounds that such house or building or part of a house or building shall not for the period of six months thereafter be occupied as a brothel; and, in default of such caution being found, may grant warrant to close, shut up, and secure such house or building or part of a house or building for any period not exceeding six months, and for that purpose to eject all persons therefrom.

Constables may enter certain premises.

282. Any constable shall have power, by virtue of his office, at any time to enter any premises or other place of the following description; viz.,

(1.) Any house, building, room, or place licensed or used for public billiard playing:

(2.) Any place to which the public are admitted by payment or otherwise used for the purpose of stage plays, or dramatic, musical, or other entertainments, or for any show or exhibition:

(3.) Any singing or dancing saloon, oyster store, fish shop, eating house, coffee house, or other such place:

(4.) Any victualling house, public house, house, or building in which wine, spirits, beer, cider, or other exciseable or

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fermented or distilled liquors are sold or suspected to be sold, whether licensed or not:

(5.) Any house or building, or common brothel for the reception of prostitutes, or usually frequented by thieves or loose and disorderly persons:

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.

Penalty for keeping places for baiting animals, &c.

283. Every person who shall keep or use or act in the management of any house, building, room, pit, or other place for the purpose of fighting, baiting, or worrying any animals, shall be liable to a penalty not exceeding ten pounds; and any constable may enter any premises kept or used for any of the purposes aforesaid, and take into custody every person participating in or witnessing such fighting, baiting, or worrying, and every such person shall be liable to a penalty not exceeding forty shillings.

Power to constables to enter gambling houses and seize implements, &c.

284. Any constable having reason to suspect that any house, building, room, or place is kept or used as a gambling or betting house may enter such house, building, room, or place, and take into custody every person who shall be found therein, and seize all tables for and instruments of gambling and betting found in such house, building, room, or place, and all moneys and securities for money found therein; and the owner or keeper of such gambling or betting house, and every person having the care or management thereof, or who shall act in any manner in conducting such gambling or betting, shall be liable to a penalty not exceeding fifty pounds, and upon conviction of any such offender all such tables and instruments of gambling or betting shall be destroyed or sold, and the proceeds thereof (if any), and all the moneys and securities for money which shall have been seized as aforesaid, shall be paid over to the collector to be applied for the purposes of this Act; and every person found within such premises shall be liable to a penalty not exceeding ten pounds: Provided always, that it shall not be necessary, in support of any prosecution under the provisions of this section, to prove that any person found playing at any game was playing for money, wager, or stake.

XVII.—Places of Public Resort.

Billiard rooms to be licensed.

285. From and after the fifteenth day of May one thousand eight hundred and eighty every person who shall keep, or suffer to

be kept or used, or use any house, building, room, or place for public billiard playing, or shall keep a public billiard table or bagatelle board, or other table or instrument used in any game of the like kind, at which persons are admitted to play, except in any premises duly licensed as an hotel, without having obtained a licence from the magistrates, who are hereby empowered to grant the same for the house, building, or premises where such billiard table, bagatelle board, or other table or instrument as aforesaid is kept or used, and also every person licensed under this Act who shall not during the continuance of such billiard licence put and keep up the words "licensed for billiards" legibly printed in some conspicuous place on or near the door, and on the outside of the house or building specified in the licence, shall be liable to a penalty not exceeding ten pounds; and in the event of such house, building, room, or place being continued to be kept or used for such purpose after such conviction, to a continuing penalty of ten pounds for every day during which the offence is committed or continued, together with the reasonable costs and charges of the conviction: Provided always, that such licences shall run from the fifteenth day of May in one year to the same date in the year succeeding, unless the same be sooner forfeited, revoked, or suspended, and the clerk to the magistrates shall keep a register of such licences or renewals, and for such licences or renewals he shall be entitled to receive such reasonable fees as the magistrates may fix.

Regulating hours of play at billiard tables, &c.

286. Every person licensed to keep any public billiard table or bagatelle board, or table or instrument used in any game of the like kind, under the provisions of this Act, who shall allow any person to play at such table, board, or instrument, except during the hours between eight of the clock in the morning and eleven of the clock at night, on any lawful day, or at such extended hour at night as the magistrates may, by special regulation in particular cases, for reasons assigned, permit; and every person holding a hotel licence who shall allow any person to play at such table, board, or other instrument kept on the premises specified in such hotel, at any time when such premises are not by law allowed to be open for the sale of wine, spirits, or beer, or other fermented or distilled liquors, except to bonâ fide residents in such hotel, shall be liable to the penalties in this Act provided in the case of persons keeping such public billiard table, bagatelle board, or other table or instrument as aforesaid for public use without licence.

Power to regulate shows, &c.

287. The magistrates may license any house, building, or other premises to be used for any public show, exhibition, circus, or other

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representation or public entertainment, or any booth for dancing on any occasion, and for shooting galleries, and may make regulations for securing order and decorum at and in such places, and affix such conditions as they shall think fit to every licence or permission so granted; and every person who shall open or be concerned in opening any public show, exhibition, circus entertainment, representation, shooting gallery, or any apartments in common tenements, or any booth for dancing, without the licence of the magistrates, or who shall contravene any such licence or permission or regulation, shall be liable to a penalty not exceeding five pounds.

Penalty for indecent exhibitions, &c.

288. Every person who shall have or keep any house, building, or other place of public resort which shall be used for indecent exhibitions or representations, shall be liable to a penalty not exceeding ten pounds, or to imprisonment for a period not exceeding sixty days.

Remedy where room used for meetings becomes a nuisance.

289. The magistrates are hereby authorised and required, on their being satisfied on the complaint of one or more persons residing in any common tenement that any room or apartment therein used for promiscuous meetings or for entertainments is a nuisance or annoyance to them, to order the person having or keeping the same to discontinue the use thereof for such purposes; and every person continuing to use such apartment for such purposes after such order has been given shall be liable to a penalty not exceeding ten pounds, or to imprisonment for a period not exceeding sixty days.

XVIII.—Public Clocks.

Power to provide public clocks, and to light same.

290. The Magistrates and Council may from time to time provide and maintain such public 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 house or building the situation of which may be convenient for that purpose, and may cause the dials thereof to be lighted at night, and they may from time to time alter and remove any such clocks to such other situation as they shall consider expedient, and they may cause to be lighted the dial plates of existing clocks.

XIX.—Fires and Fire Establishment.

Fire establishment and fire brigade.

291. The Magistrates and Council shall provide and have at all times a sufficient establishment of fire engines, hose, and other

appurtenances to be used for extinguishing fires, also fire escapes and other implements and requirements for safety or use in case of fire, and the firemaster shall appoint such number of firemen (to be called the fire brigade) as the Magistrates and Council shall think fit and expedient; and the expense of maintaining the fire establishment and fire brigade, in so far as not contributed to in the manner after provided, shall be defrayed from the burgh assessments.

Powers of fire brigade.

292. On the occasion of a fire, the firemaster or other officer in charge of the fire brigade may, in his discretion, take the command of any volunteer fire brigade, or other persons who voluntarily place their services at his disposal, and may remove or order any fireman to remove any persons who interfere by their presence with the operations of the fire brigade, and generally he may take any measures that appear expedient for the protection of life and property, with power by himself and his men to break into or through or take possession of or pull down any house or building for the purpose of putting an end to a fire, doing as little damage as possible; and he may also, on such occasion, cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which a fire has occurred.

Fire-engines may be sent beyond the burgh.

293. The Magistrates and Council, or the firemaster, under such regulation as the Magistrates and Council shall make, may, on the written requisition of some responsible person, permit such part of the fire brigade and fire establishment as they or he may think safe and expedient to be sent beyond the burgh for the purpose of extinguishing fire: Provided always, that the owners and occupiers of the property to which such part of the fire brigade and establishment shall be sent shall be bound to defray the whole expense that may be incurred in the transit and use of such part of the fire brigade and establishment, and also such further sum, not exceeding fifty pounds per centum upon the gross amount of such expense, as may be deemed reasonable for the tear and wear of the engines and appurtenances, the amount of which expense shall be ascertained by accounts thereof certified by the treasurer, and the amount of such expense, with the statutory percentage, shall be recoverable by the collector as a debt at common law; the owners or occupiers of the property where the fire may have occurred, and all other persons interested, being always entitled to mutual relief against each other, according to law, for the sums so paid by them, or any of them, from whom the Magistrates and

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Council may recover or receive the same, and the Magistrates and Council shall have power to modify charges and percentage when they see cause for so doing.

Penalty for chimneys taking or being set on fire.

294. When any chimney shall have been on fire the person occupying or using the house or building of which such chimney is part shall be liable to a penalty not exceeding ten shillings: Provided always, that such penalty shall not be incurred if such person prove to the satisfaction of the judge of police that such fire was in nowise owing to omission, neglect, or carelessness on the part of himself or his servants; and 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 court, civil or criminal.

XX.—Smoke and Steam.

Furnaces to consume their own smoke.

295. Every furnace employed or to be employed in the working of engines by steam, or in any mill, factory, dyehouse, iron foundry, glasshouse, distillery, brewery, gaswork, or other building used for the purpose of trade or manufacture, shall be constructed so as, so far as practicable, to consume or burn the smoke arising from such furnace; and every person who shall use any furnace which shall not, so far as practicable, be so constructed and used as that the smoke arising therefrom shall, so far as practicable, be effectually consumed or burned, or shall carry on any trade or business which shall emit any effluvium offensive or injurious to the health of the inhabitants in the neighbourhood of the premises in which such trade or business is carried on, shall be liable to a penalty not exceeding five pounds for and in respect of every day or part of a day during any portion of which such use of such furnace or such emission shall be continued, after one month's notice shall have been given by the Magistrates and Council to remedy or discontinue the same.

Offences under Smoke Acts and Public Health Act.

296. Nothing in this Act contained shall affect the operation of the following Acts or any of them; namely, the Act twenty and twenty-one Victoriæ, chapter seventy-three, intituled "An Act "for the Abatement of the Nuisance arising from the Smoke of "Furnaces in Scotland;" the Act 24 Victoriæ, chapter 17, intituled "An Act to amend an Act of the 20th and 21st years of the reign "of Her Majesty for the Abatement of the Nuisance arising from

" the Smoke of the Furnaces in Scotland;" and the Act 28 and 29 Victoriæ, chapter 102, intituled "An Act to amend an Act of the " 20th and 21st years of Her Majesty for the Abatement of the " Nuisance arising from the Smoke of the Furnaces in Scotland;" and an Act of the twenty-fourth year of Her Majesty to amend the said Act, and the provisions of the Public Health (Scotland) Act, 1867, relating to the prevention of nuisance arising from smoke; and all offences under the said Acts or this Act in regard to the prevention of smoke may be tried by the judge of police, and the penalties may be recovered and applied in the same way as penalties for police offences are applied and recovered under this Act.

XXI.—Gunpowder and other Explosives.

Regulation of gunpowder magazine.

297. The Magistrates and Council may fix and exact reasonable dues or remuneration for the use of the gunpowder magazine now belonging to them or any magazine which they may hereafter erect from the traders or others using the same, and may make such rules and regulations for the proper management of the said magazine as they shall consider necessary or expedient; and every person offending against any of these rules and regulations shall be liable to a penalty not exceeding five pounds: Provided always, that the Magistrates and Council may establish powder magazines either within or beyond the burgh.

Saving 38 & 39 Vict. c. 17.

298. Nothing in this Act contained shall affect the provisions of the Explosives Act, 1875, or any rules and regulations made under authority thereof: Provided always, that offences under the said Act or this Act relative thereto may be tried before the judge of police, and the penalties may be recovered and applied in the same way as penalties under the said Act are recovered and applied.

XXII.—Hackney Carriages.

Hackney carriages to be licensed.

299. The magistrates from time to time shall license such number of hackney carriages of any kind or description as they shall think fit to ply for hire within the burgh, and prevent all other unlicensed carriages from standing or plying for hire within the burgh.

Licences to be signed by magistrates, &c.

300. Every hackney carriage licence so to be granted shall be signed by the magistrates, or one of them, and shall express the number of the hackney carriage so licensed, and shall be in force

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for one year only from the date of such licence, or until the fifth day of April next ensuing to such date, unless the same shall be sooner suspended, revoked, or forfeited.

Licences to be registered.

301. Every hackney carriage licence shall be made out by the clerk to the magistrates and entered in a book to be kept for that purpose, and such entry shall set forth the christian name and surname and place of abode of the owner of such hackney carriage and the number of the licence; and such owner shall pay to the said clerk for every such licence, on the same being first granted, the sum of not exceeding five shillings, and for every renewal thereof the sum of not exceeding two shillings and sixpence.

Drivers of hackney carriages to be licensed.

302. The magistrates shall from time to time license such persons as they shall think fit to act as hackney carriage drivers, and a register of every licence so granted shall be kept by the clerk to the magistrates; and every such licence shall be signed by the said clerk, and shall continue in force for one year only from the date thereof, or until the fifteenth day of May next ensuing to such date, unless the same shall be sooner forfeited, revoked, or suspended; and for every such licence there shall be paid to the said clerk the sum of one shilling.

Penalty on persons refusing to pay fare.

303. Every person who shall refuse to pay on demand the regular fare due by him for the hire or service of any hackney carriage shall be liable to such sum in addition to the fare as the magistrates shall determine as compensation to the driver or owner of the hackney carriage for loss of time arising from such refusal.

Magistrates may make byelaws for regulating hackney carriages.

304. For regulating the hackney carriages to be licensed as aforesaid, and the owners and drivers thereof, the magistrates may from time to time make such orders and byelaws as they shall think fit for all or any of the following purposes; (that is to say,)

(1.) For regulating the conduct of the owners and drivers of hackney carriages in their several employments:

(2.) For regulating the hours within which they shall exercise their calling:

(3.) For regulating the number of hackney carriages and for securing that every hackney carriage shall be properly horsed and harnessed, and kept in a proper state of repair and cleanliness:

(4.) For regulating the number of persons to be conveyed by hackney carriages, the number of horses by which the same are to be drawn, and all matters relating to luggage

carried on or in hackney carriages, and the disposal of articles found in or on the same:

(5.) For fixing, altering, and regulating the stances for hackney carriages, and the shelters at or on such stances:

(6.) For fixing the rates or fares to be paid for hackney carriages, and the distance to which the owners or drivers of hackney carriages shall be obliged to drive, but not exceeding eight miles from the cross of Edinburgh, and for enforcing payment thereof:

(7.) For regulating all matters affecting or relating to the safety, comfort, or convenience of persons hiring or using hackney carriages, and of the public:

(8.) For declaring and fixing the terms and conditions on which licences shall be granted to and held by owners and drivers respectively, and for specifying what shall constitute and operate as a forfeiture or revocation thereof:

(9.) For punishing the owners or drivers of hackney carriages for demanding or receiving more than the regular fare, or behaving improperly otherwise:

(10.) For punishing the owners or drivers of carriages or hackney carriages found standing or plying for hire without the drivers and carriages or hackney carriages being licensed:

(11.) For punishing persons acting as drivers without being licensed, and the owners or licensed drivers of hackney carriages allowing unlicensed persons to act as drivers:

And the magistrates may from time to time, as they shall think fit, repeal or alter any such orders and byelaws and make others in their stead, but before such orders and byelaws shall be put in force notice thereof shall be given by advertisement in two or more newspapers published in the burgh, or otherwise as the magistrates shall direct; and such orders and byelaws shall be applicable within the burgh, and to a distance of eight miles by any road from the cross of Edinburgh.

Penalty for contravention of byelaws.

305. Every owner or driver of a hackney carriage shall, for every contravention of any of the orders or byelaws made by authority of this Act, be liable to a penalty not exceeding five pounds: Provided always, that the magistrates may, in addition, suspend or revoke the licence of such owner or driver, or may suspend or revoke such licence, either as an alternative for non-payment of such penalty or as the sole punishment for such contravention, as may seem just.

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Penalty for damaging hackney carriage.

306. Every person who shall wilfully cut, break, or otherwise injure or damage any hackney carriage shall be liable to a penalty not exceeding five pounds; and the owner of such hackney carriage may, notwithstanding the imposition of a penalty for such offence, sue for compensation for the loss and damage so sustained before any competent court.

XXIII.—Chairmen, Carters, Porters, Chimney Sweepers, &c.

Magistrates may license public chairmen, city guides, public carters, &c.

307. The magistrates may from time to time license such persons as they shall think fit to act as public chairmen, city guides, public carters, porters, chimney sweepers, carriers of coal, shoeblacks, or beaters of carpets for hire, or other persons offering themselves for occasional employment, and a register of every licence so granted shall be kept by the clerk to the magistrates; and every such licence shall be signed by the said clerk, and shall continue in force for one year only from the date thereof or until the twenty-fifth day of May next ensuing to such date, unless the same shall be sooner forfeited, revoked, or suspended; and the magistrates may from time to time make such rules and regulations as they shall think fit for regulating and fixing the charges to be made by the persons so licensed for declaring and fixing the terms and conditions on which licences shall be granted to and held by such persons, and for specifying what shall constitute and operate as a forfeiture or revocation thereof, for fixing, altering, and regulating stances for any person so licensed, for specifying and regulating the badges or implements which any person so licensed shall have and use, and generally for regulating the conduct of the persons so licensed, and all matters relating to their several occupations, and may from time to time repeal or alter any such rules and regulations and make others in their stead; and every person so licensed shall for every contravention of any rule or regulation to be made as aforesaid be liable to a penalty not exceeding forty shillings: Provided always, that the magistrates by whom such penalty shall be imposed may, in addition, suspend or revoke the licence of such person, or may suspend or revoke such licence either as an alternative for nonpayment of such penalty or as the sole punishment for such contravention; and every person who shall act as a public chairman, city guide, public carter, porter, chimney sweeper, carrier of coals, shoeblack, or beater of carpets for hire without being licensed as aforesaid, or after such licence is forfeited, revoked, or suspended, shall be liable to a penalty not exceeding forty shillings.

XXIV.—Byelaws.

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

308. In regard to byelaws of the Magistrates and Council, clauses 376, 377, 378, 379, 380, 381, 382, and 383 of the General Police Act are hereby incorporated: Provided that the "clerk of the commissioners" referred to in such clauses shall mean the town clerk, the "office of the commissioners" the town clerk's office, the "magistrate" the judge of police, and the words "this Act" in such clauses shall mean this Act.

Magistrates and Council may make byelaws.

309. The Magistrates and Council may from time to time make such byelaws as they think fit for the several purposes after mentioned, provided the same be not repugnant to the law of Scotland or the provisions of this Act; viz.,

(1.) For preventing nuisances and annoyances in any street or court:

(2.) For controlling persons offering to purchase or sell old clothes, and for regulating or prohibiting children under ten years of age vending newspapers or other articles in streets or courts:

(3.) For preserving and regulating public parks, gardens, bleaching greens, drying greens and grounds, public wash-houses, baths, gymnasiums, and open spaces, and preventing offences, nuisances, and annoyances therein:

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

(5.) 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:

(6.) 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:

(7.) For inspecting and periodical cleaning of cisterns:

(8.) For requiring owners or occupiers of houses and buildings to water, sweep, and cleanse closes, areas, courts, passages, and thoroughfares owned or occupied by them:

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(9.) For regulating the sweeping and cleansing of foot-pavements and footpaths by the occupiers of houses or buildings, or otherwise during the times of frost and snow:

(10.) 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:

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

(12.) For regulating the fencing, sweeping, and cleansing of common stairs in accordance with the sections of this Act relating to cleansing:

(13.) 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:

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

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

(16.) 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:

(17.) For regulating common lodging-houses under the provisions of this Act and the Public Health (Scotland) Act, 1867:

(18.) For registering houses let or occupied as common lodging-houses, and inspecting such houses, and the keeping the same in a cleanly and wholesome state:

(19.) For enforcing in common lodging-houses the provision of watercloset accommodation, and other appliances and means of cleanliness in proportion to the number of lodgers and occupiers, and the cleansing, limewashing, and ventilation of such common lodging-houses and the common passages and staircases therein:

And the Magistrates and Council may from time to time repeal or, with the approval of the sheriff as by this Act provided, alter or amend any such byelaws, and such byelaws and any alterations and amendments thereof shall be reduced into writing, and have

affixed thereto the signatures of two of the magistrates and the town clerk. A.D. 1879.

Reservation of byelaws under other Acts.

310. Nothing in this Act contained in regard to the making, alteration, and enforcement of byelaws shall affect the provisions in regard to byelaws authorised to be made by the Magistrates and Council or by the magistrates under any other local or public general Act under which they are empowered to make byelaws.

XXV.—Execution of Works.

1.—*By Magistrates and Council.*

Magistrates and Council empowered to enter upon premises for purposes of this Act.

311. The Magistrates and Council 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 for the purpose of executing any works authorised to be executed by them under this Act: Provided always, that, except when in this Act otherwise provided, the Magistrates and Council, or their officers, shall not make any such entry, without 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 workmen, &c., in their duty.

312. Every person who shall at any time resist, obstruct, or molest any workman or other person employed in the performance of any work, by virtue of this Act, or of any warrant of the magistrates, or of any byelaw, regulation, or order of the Magistrates and Council or of the magistrates, or shall aid or incite any person so to do, shall, if not otherwise specially provided for by this Act, be liable to a penalty not exceeding five pounds, without prejudice to any such workman or other person to sue in any competent court for compensation, damages, or expenses for any injury or loss he may thereby have sustained.

2.—*By Owners or Occupiers.*

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

313. In regard to the execution of works by owners or occupiers clauses 398, 402, 403, 404, and 405 of the General Police Act are hereby incorporated: Provided that the words "police purposes" and "police provisions" in the said clauses shall apply to the purposes of this Act, and the words "buildings or lands" shall mean lands and heritages in the sense of this Act; the words "police assessment" shall mean the burgh assessments, and the word "magistrate" shall mean the judge of police.

In default of owners, &c., Magistrates

314. Whenever under this Act or any local or general Act any work of any kind falls to be executed by the owner or occupier

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and Council may execute works and recover expenses.

of any premises, and default is made in the execution of such work, or where any works have been ordered by the Magistrates and Council, or by the judge of police, or other competent authority, to be executed, and such default is made, and where it is not otherwise provided, the Magistrates and Council may thereupon execute such work, and the expense incurred in respect thereof shall be repaid by such owner or occupier, with interest thereon at the rate of five per centum per annum, from the time when the expense was incurred, and such expense, with any interest which may have accrued thereon, may be recovered by the collector as a debt at common law: Provided always, that, if more than one owner or occupier shall be liable therefor, the amount shall be apportioned among them rateably according to the yearly value of their respective properties.

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

315. Whenever default is made by the owner of any premises in the execution of any work which by this Act or any local or general Act falls to be executed by him, the occupier of such premises may cause such work to be executed, and the expense thereof shall be repaid to such occupier by the owner of such premises, or such occupier may deduct the amount of such expense, with interest at the rate of five per centum per annum, out of the yearly rent from time to time becoming due to such owner.

Allocation of expenses among several owners or occupiers how to be made.

316. Wherever under this Act or any local or general Act the owners or occupiers of any lands and heritages are required to execute works or to defray expenses in proportion to the yearly rent or yearly value of the lands and heritages belonging to or occupied by them respectively or otherwise, and a dispute shall arise among the parties, or any of them, relative to their proportion of the cost of such works, or of such expense, the same shall be determined by the judge of police in a summary manner, and such decision shall be final.

XXVI.—Jurisdiction and Procedure of Police Court.

Jurisdiction of judge of police, &c.

317. The judge of police, unless where otherwise by this Act specially provided, shall have jurisdiction and power to take cognizance of all offences, matters, and things falling under this Act, or the incorporated clauses of the General Police Act, or any byelaw, rule, or regulation to be made in virtue of this Act, and of any other crime or offence which is punishable by public general statute or at common law, and is within the jurisdiction of the magistrates of any royal burgh; and shall have all such and the

like jurisdiction as any magistrate of a royal burgh has by the law of Scotland within the royal burgh for which he acts as magistrate: Provided always, that all complaints arising out of the provisions of this Act in regard to any matter appointed to be tried before the magistrates, or any breach of the byelaws, rules, and regulations made by the magistrates in virtue of this Act, shall proceed at the instance of the procurator fiscal in the Burgh Court before the magistrates.

Judge of police may try cases of theft of articles used in manufacture.

318. The judge of police may exercise the powers and jurisdictions conferred upon any justice or justices of the peace by the Act of the twenty-second year of the reign of His Majesty King George the Second, chapter twenty-seven, intituled "An Act for the "more effectual preventing of frauds and abuses committed by "persons employed in the manufacture of hats, and in the woollen, "linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, and "silk manufactures, and for preventing unlawful combinations of "journeymen dyers and journeymen hot-pressers, and of persons "employed in the several manufactures, and for the better payment "of wages;" and by the Act of the seventeenth year of the reign of His Majesty King George the Third, chapter fifty-six, intituled "An "Act for amending and rendering more effectual the several laws "now in being for the more effectual preventing of frauds and "abuses by persons employed in the manufacture of hats, and in "the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, "mohair, and silk manufactures, and also for making provisions to "prevent frauds by journeymen dyers;" and the provisions of the said Acts shall apply to proceedings before the judge of police, and to acts done by or in relation thereto, in the same manner as to proceedings before and acts done by any justice or justices of the peace; and upon oath or solemn affirmation or declaration being made before the judge of police that there is cause to suspect that any material purchased or received by any broker from any person was purloined or embezzled, the judge of police may grant warrant for bringing the person from whom the broker purchased or received such materials before him; and if such person shall not give a satisfactory account of how such materials were come by, such person shall be deemed guilty of an offence, and shall be punishable accordingly, in terms of the two last-mentioned Acts, in the same manner as if such materials had been found in the possession of such person, and the judge of police may sentence such person to pay any fine not exceeding the amounts authorised by the said Acts, or alternatively to commit such person to prison for any period not exceeding the periods authorised by the said Acts.

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Prosecutions under Public-Houses Acts.

319. Every person who shall commit any offence against the provisions of the Acts passed in the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, and in the sixteenth and seventeenth year of the reign of Her present Majesty, chapter sixty-seven, and of the twenty-fifth and twenty-sixth year of the reign of Her said Majesty, chapter thirty-five, or any breach of the regulations of the certificates granted by virtue thereof, may be prosecuted before the judge of police; and every such offence or breach shall be proceeded with, tried, and determined, and all penalties incurred shall be recovered and applied by the judge of police in the manner and subject to the conditions provided in the said Acts.

Offences under 16 & 17 Vict. c. 119. and 37 & 38 Vict. c. 15.

320. All offences under the Betting Acts, 1853 and 1874, or any Acts amending the same, may be tried by the judge of police.

Enforcement of other Acts.

321. Where by any Act it is provided that the enactments of the same shall be enforced under the provisions of any of the Acts by this Act repealed before the judge or judge of police mentioned in such Acts, such enactments shall be enforced before the judge of police under this Act.

Jurisdiction of magistrates, town council, sheriff, and justices of the peace, reserved.

322. The Lord Provost and magistrates, magistrates, and town council, and justices of the peace of the county of the city of Edinburgh, or any of them, the sheriff, and the justices of the peace for the county of Mid-Lothian, and the bailie of Holyrood House, shall continue to hold all and every jurisdiction of whatsoever kind or nature, civil as well as criminal, which any of them has had or is anyways entitled to use and exercise, excepting in so far as the exercise of such jurisdiction may be inconsistent or at variance with the provisions of this Act.

Rotation of judges in police court.

323. The Lord Provost and the sheriff, exclusive of his substitutes, and in the event of difference between them the Lord Advocate, shall from time to time arrange the order in which the magistrates and sheriff shall officiate in the police court respectively.

Forms of procedure to be framed.

324. The magistrates and the sheriff, with the advice and approbation of the Lord Justice-General and the Lord Justice Clerk for the time being, may, when necessary, frame rules, regulations, and forms of procedure for the police court calculated to despatch the business thereof in the easiest and most expeditious manner, and from time to time alter and amend the same: Provided always, that the rules, regulations, and forms of procedure at the commencement of this Act shall continue, in so far as in

accordance with the provisions of this Act, to be operative until the same be cancelled, revoked, or altered under authority of this Act. A.D. 1879.

Procedure in police court.

325. Excepting as by this Act otherwise specially provided, all prosecutions and proceedings for crimes and offences committed within the burgh, or, in the case specially in this Act provided, within two miles of the same, or for the recovery of fines, penalties, forfeitures, or expenses under the provisions of this Act or of any byelaws, rules, or regulations made in virtue of this Act, the mode of recovering which is not otherwise provided for, shall be conducted before the judge of police, but (with the exception of complaints against card sharpers, chain droppers, thimblers, loaded dice players, and offenders of that description,) the complaint, in all cases of theft or of reset of theft, or of falsehood, fraud, and wilful imposition, or of breach of trust and embezzlement, shall bear 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 for the person accused (except where an offer shall be made at the time) to prove that the money or article stolen, resetted, obtained, or embezzled exceeded in value the sum of ten pounds; and it shall be competent for the judge of police, where no special penalty is by this or by any other Act which may be enforced by the judge of police attached to the crime or offence charged, to sentence the person convicted of such crime or offence to imprisonment for any period not exceeding sixty days, or to adjudge penalties not exceeding ten pounds; and the whole procedure before such judge of police shall be conducted summarily, viva voce, and without written pleadings; and no record other than is required by the Summary Prosecutions Appeals (Scotland) Act, 1875, shall be kept of the proceedings except the complaint and the judgment pronounced thereon; and it shall not be competent to any person who shall appear to answer to any complaint to plead want of due citation or informality in the warrant, citation, or execution. 38 & 39 Vict. c. 62.

Certain crimes not to be tried in police court.

326. If it shall appear, either in the preliminary investigation of the charges against any person accused of having committed any crime or offence or during his trial before the judge of police, 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

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of theft by opening lockfast places; or of theft aggravated by being by habit and repute a common thief; or by having been twice previously convicted of theft; 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 aggravated by two 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; or if the crime or offence charged, from having been committed beyond the burgh, or from being otherwise excluded from the jurisdiction of the judge of police, falls to be tried in another jurisdiction; or if the crime or offence charged shall in the opinion of the judge of police merit a higher or greater punishment than he can lawfully award, the prosecutor shall not insist in a prosecution against such person before the judge of police, but the judge of police shall commit the person accused to prison for examination, and the prosecutor shall forthwith give notice of such commitment to the procurator fiscal or other proper officer for the city, county, or burgh, or other jurisdiction within which the crime or offence shall be charged to have been committed, or if charged to have been committed on the high seas, or out of the United Kingdom, to the Lord Advocate of Scotland, in order that such person may be proceeded against according to law: Provided always, that the aforesaid provision shall not apply to card sharpers, chain droppers, thimblers, loaded dice players, and offenders of that description, whom the judge of police is by this Act specially empowered to try and sentence, whatever may be the amount of the sum specified in the charge against them, and irrespective of how often they may have been previously convicted; nor shall this provision apply to such cases as the judge of police is by this Act otherwise specially empowered to try and dispose of.

Constables or owners of property, &c. may take

327. Any person found committing any crime or offence cognizable by the judge of police may, without a warrant, be apprehended by the person injured or attempted to be injured, or by the

owner of any property with respect to which the crime or offence shall be committed, or by his servant or any person authorised by him, witness of the crime or offence, and be detained until he can be delivered into the custody of a constable; and any constable may search any premises, and may also stop, search, and detain any vessel, boat, cart, or other vehicle 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 unlawfully or fraudulently obtained or carried away; and may seize, impound, and convey to the police office anything known or reasonably suspected to have been stolen or unlawfully or fraudulently obtained.

offenders and suspected persons into custody.

328. When any person having charge of any horse, cart, carriage, hackney carriage, vessel, or boat, or any animal or thing, shall be taken into custody by any constable, the constable shall take charge of such horse, cart, carriage, hackney carriage, vessel, boat, animal, or thing to be deposited in some place of safe custody, and the same shall be detained as security for payment of any expenses which may have been incurred for taking charge of and keeping the same; and unless the same shall be claimed by the owner, and all expenses incurred thereon paid within four days after such detention, the judge of police may order the sale of any such horse, cart, carriage, hackney carriage, vessel, or boat, or any animal or thing so detained, and the proceeds of such sale shall be applied towards the necessary expenses incurred, the overplus, if any, being paid to the owner on demand; and failing such demand within three months after such sale, the overplus shall be applied to the general purposes of this Act.

Horse, cart, or boat, &c. of persons taken into custody may be secured.

329. All actions, prosecutions, or proceedings before the judge of police for recovery of fines, penalties, forfeitures, or expenses shall be commenced within three months from the time the facts on which such actions, prosecutions, or proceedings were brought, shall have been discovered and known and not thereafter.

Limitation of police prosecutions.

330. Upon the apprehension of any person charged with any crime or offence which may be tried by the judge of police, the chief constable or the lieutenant, or other officer on duty at the time, may accept of bail, bond, or deposit that such person shall appear for trial before the judge of police at some time and place to be specified, and at all after diets of court, and liberate the person so apprehended upon bail being found to an amount not exceeding

Chief constable in certain cases may accept of bail or deposit.

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twenty pounds, or upon the deposit of any money or article of value to the amount of the bail fixed; and the chief constable, lieutenant, or other officer, if deposit be accepted, shall describe 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 lieutenant, or other officer, may refuse, if he see cause, to accept of bail or deposit 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, lieutenant, or other officer to any claim for damages, for wrongous imprisonment, or claim of any other kind whatsoever.

Persons in custody to be taken before the judge of police.

331. Every person taken into custody, and who shall not be liberated on bail or deposit as aforesaid, shall be detained in the police office, and shall be brought before the judge of police 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, statutory holiday, or a day set apart for a general fast or thanksgiving; and the judge of police may, if from the absence of witnesses or for any other reasonable cause, have power on the application of the prosecutor or of the accused to defer the trial from time to time, and to remand the person accused for such period as the judge of police in his discretion shall deem reasonable, not exceeding in all eight clear days; and if the remand be for a time not exceeding three clear days, the judge of police may order such person accused to be kept in the police cells, or if for a longer period in prison when remanded, 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 the chief constable, lieutenant, or other officer on duty when any person was taken into custody shall, whether the accused has been liberated on bail or deposit as aforesaid, or detained in custody, give attendance in the police court when such accused is first brought before the judge of police.

Authority to cite offenders and witnesses.

332. Any person charged with any crime or offence which may be tried by the judge of police, and any witness required to give evidence in relation to the same, if within the burgh, may, without any warrant, be cited by any constable; and it shall be deemed a legal citation of such accused person or witness, or of any accused person or witness beyond the burgh, for citing whom warrant has been granted as after provided, if the citation (which, as given to the accused person, shall state the nature of the charge)

be delivered to him 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 which he is known to frequent, or in which he eats or sleeps, or in the shop, warehouse, counting-house, or other place of business occupied by him, or in which he is employed; or, in the case of a master of or seamen or person employed in any ship, vessel, or boat, in the hands of a person on board thereof and connected therewith.

Offenders and witnesses beyond the burgh, how to be cited.

333. When any person charged with having committed any crime or offence which may be tried by the judge of police or any witness is beyond the burgh, the judge of police shall grant warrant for apprehending or citing the offender, and for citing and, failing appearance after due citation, for apprehending the witness; and any such warrant shall be sufficient within Scotland for citing or apprehending such offender or witness, and for conveying such offender or witness as shall be taken into custody in terms of the warrant, to be dealt with according to law, if such warrant be endorsed by the sheriff or by the sheriff of the county where the same shall be executed, and such warrant or citation may be executed by a sheriff officer, messenger-at-arms, or constable.

Citation of owners beyond burgh.

334. In all petitions, complaints, or other actions or proceedings to be raised under this Act against the owners of houses, buildings, or gardens, or grounds in reference to streets, courts, footpavements, or footpaths, sewers, drains, or otherwise, where all or any of such owners reside beyond the jurisdiction of the judge of police, 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 occupiers of the premises, or any of them, may be cited, and shall take burden for the owners, with relief as before provided.

Offenders failing to appear may be apprehended.

335. When any person charged with any crime or offence which may be tried by the judge of police, who has been duly cited, or who has been liberated on bail or deposit, fails to appear at the time and place appointed, or when any such person having appeared fails to attend personally at any after diet of court, the judge of police may grant warrant to take such person into and detain him in custody till the next diet of court, or to commit him to prison till he finds bail to an amount not exceeding twenty pounds to appear at the next and all after diets of court; and when any person suspending, advocating, appealing against, or bringing under review any order or sentence of the judge of police,

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has found caution for his after appearance, as herein-after provided, the judge of police may, if such sentence or order be sustained, and such person fails to appear, grant warrant to apprehend and commit such person to prison until the order or sentence has been carried into full execution.

In certain cases offenders may appear by agent or other person.

336. When any accused person summoned to answer to any complaint charging an offence inferring merely the payment of a pecuniary penalty and the finding of caution as aforesaid shall, from indisposition or other good cause, fail to attend the police court at the time and place to which he shall have been cited, and for whom there shall appear a procurator, agent, or other person duly authorised by the accused to act for him, the judge of police may, on such procurator, agent, or other person admitting the charge or part thereof, pronounce judgment and fine such accused person, and ordain him to find caution as aforesaid: Provided always, that in every such case the sentence shall bear that the offence complained of, if admitted, or such part thereof as was admitted, was proved by the confession of the person charged in the complaint.

Judge of police may grant warrant to bring up offenders and witnesses from sanctuary.

337. The judge of police may grant warrant for bringing from within the limits of the sanctuary of Holyrood House any person charged with having committed any crime or offence, or whose presence may be required as a witness in any matter relating to such offence; and such person so brought from the limits of the said sanctuary shall be safely reconducted to the said sanctuary, after satisfying the purposes for which he may have been brought therefrom, without being liable to be arrested or detained for debt.

Examination of witnesses.

338. Where from the absence of witnesses for the prosecution of 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, the judge of police may, at the request of the accused, and if in the circumstances he shall deem it proper, 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.

Penalty for witnesses not appearing.

339. If any person who has been duly cited as a witness to appear before the judge of police fail to appear at the time and place for that purpose appointed, the judge of police may grant warrant to take such person into and detain him in custody, or commit him to prison until he find security to an amount not exceeding twenty pounds to appear and give evidence, and may

also in open court and in a summary manner sentence such person to a penalty not exceeding five pounds; and if it appear that his non-compliance arose from a desire on his part to defeat the ends of justice, the judge of police may, instead of the said penalty, sentence such person to be imprisoned for a period not exceeding thirty days: Provided that proof on oath be made that he had been legally cited at least twenty-four hours before the diet of court.

Penalty for refusing to give evidence or prevaricating.

340. If any person summoned as a witness to give evidence before the judge of police shall refuse to give evidence touching or concerning the subject matter of complaint, or shall, when under examination, prevaricate or wilfully conceal the truth, the judge of police may, in open court, and in a summary manner, adjudge the person so offending to imprisonment for any term not exceeding sixty days, and the sentence awarding such imprisonment shall set forth the nature of such offence.

Punishment for contempt of court.

341. In cases of contempt of court, or of resisting, assaulting, or obstructing the officers of the law when in attendance on the police court, the judge of police may of his own motion summarily, and without the necessity of a complaint or other procedure, adjudge every person so offending to be imprisoned for any period not exceeding thirty days, or to pay a penalty not exceeding five pounds, and the sentence shall set forth the nature of such offence.

In default of paying fines, persons to be imprisoned.

342. In every action or prosecution under this Act before the judge of police, except where otherwise provided, in which a fine, penalty, forfeiture, or expenses shall be imposed or awarded, the person found liable shall be sentenced to imprisonment until the same is paid, but for sums not exceeding forty shillings the period of imprisonment shall not exceed thirty days, and in no case shall the period of imprisonment for nonpayment exceed sixty days.

Power to order offenders to find caution in lieu of imprisonment or fine.

343. The judge of police, in lieu of any punishment by imprisonment or fine, may ordain any offender to find caution for good behaviour or for keeping the peace for any period not exceeding twelve months, and under a penalty not exceeding twenty pounds, and sentence the person ordained to find such caution to be imprisoned till caution be found, but in no case shall the period of imprisonment exceed sixty days, except where by this Act it is otherwise specially provided.

Offenders to find caution in addition

344. The judge of police, in addition to any punishment by imprisonment or fine, may ordain the offender to find caution as

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to imprisonment or fine.

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 nonpayment thereof; and may sentence the person ordained to find such caution to be further detained in prison beyond the expiry of the 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 ninety days.

Offenders may be confined in police cells.

345. The judge of police may sentence any person convicted of any offence to be confined in the police cells 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 imposed under this Act, or as the sole punishment in default of payment of such fine or finding such caution.

Warrant of commitment.

346. In all cases where sentence of imprisonment is imposed by the judge of police, a short extract of the charge and sentence, certified by the clerk of the police court or his depute, shall be a sufficient warrant of commitment: Provided always, that any person sentenced to imprisonment in consequence of nonpayment of any pecuniary fine, penalty, forfeiture, or expenses, or for want of caution being found, or otherwise, may be detained in the police cells for a reasonable time to allow of such payment being made or caution found, such time not exceeding in any case twelve hours.

Constables, &c. may be dismissed by the judge of police.

347. The judge of police, without the necessity of any complaint, may order any constable, lamplighter, scavenger, or other inferior officer, whose conduct in any proceedings that shall form the subject of investigation before the judge of police shall in his opinion render such officer unfit to be any longer retained in the police service, to be dismissed from the said service, and such officer shall be dismissed accordingly.

Juvenile male offenders may be chastised by whipping.

348. The judge of police, in the case of juvenile male offenders whose age in the opinion of the judge of police shall not exceed fourteen years, instead of committing such offenders to prison, may adjudge them to be chastised by private whipping in such manner and according to such regulations as shall be made by the Lord Provost and sheriff.

Proceedings not to be void for

349. No order, judgment, record of conviction, or other proceeding whatsoever concerning any prosecution instituted before

the judge of police, shall be quashed or vacated for any misnomer or informality; and no suspension, advocation, appeal, or review shall operate to the effect of staying the execution of any order or sentence of the judge of police requiring the payment of any penalty, unless on consignment of such penalty in the hands of the clerk of the police court, nor of any order or sentence of the judge of police ordaining caution or awarding imprisonment, unless on caution to the satisfaction of the judge of police to an amount not exceeding fifty pounds, or if the caution be ordered by the Judges of the High Court of Justiciary, or any one of them, to the amount so ordered, that, in the event of the order or sentence being sustained, the person suspending, advocating, appealing, or bringing under review as aforesaid, shall appear before the judge of police on the first lawful day thereafter, and the order or sentence of the judge of police shall, in so far as the same has not been carried out, be carried into full execution; and in all cases where any order or sentence of the judge of police is brought under review, or where any action is brought against the prosecutor, or against any constable or other person employed in the execution of this Act, in consequence of anything done in the execution of their respective duties, or of the order or sentence of the judge of police, the judge of police may authorise the expenses incurred in the proceedings in such suspension, advocation, appeal, or action to be defrayed out of the burgh assessments: Provided always, that at the first meeting of the Magistrates and Council after the raising of such suspension, advocation, appeal, or action as aforesaid, a report shall be made of the facts and circumstances of the prosecution on which any such sentence or order shall have been pronounced and brought under review, or such action raised, and the Magistrates and Council shall thereupon direct such sentence so brought under review, or such action to be defended or not, as to them shall seem proper; and if they shall direct such sentence or action not to be defended, then no expenses incurred in defending the same subsequent to such general meeting shall be defrayed out of the burgh assessments.

want of form, and no suspension or stay of execution, &c. to prevent payment of penalties.

350. When any person shall be apprehended and afterwards liberated on finding bail for his appearance, 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, or when, in terms of this Act, the owner of any house or building shall have become cautioner for the proper and lawful occupancy of the same, and a conviction shall have been obtained during the currency of the

For recovery of forfeited bail bonds and bonds of caution.

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said bond of caution, or when any person suspending, advocating, or appealing, or otherwise bringing under review any sentence pronounced against him shall have found caution for his after-appearance as herein-before provided, and shall fail so to appear, the judge of police may declare the sum contained in the bail bond or bond of caution to be forfeited, and order the cautioner to be summoned to make payment thereof to the clerk of the police court within six days after the date of such summons, and in default of such payment after the lapse of such period grant warrant for apprehending and imprisoning the cautioner until such sum be paid, but which period of imprisonment shall not exceed sixty days 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, the judge of police may declare such deposit forfeited; and if it be money it shall be forthwith ordered by the judge of police to be paid to the clerk of the police court; and if it be not money such article so deposited shall be ordered by the judge of police to be sold by public auction, and the free proceeds shall be paid to the clerk of the police court.

Subscription of cautioners in bonds.

351. 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.

Penalties on repetition of offences.

352. When 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 permit, and if an intention to the contrary do not appear in this Act, such penalty or punishment may be inflicted for every repetition of such offence.

XXVII.—Miscellaneous Provisions.

Expenses of process may be decerned for.

353. In all cases where the judge of police, magistrate, or Dean of Guild Court decern for the expense of any work or operations, or for any other expenses, sums of money, damages, or penalties, under the authority of this Act, they may also decern for the expenses of process over and above such expenses sums of money, penalties, and damages; and in case any person prosecuted at the instance of a private person for any offence under this Act shall be acquitted, the judge of police, magistrate, or Dean of Guild Court,

before whom the complaint shall be brought, may award expenses of process to the person so acquitted.

Legal description of Magistrates and Council.

354. In all actions and proceedings at the instance of or against the Magistrates and Council in any capacity whatsoever they shall be described by their corporate name of "The Lord Provost, Magistrates, and Council of the City of Edinburgh," with the addition, when necessary, of any description of their character as trustees, governors, or otherwise, as the case may be, and it shall be sufficient in serving proceedings against them to make service on the town clerk.

Magistrates may be represented by one of their number.

355. Whenever under this Act a power is conferred or duty is imposed on the magistrates in their judicial capacity, such powers may be exercised or duty fulfilled by one or more of the magistrates sitting in the Burgh Court; but nothing in this Act contained shall affect any public Act conferring power on or imposing duty on the magistrates.

Service of citations, &c. of Burgh and Dean of Guild Courts.

356. The provisions in this Act contained with regard to the execution of citations or warrants of the police court shall apply and extend to the execution of all citations, warrants, decrees, and orders pronounced by or issued from the Burgh and Dean of Guild Courts respectively.

As to penalties in Burgh Court.

357. In every action or prosecution under this Act, or under any byelaw, rule, regulation, or order made in virtue of powers by this Act conferred, or for any other crime or offence which is punishable by public general statute, or at common law, before the Burgh Court, in which a fine or penalty shall be imposed, adjudged, or awarded, the person found liable shall be sentenced to imprisonment until the same is paid, but for sums not exceeding forty shillings the period of imprisonment shall not exceed thirty days, and in no case shall the period of imprisonment for nonpayment exceed sixty days.

Form of notices, mode of service, &c.

358. Every notice given in pursuance of this Act shall be in writing, or partly in writing and partly in print, and, except as by this Act otherwise expressly provided, may be given by delivering it to the person to whom it is addressed personally, or by leaving it at his house or place of business if within the burgh, or by sending it by post to his house if beyond the burgh, and such notice may be cancelled and a new notice may be given in the same manner to the same or to any other person in respect of the matter, or for the enforcement of the obligation referred to in it.

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Fines, &c. to be paid to the collector.

359. All forfeitures, penalties, fines, and expenses imposed by the judge of police, or by the magistrates in the Burgh Court, and recovered by the clerks of court, shall, unless otherwise awarded, be paid over to the collector at such stated periods and subject to such regulations as the Magistrates and Council may from time to time make, and such forfeitures, penalties, fines, and expenses so imposed and paid to the collector shall, unless otherwise awarded, be applied to the general purposes of this Act.

When a Sunday, &c. is last named day, the day after to be the last day.

360. When any of the days on which or before which any acts and proceedings are by this Act appointed to be transacted shall happen to be a Sunday, sacramental fast day, statutory holiday, or day appointed for public fast or thanksgiving, then and in that case the several acts and proceedings appointed to take place on or before such day shall take place on or before the day next ensuing.

Penalty for misapplying moneys.

361. In case of any misapplication of any moneys received, levied, or borrowed by virtue of this Act, all persons who shall misapply the same, or by whose authority the same shall be misapplied, shall forfeit and pay double the sum so misapplied, together with the expenses of process, to be recovered at the instance of the Magistrates and Council, who may sue for and recover the same by summary complaint before any competent court, the money thus recovered to be applied for the purposes of this Act.

Contributions from burgh assessments to charities, &c.

362. The Magistrates and Council may contribute to any house of refuge or other charitable institution, the rules whereof shall be approved by them, any sum not exceeding six hundred pounds yearly out of the burgh assessments: Provided always, that the Lord Provost and Dean of Guild, along with three persons to be elected by the Magistrates and Council, and also any number of persons to be elected by the contributors or annual subscribers in terms of the rules, not exceeding twelve in number, shall be the ordinary managers and directors of such house of refuge or charitable institution.

Payment of expenses of private watching may be ordered.

363. In all cases where it shall become necessary for the protection of the public to cause to be temporarily watched and lighted any streets, foot-pavements, or footpaths, carriageway, drains, or sewers, area gates, or railings out of repair, or houses, buildings, walls, or property of any kind or description in an insecure or ruinous state, openings in the streets, building materials, or any other matter or thing whatsoever laid down on the

streets, the chief constable or the burgh engineer may authorise payment of the expense of such watching and lighting, in so far as the same cannot be recovered from the person liable therefor, out of the funds raised for the general purposes of this Act.

Jurisdiction of magistrates reserved.

364. Except as by this Act otherwise specially provided, nothing in this Act contained shall extend or be construed to extend to take away, diminish, or abridge any rights, privileges, jurisdiction, or powers which now belong to and are enjoyed by the Lord Provost and magistrates or Magistrates and Council, or any of them, or by the sheriff, or by the Admiral of Leith, or by the Magistrates and Council, as representing the sometime bailies of Canongate and bailies of Easter and Wester Portsburgh, or the bailie of Calton, or the bailie of Holyrood House, or the justices of the peace by virtue of former Acts of Parliament, or royal charters, the sett of the burgh, or immemorial usage.

Justices may be appointed for the city, and limits of 11 & 12 Vict. c. cxiii.

365. Notwithstanding the repeal of the Edinburgh Police Act, 1848, Her Majesty and her royal successors from time to time, as heretofore, may nominate and appoint special justices of the peace for the county of the city of Edinburgh and the limits of the said Act.

Sessions of the peace.

366. The justices of the peace who are or may be so appointed shall hold quarter, special, and petty sessions on the same days and in the same manner as justices of the peace of shires, counties, and other districts in Scotland.

Act not to extend beyond burgh.

367. The provisions in this Act contained shall not be deemed or construed to extend beyond the burgh, except as in this Act otherwise expressly provided.

Magistrates and councillors not to execute work or be appointed to offices.

368. It shall not be lawful to employ any magistrate or councillor, or any partner in business of any magistrate or councillor, to furnish goods ordered by the Magistrates and Council, or to execute any of the public works under their superintendence; and no person who shall have been a magistrate or councillor shall be appointed to any office or emolument in the gift of the Magistrates and Council before the expiration of twelve months after he shall have ceased to be a magistrate and councillor.

Expenses of Act.

369. All charges and expenses attending the preparation, obtaining, and passing of this Act, and incidental thereto, shall be paid out of the burgh assessments.

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The SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

Provisions of Acts of Parliament Reserved.

7 Geo. III. cap. 27.

The royalty of the city of Edinburgh extended.

I. From and after the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and sixty-seven, the royalty of the city of Edinburgh shall be extended over and comprehend the following lands, which now belong in property to the said city; viz., thirty-four acres one rood twelve falls and twenty-six ells, being part of the lands and barony of Broughton; also thirty-two acres of the lands called Barefoot Parks; also six acres ten falls and twelve ells of lands of Moultrees-hill; also two acres two roods thirteen falls and twenty-four ells, and one rood thirty-five falls and twelve ells, likewise part of the said barony of Broughton, and lately purchased from James Hogg and Katharine Thomson; and also the lands called Forglen and Allen's Parks, the lands of Caltonhill, the lands of Greenside, and the lands of Piccardy (excepting such parts of the lands of Caltonhill which lie within the barony of Wester Restalridge, and do not belong in property to the city of Edinburgh); and also these other lands which have been feued by the governors of George Herriot's Hospital to the several persons after mentioned, under an express condition and covenant, that in case the royalty of the city of Edinburgh should at any time thereafter be extended so as to comprehend their grounds, they, their heirs and assigns, or the proprietors of the said grounds for the time, should not only be subjected to build such houses as they shall build thereon agreeably to the plan to be concerted by the town council of Edinburgh and other managers for the time, but likewise the said houses to be built thereon shall be subject and liable to pay the same public burdens as the other inhabitants of the city are subject and liable to pay; viz., four acres feued to Hew Crawfurd, five acres twenty-four falls and twenty-one ells to James Grant, twelve acres one rood and thirty-nine falls to James Stuart, one acre two roods and nineteen falls to Andrew Chalmer, two acres and one rood to John Jardine, nine acres one rood thirty-three falls and thirty-four ells to James Finlay, two acres one rood thirty-nine falls and half a fall to Robert Raeburn, eleven acres and sixteen falls to Charles Erskine, nineteen acres two roods four falls and thirty-one ells to Alexander Cunninghame, five acres one rood thirty-two falls and fifteen ells to Robert Anderson, one acre one rood and sixteen falls to Thomas Simpson, one rood to Thomas Spence, five acres one rood twenty-six

falls and five ells to Andrew Chalmer, twenty-six falls to William Lauder, thirteen acres three roods and fifteen falls to William Mure, one acre twenty-six falls and half a fall to Robert Mylne, three acres two roods and thirty-seven falls to Robert Anderson, one rood twelve falls and half a fall to Daniel Seton, twenty-three falls to Patrick Fairley, two acres one rood thirty-six falls and ten ells to Alexander Hunter, and two acres three roods twenty-four falls and thirty-two ells feued to Lauchlin Hunter; and likewise the following two parcels of land, which by consent of the proprietors are to be included within the said royalty; viz., eleven acres and half an acre of the lands of Broughton, belonging to the heirs of George Drummond, Esquire, deceased, and seven acres three roods and twenty falls, part of the lands of Broughton Parks, belonging to the governors of George Herriot's Hospital; and that the said Magistrates and Town Council, from and after the said twenty-fourth day of June, in the year of our Lord one thousand seven hundred and sixty-seven, shall have and enjoy the same rights, privileges, and jurisdictions over the said grounds hereby annexed to and comprehended in the said royalty, as they do now enjoy and exercise over, and within the limits of the present royalty, by any law, statute, or established custom, and shall and they are hereby empowered to levy the same mails, duties, customs, and other taxations within these annexed grounds, in the same manner and by such actions at law as the said Magistrates and Town Council are entitled to use, by any law, statute, or otherwise within the present royalty for recovery of such mails, duties, customs, and taxations as aforesaid.

Grounds annexed to the royalty of the city annexed to the parish of St. Giles.

XV. Provided always, and be it enacted, that the aforesaid grounds hereby annexed to and comprehended within the royalty of the city of Edinburgh shall be and they are hereby for ever after disjoined from the parish of St. Cuthbert's or Westkirk and South Leith, and are hereby annexed to the parish of Saint Giles within the city of Edinburgh.

Lands disjoined from the parishes of St. Cuthbert's and South Leith subject to ministers stipends, &c.

XVI. Provided always, that the lands hereby disjoined from the parishes of St. Cuthbert's and South Leith, and the heritors thereof, shall remain liable and be subjected to the ministers stipends and other parochial burdens, and that the tithes payable out of the lands hereby annexed shall be and the same are hereby saved and reserved to the true owners thereof, in the same manner as if this Act had never passed.

25 Geo. III. cap. 28.

The city divided into two districts.

VI. And be it enacted by the authority aforesaid, that the city of Edinburgh shall be divided into two districts, viz., one to be called The Ancient Royalty and the other The Extended Royalty, and the line of division between them is and shall be the keystones of the middle arch of the bridge over the North Loch, running east to Trinity College Church, and running west to the north side of the castle, in a line along the middle of the low ground, formerly the North Loch.

Land tax to be rated on all houses in the extended royalty, &c.

LIII. And be it enacted by the authority aforesaid, that as soon as the communication from the High Street to Nicolson's Street by the aforesaid bridge over the Cowgate shall be open and passable for carriages, the share

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of the land tax which is or shall be rated on the city of Edinburgh and its liberties shall, in all time thereafter, be paid in proportion to the respective valuation of all houses and tenements built and erected, or which hereafter may be built and erected by heritors, and which shall be possessed within the city of Edinburgh and extended royalty, and within South Leith, Canongate and Pleasance, North Leith and Coalhill, and the eight districts on the south side of the city of Edinburgh, to the present three toll-bars called the Gibbet Toll-bar, the Grange Toll-bar, and Wright's Houses Toll-bar, as particularly described in the Act of Parliament passed in the tenth year of the reign of His present Majesty; and likewise the whole grounds, houses, and others at present not included in the said eight districts on the east and north of the road leading from Wright's Houses to the Grange Toll-bar, and from thence along Mayfield Loan to the road to Dalkeith, and from that road, in a straight line eastward, to that part of the March Dyke of the King's Park nearest to Mayfield Loan, and the whole grounds to the west of that March Dyke to where it joins the burgh of Canongate, and which whole grounds, houses, and others last before-mentioned and described are hereby annexed to the south district called the Causewayside District.

Stent masters to be appointed.

LIV. And be it enacted by the authority aforesaid, that the Commissioners of the eight districts on the south of the city shall appoint stent masters for valuing the yearly rent of the houses, tenements, and other buildings within the said eight districts, similar to the stent masters appointed for the city of Edinburgh, and South Leith, and Canongate and Pleasance, North Leith and Coalhill; that the stent masters for Edinburgh, for South Leith, for Canongate and Pleasance, North Leith and Coalhill, and for the aforesaid eight districts shall respectively make up a roll or particular state of the valued rents of the houses, tenements, and other buildings inhabited or possessed, yearly and in each year, at or before the first Monday of September; and in making the valuations for the eight districts to the south, that the stent masters shall and may give a proper abatement to such proprietors who pay the land tax, along with the county for whatever part of the said land tax shall appear to be paid for the ground occupied by the said houses, office houses, and gardens so to be valued; and upon the said first Monday of September yearly the whole of these stent masters shall meet in the Council Chamber of the city of Edinburgh at twelve of the clock at noon, and produce their respective valuations, and which valuations shall remain there for the inspection of all concerned until the first Monday of October, when the stent masters shall again meet at the same place and hour, or at any other place and hour to which the first meeting may have been adjourned, and then the stent masters shall ascertain the quota or amount of the land tax which shall be paid by the city of Edinburgh, and by South Leith, and by the Canongate and Pleasance, North Leith and Coalhill, and by the said eight districts respectively, agreeable and in proportion to the amount of their respective valuations.

Land tax how to be levied.

LV. And be it enacted by the authority aforesaid, that the proportions of the said land tax so ascertained to be paid by the city of Edinburgh, and by South Leith, and by Canongate and Pleasance, North Leith and Coalhill, shall be assessed and levied in the same way and manner as the land tax is and

has been in use to be levied; and that the Commissioners of each of the said eight districts shall have full power and authority to nominate and appoint a collector or collectors from time to time, who is and are hereby empowered to levy the proportion of the said land tax, to be ascertained and payable by them in manner aforesaid, and as he shall be directed by the Commissioners of the said eight districts; and he is hereby authorised to enforce payment thereof, and of such further sum or sums as shall appear to the said Commissioners necessary to defray the expense of collecting the same, in a like summary way and manner as is provided for by law respecting other collectors of the land tax in Scotland.

The royalty extended over certain lands.

LXIV. And be it enacted by the authority aforesaid, that from and after the twenty-fourth day of June one thousand seven hundred and eighty-five the royalty of the city of Edinburgh shall be extended over and comprehend five acres of the lands of Broughton adjoining to the present royalty, and which were lately purchased by the said city from the heirs or disponees of John Dickson, of Kilbucho, Esquire; and also one acre one rood and eleven falls of ground belonging to the Right Honourable James Montgomery, Lord Chief Baron of His Majesty's Court of Exchequer in Scotland, for himself, and for behoof of the other trustees appointed by His Majesty for building a repository for the records of Scotland, who by their charter, dated the twenty-sixth day of June one thousand seven hundred and seventy-six, are taken bound to pay a proportional part of the taxes and other public burdens to which the burgesses of the said burgh are or may be subjected.

26 Geo. III. cap. 113.

New street to be formed.

I. The Lord Provost, Magistrates, and Council of the city of Edinburgh, for themselves and on behalf of the community of the said city, shall have full power and authority to form and complete a street eighty feet wide, in the line of Queen Street, in the extended royalty, from that street to Broughton Loan; and for that purpose they shall have full power and authority to agree with the owners and occupiers of such houses and grounds as lie between Broughton Loan and the said street called Queen Street, eighty feet in breadth and also fifty feet on each side of the said intended street of eighty feet in breadth, and to purchase the premises at such prices as shall be agreed on by the said Lord Provost, Magistrates, and Council, and the said owners and occupiers respectively, and to order the said houses to be pulled down, and the areas and ground to be employed in such manner as the said Lord Provost, Magistrates, and Council shall appoint for forming and completing the said street to Broughton Loan.

Burial ground to be enlarged.

II. And be it enacted by the authority aforesaid, that the said Lord Provost, Magistrates, and Council, for themselves and on behalf of the community of the said city, shall have full power and authority to enlarge the burial ground within the city of Edinburgh, and for that purpose to agree with the owners and occupiers of such houses and grounds as lie adjacent to and on the west side of the present burial ground in the Grey Friars churchyard, and to purchase the premises at such prices as shall be agreed on by the said Lord

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Provost, Magistrates, and Council, and the said owners and occupiers respectively, and to order the said houses to be pulled down, and the areas and ground to be employed in such manner as the said Lord Provost, Magistrates, and Council shall appoint for enlarging the aforesaid burial ground within the said city.

Certain buildings to be removed.

III. And whereas the removal of the buildings from that part of the High Street of Edinburgh commonly called the Luckenbooths, of the prison, and of the weigh-house, at the head of the street called the Lawn Market, will be advantageous and beneficial to the inhabitants of the said city: Be it therefore enacted by the authority aforesaid that as soon as a new prison and a new bridewell, or house of industry for the city of Edinburgh shall be begun to be built and erected, that the said Lord Provost, Magistrates, and Council, for themselves and on behalf of the community, shall have full power and authority to agree with the owners and occupiers of the houses, grounds, and areas situated upon the said High Street, known by the name of the Luckenbooths, and to purchase the premises at such prices as shall be agreed on by the said Lord Provost, Magistrates, and Council, and the said owners and occupiers respectively, and to order the said houses to be pulled down, together with the aforesaid weigh-house and prison, in order that the High Street of Edinburgh may be widened and made more uniform.

Royalty of Edinburgh extended over the new purchases.

XX. And be it further enacted by the authority aforesaid, that as soon as the purchases shall be made, the royalty of the city of Edinburgh shall be extended over and comprehend the houses and grounds to be purchased by virtue of the powers granted by this Act.

Grounds disjoined from the parishes of St. Cuthbert's and South Leith annexed to the parish of St. Andrew.

XXIV. Provided always, and be it enacted, that the aforesaid grounds hereby annexed to and comprehended within the royalty of the city of Edinburgh shall be and they are hereby for ever after disjoined from the parishes of Saint Cuthbert's or West Kirk and South Leith, and are hereby annexed to the parish of Saint Andrew, within the city of Edinburgh.

49 Geo. III. cap. 21.

Royalty of the city to be extended over certain grounds in St. Cuthbert's parish.

I. From and after the passing of this Act the royalty of the city of Edinburgh shall be extended over and comprehend the lands particularly after described, lying within the parish of Saint Cuthbert's or West Kirk, adjacent to the said city, and within the boundaries following; videlicet, the lands belonging to the community of the city of Edinburgh, and to the governors of George Heriot's Hospital, and to their respective feuars and vassals who are or may be bound by their feu charters or other title deeds to consent to the extension of the royalty of the said city over their respective properties, the lands originally feued by the governors of the said hospital to David Stewart, Esquire, and other lands bounded on the east by the high road leading from east end of York Place till it joins the Water of Leith at Canonmills Bridge; on the north by the Water of Leith from Canonmills Bridge to Stock Bridge; on the west by the Old Kirk Road leading from Stock Bridge along the east side of the property of the Earl of Moray to Queen Street in the present extended royalty; and on the south by the present extended royalty from the

point where the aforesaid Old Kirk Road joins Queen Street eastward, to the point first above mentioned, at the east end of York Place; and that the said Lord Provost, Magistrates, and Council of the city of Edinburgh, and their successors in office, shall, with the exceptions and under the conditions hereinafter mentioned, have and enjoy the same rights, privileges, and jurisdictions over the said grounds by this Act annexed to and comprehended in the said royalty as they at present have and enjoy over and within the limits of the extended royalty by any law, statute, or established custom.

An option granted to the proprietors of certain pieces of ground.

III. And whereas certain pieces of ground within the boundaries before mentioned, over which the royalty of the said city of Edinburgh is by this Act extended, belong to the proprietors other than the community of the said city, and the governors of George Heriot's Hospital, and their respective feuars and vassals so bound to consent as aforesaid, or those now in right of David Stewart, Esquire: Be it enacted that such pieces of ground shall not be comprehended within the royalty of the said city, nor shall the same nor the proprietors or occupiers of any houses erected and built, or that may be erected and built, or that may be erected and built thereon, be subject and liable to any rights, privileges, or jurisdictions of the said Lord Provost, Magistrates, and Council, or their successors in office, nor to their powers of stenting or assessing and levying, by this present Act, in manner before mentioned, extended over the ground within the boundaries aforesaid, and the proprietors and occupiers of houses within the same, unless the proprietor or proprietors of the pieces of ground before mentioned shall signify his, her, or their consent thereto by any writing under his, her, or their hand or hands, duly executed according to the forms of the law of Scotland, such consent or consents to be recorded by the person or persons making the same in the particular Register of Sasines kept at Edinburgh for the shires of Edinburgh, Linlithgow, Haddington, and Bathgate.

Grounds within the boundaries to be disjoined from St. Cuthbert's and annexed to the parish of St. Andrew.

V. And be it enacted, that from and after the passing of this Act all the grounds within the boundaries and limits before mentioned, as well as those which are hereby comprehended in or annexed to the royalty of the said city, as those which may be comprehended therein or annexed thereto, in virtue of the option herein-before allowed, shall be for ever disjoined from the said parish of Saint Cuthbert's or West Kirk, adjacent to the city of Edinburgh, and shall be annexed to the parish of Saint Andrew within the said city.

But to remain subject to ministers stipend, &c. in St. Cuthbert's parish.

VI. Provided always, and be it enacted, that the whole of the grounds so disjoined from the said parish of Saint Cuthbert's or West Kirk, and the heritors thereof, shall remain liable to and subject in payment of the ministers stipend and other parochial burdens payable in the said parish of Saint Cuthbert's or West Kirk (except the burden of building and repairing kirks, manses, and kirkyard dykes, and also excepting the assessment for the poor of the said parish,) in the same manner as if this Act had not been made; and that the teinds payable out of the grounds hereby disjoined and annexed aforesaid shall be and the same are hereby saved and reserved to the true owners thereof.

Power to divide the extended royalty into parishes.

XV. And be it enacted, that it shall and may be lawful to the Lord Provost, Magistrates, and Council of the said city, and their successors in office, by and with the advice and consent of the said Presbytery of Edinburgh, to divide the

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extended royalty of the said city, whether extended by the said recited Acts or by this Act, into suitable parishes corresponding to Saint Andrew's Church already built therein, and to the church or churches by this Act authorised and required to be built, and to fix and define the limits of such parishes in the way and manner that shall appear most expedient for the accommodation of the inhabitants.

54 Geo. III. cap. 170 (Not by this Act repealed).

Regulation as to other buildings to be erected on that part of the Calton Hill which belongs to the city of Edinburgh.

VI. And be it enacted, that no buildings shall be erected, on that part of the Calton Hill which belongs to the Lord Provost, Magistrates, and Council of the said city, the roofs of which shall be higher than the foundation of the Bridewell, except the said gaol, an observatory or church, or such other public buildings as the said Lord Provost, Magistrates, and Council shall see fit; but no other buildings shall be erected thereon without the express previous approbation in writing of the Lord President of the College of Justice, the Lord Justice Clerk, and the Lord Chief Baron of the Court of Exchequer in Scotland, all for the time being, or any two of them; and if any such building or buildings as last before mentioned shall be at any time erected without such express previous approbation, it shall be in the power of such Lord President, Lord Justice Clerk, and Lord Chief Baron, or any two of them, by any writing or writings under their hands, to order and direct such building or buildings to be taken down at the expense of the person or persons who shall have erected the same: Provided always, that this restriction shall not extend to the field belonging to the city of Edinburgh, to the east of the Calton Hill, nor to their right to enclose such part of the hill as may be converted into a burying ground to the south of the line of road hereby authorised to be made.

Extension of the royalty of the city.

XVIII. And be it further enacted, that when the lands, grounds, and tenements situated betwixt the east end of Princes Street and the Calton Hill shall have been acquired by the said Commissioners, the royalty of the city of Edinburgh shall be extended over the same and over the said new gaol, and the Lord Provost, Magistrates, and Council of the said city, and their successors in office, shall have and enjoy the same rights, privileges, and jurisdictions over the same as they at present have and enjoy over and within the limits of the extended royalty by any law, statute, or established custom.

17 & 18 Vict. cap. 118.

Not to deepen, &c. river at ford, near St. Mark's Place.

XVII. It shall not be lawful for the Commissioners, by means of any of the operations to be carried on under the provisions of this Act, to alter or deepen the bed or channel of the river at the ford near St. Mark's Place so as prejudicially to affect the said ford or the approaches thereto, or to alter the inclinations of such approaches.

Provision for scouring the river and conduits.

XVIII. And for the purpose of scouring and cleansing the bed or channel of the river, and the said conduits or pipes, it shall be lawful for the Commissioners to make and maintain a sluice in the bank or side of the said mill lead, and to take and divert the water flowing in the said mill lead into the said conduits or pipes, or any of them, or into the bed or channel of the river, and

which sluice shall be placed at or near a point marked on the said plan above St. Bernard's Bridge, and near or opposite Mackenzie Place, with a connecting conduit or pipe leading from the said sluice to the said first-mentioned conduit or pipe and to the river, and also to remove all obstructions to the flow of the water in the river between the points aforesaid, and to make and maintain all other works and appurtenances necessary and proper for cleansing and scouring the bed or channel of the river and the said conduits or pipes.

Sluice to be under the control of the Commissioners

XIX. The said sluice shall be kept in repair at the expense of the Commissioners, and shall at all times be under the management and control of the Commissioners and their officers and servants, subject to the provisions hereinafter contained.

Quantity of water to be taken from mill lead.

XX. It shall be lawful for the Commissioners to take from the said mill lead, by means of the said sluice or by means of the present sluice below Greenland Mill, and for the purposes before mentioned, or either of such purposes, all or any portion of the usual average flow of water in the said mill lead, according to the season of the year, for and during such a number of times as they may think fit, not exceeding in the whole twenty-six times in the year, but only on Saturdays, commencing at eight o'clock in the evening, and for a period of not more than four hours each time; and for the use of such water the Commissioners shall pay the sum of thirty pounds per annum to the owners of the mills at Stockbridge and Canonmills, at present belonging respectively to the Stockbridge Mill Company and Walter James Little Gilmour, Esquire, by half-yearly payments at the terms of Whitsunday and Martinmas: Provided always, that twenty-four hours notice shall be given to the occupiers of the said mills before the sluice is opened; provided, nevertheless, that if on any Saturday the mills above the said sluices are not working by reason of it being necessary to store up water, or from any other cause, it shall be in the option of the Commissioners either to take the said usual average flow of water during the said hours on the first lawful day thereafter on which the said mills shall be working, without giving any new notice, or on such Saturday and during the said hours to take such diminished quantity of water as shall be then flowing in the said mill lead.

Additional quantity of water may be taken, paying the owners for the same.

XXI. It shall also be lawful for the Commissioners, over and above the quantity of water before mentioned, to take from the said mill lead, by means of the said sluices or either of them, and for the purposes before mentioned or either of them, all or any portion of the usual average flow of water in the said mill lead, according to the season of the year, on any day of the week except Sunday, not exceeding in the whole twenty-six days in the year, and for and during not more than four hours of each day; and for the use of such water the Commissioners shall pay to the owners of the said mills the sum of twenty-four shillings for each time such additional water shall be so taken, by half-yearly payments, at the terms of Whitsunday and Martinmas: Provided always, that no water shall be taken under this provision earlier in the day than six o'clock afternoon from the first day of April to the first day of October, or earlier in the day than four o'clock afternoon from the first day of October to the first day of April, and not oftener than one time in any week in which the water shall be used for the ordinary scouring of the river, or the said conduits

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or pipes as aforesaid, and that twenty-four hours notice shall be given to the occupiers of the said mills before either of the said sluices is opened.

Provision for taking a further quantity of water.

XXII. It shall also be in the power of the Commissioners, over and above both the quantities before mentioned, to take a further supply of water from the said mill lead at the said sluice at Mackenzie Place, to run through the said conduits or pipes, for which further supply the Commissioners shall pay, in addition to the sums herein-before mentioned, to the owners of the said mills such sum or sums of money as shall be fixed by the sheriff, having regard to the rent of the said mills and to the injury which the abstraction of the quantity of water so taken will occasion to the owners and occupiers of the same: Provided always, that no such further supply of water shall be taken under the powers of this section on a Sunday if objection in writing is made thereto by the owners of the said mills.

Certain reservoirs, &c. not to be interfered with.

XXIII. Nothing in this Act contained shall authorise the Commissioners to interfere in any way with any reservoirs, dams, mill leads, or sluices above the said sluice at Greenland Mill.

Mill lead to be enclosed and fenced by owners of mills.

XXVII. It shall be lawful for the Commissioners to require the said Stockbridge Mill Company, and Walter James Little Gilmour, and the Incorporation of Bakers of Edinburgh, being the owners of mills using the water of the said mill lead, to expend a sum not exceeding six hundred pounds in enclosing and fencing the banks of the said mill lead between Lindsay's Mill and Silver Mills where necessary for the safety of the inhabitants, including the north side of the retaining wall of the said mill lead which bounds the river and extends between Lindsay's Mill and St. Bernard's Bridge, in such sufficient manner as shall be agreed upon by and between the Commissioners and the said parties, or in case of difference of opinion as shall be fixed by any engineer or surveyor to be nominated by the Commissioners and the said parties, and, failing such nomination, by any engineer or surveyor to be nominated by the sheriff, who shall have power to order the work as fixed by such engineer or surveyor to be executed within a certain time to be specified in his interlocutor or decree, and to decern against the said parties jointly and severally for payment of the expense of such enclosing and fencing; and such expense, not exceeding the said sum of six hundred pounds for the original construction of the said works, and the expense of repairing and maintaining the fences in all time thereafter, shall be paid and defrayed by the said parties according to their respective rights and interests in the said mill lead, as the same shall be determined by the sheriff, whose decision shall be final and conclusive, and not subject to review in any court or by any process whatsoever, but reserving to the said parties all relief which they may have by law against conterminous proprietors of land or houses along the line of the said mill lead for repayment of any part of the expense incurred by them for such enclosing or fencing, and repairing and maintaining the said fences.

SCHEDULE (B.)

ATTESTATION by COLLECTOR, APPLICATION to SHERIFF, and WARRANT, to be appended at the end of each volume of the Rolls or Books of Burgh Assessments.

(1) ATTESTATION BY COLLECTOR.

I, *A.B.*, Collector of Burgh Assessments for the burgh of Edinburgh, do hereby certify that this is the [*first, second, or third, or as the case may be*] volume of the books of assessments, according to which the burgh assessments are leviable from the persons and others therein named, for the year from the fifteenth day of May [*insert year*] to the fifteenth day of May [*insert year succeeding*]; that the said burgh assessments became due and payable as at the eleventh day of November last; that certain of the persons and others assessed in the said books have failed to pay the said burgh assessments, or a portion thereof, notwithstanding the same having been demanded from them by notices from me, delivered or left for them on the premises assessed, or at the dwelling-houses or places of business of such persons; and that the persons and others named in this volume who have so failed to pay the said burgh assessments, or a portion thereof, are those against whose names respectively the charges in this volume remain unpaid or otherwise undischarged at this date.

A.B., Collector.

Edinburgh, [*date*].

(2) APPLICATION TO SHERIFF.

To the Honourable the SHERIFF of the county of Edinburgh or Mid-Lothian or his Substitute.

The humble petition of *A.B.*, Collector of Burgh Assessments for the burgh of Edinburgh,

Sheweth,—

That, by the Edinburgh Municipal and Police Act, 1879, and the following other Acts of Parliament [*here refer to them*], burgh assessments are authorised to be levied.

That, in terms of the said Act, assessment books for levying the said assessments for the year from the fifteenth day of May [*insert year*] to the fifteenth day of May [*insert year succeeding*] were made up and delivered to the petitioner, in order to his levying and collecting the sums set opposite the names of the persons and others respectively therein entered, of which assessment books this is the [ ] volume.

That the said assessments became due and payable as at the eleventh day of November last.

That, by the attestation of the petitioner, hereunto prefixed, it appears that certain of the persons so assessed have failed to pay the said assessments, or a portion thereof, notwithstanding the same having been demanded from them by notices from the petitioner, delivered to or left for them on the premises assessed, or at their dwelling-houses or places of business, and that the persons

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named in this volume who have so failed to pay are those against whose names respectively the charges in this volume remain unpaid or otherwise undischarged, in whole or in part, at the date of the said attestation.

That the said persons who have failed to pay the burgh assessments charged against them, or a portion thereof, previous to the first day of March, have incurred, in addition, a penalty of one penny upon each pound of the yearly rent of the premises in respect of which they are in arrears, in terms of the Edinburgh Municipal and Police Act, 1879, aforesaid.

That, in these circumstances, it becomes necessary to apply to your Lordship for warrant to the following effect:

May it therefore please your Lordship to grant summary warrant against the persons who have failed in payment, as aforesaid, for recovery of the said burgh assessments so remaining unpaid, in whole or in part, and penalty aforesaid, and to authorise messengers-at-arms or officers of court to enter the house, place of business, or other premises of such persons, and upon presentment, if asked only, of the said warrant or a copy of the attestation, application, and warrant, certified by the sheriff clerk of the county of Edinburgh or Mid-Lothian, along with the receipts of the collector for the burgh assessments, wholly or partly in arrear by such persons respectively, and, failing payment being immediately made of the burgh assessments in arrear, and penalty aforesaid, together with the expense of obtaining the said warrant, and the fees and charges of the messenger or officer, to seize, take possession of, and, if such messenger or officer shall think proper, to remove so much of the goods and effects therein as shall appear to such messenger or officer to be sufficient for satisfying, out of the proceeds of the sale thereof, the said assessments remaining unpaid, and penalty, with the costs and charges incurred in obtaining and carrying the warrant into execution, and for these purposes to authorise the said messenger or officer to open, shut, and lockfast places; and further, to authorise the said messenger or officer, if the said assessments and penalty, together with the said costs and charges, shall not be paid within three days next after seizure is made as aforesaid, to sell the said goods and effects so seized by public roup, either on the premises in which the same are so seized, or at the Market Cross of Edinburgh, or in such other place as your Lordship may appoint, returning the surplus of the price, if any, and also of any such goods and effects as it may be found unnecessary to sell, after payment of the said assessments and penalty, together with the costs and charges incurred in obtaining and carrying the said warrant into execution, and of such sale, to the owner of the said goods and effects.

(Signed) *A.B.*, Collector.

(3) Warrant.

Edinburgh [*date*].—The Sheriff [*or Sheriff Substitute, as the case may be*], having considered the foregoing application and attestation, grants warrant as craved.

(Signed) *C.D.*

SCHEDULE (C.)

(1) Form of Mortgage.

Edinburgh Municipal and Police Act, 1879.

Mortgage, No.

(Head of Estimate.)

By virtue of the Edinburgh Municipal and Police Act, 1879, we, the Lord Provost, Magistrates, and Council of the city of Edinburgh, in virtue of the powers conferred on us by the said Act, and in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to us for the purposes of the said Act, do hereby grant and assign to the said [*name of mortgagee*], and his executors, administrators, and assignees [*or as the case may be*], that portion of the burgh assessments which we are authorised to estimate, assess, and levy under the [ ] head of estimate for assessment, for [*here state the purposes for which the money is borrowed*] to be levied by us under the said Act, in so far as such assessments may be made the subject of mortgage, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter, in virtue hereof, remain as a loan to us until the expiration of a further term of years, and at such rate of interest as shall be specified in a minute or minutes, to be endorsed hereon and signed by the mortgagee or his foresaids, and by our treasurer, and which minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of the said mortgagee or his foresaids, nor tested, and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [ ] per centum per annum), we shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof, and delivered herewith, and that at the several times mentioned in such warrants upon delivery of the same respectively, and such delivery shall be sufficient receipt and discharge to us for the contents of such warrants; declaring that the said mortgagee and his foresaids shall not be entitled to make, and that we shall not be bound to recognise or register, any partial assignation of these presents, or of the sums of money, principal, or interest herein contained; and that we shall not be liable for any expenses that may be incurred by the said mortgagee or his foresaids for or in relation to the preparation, revision, adjustment, or execution of any discharge, renunciation, release, assignation, or minute of postponement or renewal of this mortgage.

Dated the day of one thousand eight hundred and

[*To be signed by the Lord Provost or acting chief magistrate, and by the town clerk, and the seal of the city to be affixed.*]

(2) Form of Assignation of Mortgage.

I, *A.B.*, of [ ] in consideration of the sum of [ ] paid to me by *C.D.*, of [ ], do hereby transfer to the said *C.D.*, his executors,

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administrators, and assignees, a certain mortgage, granted under authority of the Edinburgh Municipal and Police Act, 1879, number [*insert number*], made by the Lord Provost, Magistrates, and Council of the city of Edinburgh in execution of the said Act, bearing date the [ ] day of [ ], for securing the sum of [ ] and [ ] interest, and all my rights, estate, and interest in and to the money thereby secured, and in and to the portion of the burgh assessments thereby assigned. In witness whereof these presents [*insert the testing clause required by the law of Scotland*].

(Signed) *A.B.*

(3) FORM OF INTEREST WARRANT.

[*To be delivered with the Mortgage.*]

Edinburgh Municipal and Police Act, 1879.

(Head of Estimate.)

Mortgage number dated 18

INTEREST WARRANT.

For pounds shillings and pence, payable on at the

Interest as above - - -	£	:	:
Less income tax - - - -		:	:
Net amount - -	£	:	:

[*To be signed by the Lord Provost or acting chief magistrate, by the town clerk, and the treasurer.*]

SCHEDULE (D.)

Foot-pavements and Footpaths maintained by the Magistrates and Council.

1. Foot-pavements connected with the University, St. Giles' Church, Tron Church, St. John's Church, Old and New Greyfriars' Churches, Lady Yester's Church, St. Andrew's Church, St. George's Church, St. Mary's Church, and St. Stephen's Church, outside the walls or inclosing railings of the said buildings.

2. Foot-pavement on the North Bridge from the north end of the buildings at the south end of the bridge to the south end of the buildings at the north end thereof.

3. Foot-pavement over the arch of the South Bridge.

4. Foot-pavement over the arch of the Regent Bridge.

5. Foot-pavement at the burying ground, Waterloo Place, extending in length on the south side to two hundred and forty feet, and on the north side to one hundred and seventy feet.

6. Foot-pavement on east side and footpath on west side of the road from Queen Street to Abercrombie Place and Heriot Row, on the line of Hanover

Street, to the extent of two third shares of the expense, the governors of George Heriot's Hospital being liable for the remaining third share thereof.

7. Foot-pavement on west side and footpath on east side of the road from Queen Street, forming the continuation of Frederick Street, and leading to Heriot Row.

8. Foot-pavement and footpaths outside of the present Charity Workhouse walls, excepting always the pavements and footpaths in front of any stance or stances which have been or may now or at any future time be sold to private parties.

9. Foot-pavement on the west side of the carriageway on the Mound.

10. Footpath along the north or garden side of Queen Street, from Hanover Street eastward as far as Queen Street gardens extend.

11. Footpath along the south or garden side of Princes Street between Waverley Bridge and the Mound, and between the Mound and gate at the entrance to St. Cuthbert's Churchyard.

12. Foot-pavements on the north side of Regent Road in front of the High School and playground, and on the north side of Regent Terrace, between the High School and the westmost house of the terrace.

13. Foot-pavement along the retaining wall of India Street Garden, in the line of North-west Circus Place.

14. Foot-pavements on George the Fourth Bridge, where there are no buildings or feuing ground, and on the east side of Candlemaker Row along the wall of the bridge.

15. Foot-pavement on the bridge at Stockbridge.

16. Footpath on the south side of Dean Terrace.

17. Footpath on both sides of Johnston Terrace, where there are no buildings or feuing ground.

18. Footpath on the west sides of Randolph Crescent Garden, in the line of Queensferry Street.

19. Foot-pavement on the east side of Nicolson Square, in the line of Nicolson Street.

20. Footpath on the east side of St. Patrick Square, in the line of Nicolson Street and Clerk Street.

21. Footpath where necessary outside of any wall of Greyfriars' Churchyard which fronts any road or street.

22. Footpath where necessary outside of any wall of the Royal Infirmary which fronts Infirmary Street.

23. Footpaths along unfeued ground at Clerk Street and at entrance to Gifford Park, on the north side of Hill Place, along gable of houses and wall, and on the north side of India Place, along Back Green of Spring Gardens, all under reservation of right of relief of trustees against proprietors.

24. Footpath or foot-pavement in front of Baxter's Place and of Greenside Place, if it shall be found that, prior to the passing of this Act, the trustees were liable to maintain the same.

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SCHEDULE (E.)

Table of Causeway Mail.

	£	s.	d.
1. For every hackney or hired coach, chaise, berlin, barouche, landau, chariot, calash, phaeton, brougham, cab, or other carriage of the like description plying within the city, yearly, from Whitsunday to Whitsunday (to be paid by the owner quarterly) - - - - - - - -	1	2	6
2. For every stage coach or omnibus, or other carriage of the like description for which fares are charged running between any two places within the city, or running between any place within the city and any place beyond the same, yearly, from Whitsunday to Whitsunday (to be paid by the owner quarterly) - - - - - - - -	1	2	6
3. For every cart, van, truck, waggon, lorrie, janker, or vehicle of the like description carrying articles, goods, or commodities of any kind brought within the city from any place beyond the same, each draught - - - - - -	0	0	2

Note.—The construction of the words "cart," "carriage," and "hackney carriage" in the foregoing Act shall not apply to this schedule; and the following exemptions from the duties under the third head are hereby sanctioned, namely, carts, vans, trucks, waggons, lorries, jankers, or vehicles of the like description carrying only the following goods; viz., ale, beer, wines, spirits, and foreign liquors for private use and not for sale, vegetables, garden stuffs, plants, meal, turnips, potatoes, straw, hay, grass, butcher's meat, stones, bricks, tiles, slates, lime, sand, gravel; such fruits, wheat, oats, barley, peas, beans, flour, butter, poultry, eggs, wool, cheese, tallow, seeds as are of home production, green hides, fresh fish, and coals, except coals from Leith.

LONDON: Printed by George Edward Eyre and William Spottiswoode
Printers to the Queen's most Excellent Majesty. 1879.