CHAPTER cc.

An Act to confirm a Provisional Order under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Leith. [2d August 1877.]

A.D. 1877.

WHEREAS the Secretary of State for the Home Department, being one of Her Majesty's Principal Secretaries of State, has under the provisions of "The General Police and Improvement (Scotland) Act, 1862," duly made the Provisional Order which is contained in the schedule to this Act annexed, and it is provided by the said Act that no such Order shall be of any validity unless the same has been confirmed by Act of Parliament, and it is expedient that the said Order should be so confirmed:

25 & 26 Vict. c. 101.

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:

Confirmation of Provisional Order.

1. The Provisional Order contained in the schedule to this Act annexed shall be and is hereby confirmed, and all the provisions thereof shall, from and after the passing of this Act, be as valid and have the like force and effect as if the same were specially enacted in this Act.

Short title.

2. This Act may be cited as "The General Police and Improvement (Scotland) Act, 1862, Order Confirmation (Leith) Act, 1877," and shall be read and construed as one with the recited Act and "The General Police and Improvement (Scotland) Supplemental Act, 1863."

26 & 27 Vict. c. 60.

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SCHEDULE.

LEITH.

The General Police and Improvement (Scotland) Act, 1862.

(25 & 26 Vict. cap. 101.)

WHEREAS by the General Police and Improvement (Scotland) Act, 1862, it is, inter alia, enacted (Section 79) that "whenever it appears desirable to "the magistrates and council or commissioners of police of any royal or "parliamentary burgh, or to the commissioners for executing this Act in any "burgh or populous place, that provision should be made in order the better "to apply and execute therein the provisions of this Act, in whole or part, "or for the future application and execution of any Acts in force therein "having relation to the purposes of this Act, or to the roads or streets within "such burgh or populous place, or to any other matter or thing connected "with the management and administration of the municipal or police affairs "of such burgh or populous place, or that any such Acts, or any exemptions "from rating therefrom derived, or that any Provisional Order or Order in "Council applying this Act, hereby authorised to be made, should be wholly "or partially repealed or altered; or whenever it appears desirable to the "magistrates and council of any royal or parliamentary burgh where there "is a board of commissioners of police separate from such magistrates and "council to unite the municipal and police government and jurisdiction of "any such royal or parliamentary burgh in the magistrates and council "thereof, to transfer to them all the powers and jurisdictions of police, paving, "lighting, watching, and others, granted to the commissioners of police by "any Local Acts, and to extend such jurisdictions over the whole limits of "such burgh, the magistrates and council, or the commissioners of any burgh, "may present a petition to one of Her Majesty's Principal Secretaries "of State, praying for such provision, repeal, and alteration as aforesaid, or "for any of such things, and such petition shall be supported by such evidence "as the said Secretary requires:"

And whereas there is, in the Burgh of Leith, a board of commissioners of police (herein-after called the commissioners) separate from the magistrates and council of the said burgh, which commissioners are appointed and act under the following Acts, wholly or partially in force therein, viz.:—(1.) The Act 11 and 12 Victoria, cap. 123, intituled "An Act to provide for the Municipal "and Police Government of the Burgh of Leith, and for other purposes relating "thereto," and the short title of which Act is "The Leith Municipal and "Police Act, 1848"; (2.) "The General Police and Improvement (Scotland)

" Act, 1862 "; (3.) The Act 26 and 27 Victoria, cap. 60, intituled " An Act to " confirm a certain Provisional Order under the General Police and Improve- " ment (Scotland) Act, 1862, relating to the Burgh of Leith," and the short title of which Act is " The General Police and Improvement (Scotland) Sup- " plemental Act, 1862," which Act, inter alia, altered and repealed several parts of " The Leith Municipal and Police Act, 1848 "; and (4.) " The General " Police and Improvement (Scotland) Act, 1862, Amendment Act," hereinafter referred to as the recited Acts :

And whereas a petition under the provisions of " The General Police and " Improvement (Scotland) Act, 1862," has been addressed to me, as one of Her Majesty's Principal Secretaries of State, by the provost, magistrates, and council of the said burgh of Leith, under their corporate seal, praying that, after the inquiry directed by the statute, a Provisional Order may be issued uniting the municipal and police government and jurisdiction of the said burgh in the magistrates and council thereof, and transferring to them the several powers and jurisdictions of police and others granted to the said commissioners by the recited Acts :

And whereas the foresaid petition further prays that provision should be made in order the better to apply and execute therein the provisions of the recited Acts, so far as in force, and for the repeal of part of " The Leith " Municipal and Police Act, 1848 ":

And whereas due inquiry has been directed and held in respect of the matters mentioned in the said petition :

Now, therefore, in pursuance of the powers vested in me by the said General Police and Improvement (Scotland) Act, 1862, I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal of office direct that, as regards the burgh of Leith, from and after any Act of Parliament confirming this Order,—

1. The following words shall have the meanings hereby ascribed to them :

The words " General Police Act " in this Order mean the General Police and Improvement (Scotland) Act, 1862, and also where necessary include the General Police and Improvement (Scotland) Supplemental Act, 1862 (26 & 27 Vict. cap. 60), and the General Police and Improvement (Scotland) Act, 1862, Amendment Act (31 & 32 Vict. cap. 102), and except as herein or therein otherwise expressly provided the words and expressions herein used shall have and bear the meanings severally assigned to them in the said General Police Act :

The words " burgh surveyor " or " surveyor," in the General Police Act and this Order, mean the surveyor of paving, drainage, and other works, appointed by the commissioners or the magistrates and council.

2. The municipal and police government and jurisdiction of the burgh of Leith shall be united in the magistrates and council thereof.

3. The part of the Leith Municipal and Police Act, 1848, set forth in the Schedule hereunto annexed shall be repealed ; and as regards the other parts of the said Act and the General Police and Improvement (Scotland) Act,

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1862, and the General Police and Improvement (Scotland) Supplemental Act, 1862, and the General Police and Improvement (Scotland) Act, 1862, Amendment Act, in so far as not hereby amended, the whole powers, authority, and jurisdictions of police and others granted to and vested in the commissioners by the said Acts, and by any Acts incorporated therewith, or by any other Act of Parliament, shall be and the same are hereby transferred to and vested in the magistrates and council of the said burgh of Leith, who shall thenceforward, as part of the ordinary business of the magistrates and council, exercise the whole powers, authority, and jurisdiction aforesaid, and perform the whole duties and obligations and fulfil all contracts incumbent on the said commissioners. And in construing the recited Acts or any Act or the schedule to any Act in which the commissioners are referred to, the expression "the commissioners," or other similar expression, shall (except when the context is repugnant thereto) be read as if the expression "the magistrates and council" had been inserted instead thereof; and when the word "undertaker" in any Act incorporated with the said Acts is held by the said Acts to mean or include the commissioners, the said word shall instead mean or include the magistrates and Council; and the word "promoters" or "commissioners" in any such incorporated Act shall also mean or include the said magistrates and council.

4. The whole lands and heritages, assessments, claims, demands, rights, properties, and effects of every kind, heritable and movable, belonging to or vested in the commissioners, or in any person on their behalf, under and in virtue of the recited Acts (but subject to any liabilities to which the same are legally liable), shall become vested in and shall belong to the magistrates and council for the purposes of the said Acts, as fully and effectually to all intents and purposes, as if the same had been formally and particularly conveyed to and vested in them, with full power, right, and authority to the magistrates and council to levy, adjudge, sue for, and recover the same.

5. All mortgages, bonds, assignations, leases, grants, conveyances, or other deeds or securities, made or granted to or by the commissioners or to which they have acquired right, and all claims for annual or other payments for which they are liable, and all contracts and agreements entered into with them, and all judgments or decreets arbitral pronounced in any suit or arbitration to which they were a party, shall be good, valid, and effectual to all intents and purposes, and may be enforced by or against the magistrates and council to the same extent and effect as they might have been enforced by or against the commissioners.

6. All rates and assessments, fines, penalties, and expenses imposed under or by virtue or in pursuance of the recited Acts, and remaining unpaid, may be levied and recovered by the magistrates and council, or the officers appointed by them, in the same way and by the same means as they would have been recoverable by the commissioners or the officers appointed by them if this Order and the Act confirming the same had not been passed, and when so levied and recovered shall be applied by the magistrates and council to and for the purposes of the recited Acts.

7. All actions, suits, and proceedings, and all arbitrations to which the commissioners, or the officers appointed or acting under the recited Acts, were parties when the Act confirming this Order is passed, may be proceeded with by or against the magistrates and council, or the officers appointed by or acting under the magistrates and council under the recited Acts, without the necessity of intimating such action, suit, proceeding, or arbitration, or making them respectively formally parties thereto.

8. The former books and other registers, accounts, and other documents and vouchers of the commissioners, and the minutes of proceedings of the commissioners, and their committees and sub-committees, shall be deemed the books, registers, accounts, documents, vouchers, and minutes of the magistrates and council and their committees, and shall receive effect in the same way and to the same extent as they would have done in any question or proceeding to which the commissioners might have been parties if the Act confirming this Order had not been passed.

9. The several accounts of the pecuniary transactions of the magistrates and council, as in place of the commissioners, shall be kept distinct from those of the affairs of the burgh and of the other trusts under the administration of the magistrates and council, and shall be closed, balanced, audited, reported on, inspected, and annually published in the way and manner prescribed by the Acts at present regulating the same.

10. All minutes and entries in the council records, or other minute books of the magistrates and council, or of any committees appointed by them, shall come in place of the records of the proceedings of the commissioners, and their committees, directed by the said Acts to be kept, and any copy or extract therefrom authenticated by the signature of the town clerk, shall be received as evidence in all courts whatsoever, in any case or matter concerning the said Acts, or this Order, or the Act of Parliament confirming this Order.

11. The magistrates and council may from time to time cause the houses and other buildings in the burgh to be marked by the surveyor or other person with such numbers as they think fit, and in case such numbers become obliterated or are defaced may renew the same, or mark such houses and buildings with such other numbers as they consider proper, and may charge the expenses thereby incurred against the police assessment; or the magistrates and council may cause such numbers to be marked or renewed as the case may require.

12. Whereas by clause 168 of the General Police Act it is provided that the owner of every house or building in, adjoining, or near to any street, public or private, shall put up and keep in good condition a shoot or trough of the whole length of such house or building to carry off the rain water from the same, and it is necessary for public comfort and convenience that such shoots should be made both at the front and back of such houses or buildings, as also at the sides thereof, the said clause shall be and is

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hereby amended as regards the burgh of Leith to the extent and effect that it shall be read as if it had provided that the owners of all premises shall put up and keep in good condition rhones or gutters thereon in positions to the satisfaction of the surveyor.

13. Whereas doubts exist as to the power of the commissioners to provide means of ventilation for existing sewers or drains, and to assess for the expense incurred in so doing, and it is expedient that such doubts be removed: The magistrates and council are hereby authorised and required from time to time to provide efficient means of ventilation of the existing sewers or drains, or of such sewers or drains as are authorised to be constructed, and to enlarge, extend, alter, improve, repair, and ventilate such sewers or drains as they may from time to time consider necessary; and if for completing any works required in the execution of this provision it be found necessary to carry them upon, into, or through any inclosed or other private premises, the magistrates and council shall have and may exercise the whole powers of every description, and be liable to the conditions and restrictions which are by the General Police Act provided with reference to the construction of sewers or drains; and all costs and expenses which may be incurred by the magistrates and council in carrying this provision into effect shall form a charge against the "General Sewer Rate," or against any "Special Sewer Rate" which in their opinion may be properly liable therefor: Provided that the magistrates and council may, if they think fit, resolve that the same shall be charged, and they are hereby empowered to charge the same, against the police assessment.

14. In all houses or buildings to be hereafter erected within the burgh the waterclosets shall be placed in such a position therein, and so constructed as to ventilate, by window, into the open air; and all persons failing so to ventilate such waterclosets shall be liable in a penalty not exceeding forty shillings for every day during which the default is continued, besides being bound to alter the building so as to comply with this provision.

15. The occupiers of every house, flat, or storey entered by a common stair or passage shall cause their landing-places and also the stair and passages immediately below, leading to the flat or storey possessed or occupied by them, and all areas connected therewith, to be swept, washed, and cleansed at least once a week; and if any flat or storey of the tenement be unoccupied, the occupiers of the flat or storey above shall cause the landing-places of, and the stairs and passages immediately below leading to, such empty flat or storey, to be swept and washed at least once a week downwards to the next house which shall be occupied, or to the street; and the passages from the bottom of the stair, the landing-places and the steps to the street, shall be swept and washed weekly by the occupiers of the house or flat nearest the said landing-place or bottom of the stair; and all areas, common passages, and stairs leading to cellars or other premises situate on or below the level of the street flat, shall be cleansed weekly by the occupiers of the cellars or other premises in the same, or by parties having a right to use or who shall use

such areas, passages, or stairs; and every person offending herein shall for each offence be liable to a penalty not exceeding forty shillings; and if there be more than one occupier on the same flat or storey, each occupier shall sweep, wash, and cleanse such landing-places, stairs, passages, and areas, week about by turns: Provided that it shall be lawful, under a like penalty, to compel owners or parties having charge of property to cleanse out cellars and apartments which may be unoccupied.

16. The owners of premises in or entering from common stairs shall keep the steps, landing-places, and passages in such common stairs in a proper state of repair, and provide and keep in proper repair rails at the side of such stairs, to the satisfaction of the surveyor, and when required by him shall fence, in such manner as he shall direct, all windows in such common stairs; and any owner who fails so to keep such steps, landing-places, and passages, or to provide or keep in proper repair such rails, or to fence such windows as aforesaid, after notice served on him by the surveyor, shall be liable in a penalty not exceeding five pounds; and the magistrates and council may cause such steps, landing-places, or passages to be properly repaired, or such rails to be provided or repaired, or such windows to be securely fenced, and the expense thereof shall be recovered in the same manner as a private improvement assessment.

17. The outside windows of dwelling-houses which may hereafter be erected shall be constructed so that the same may be opened to the extent of at least one fourth of the size of each window, and the owner of any such dwelling-house who shall fail so to construct any window, after being required by the magistrates and council or their surveyor so to do, shall be liable to a penalty not exceeding forty shillings, and a further penalty not exceeding ten shillings for each day during which he shall fail so to construct such window.

18. The owners of all common stairs and common passages which may hereafter be constructed shall provide proper means of lighting the same, where practicable, by means of windows or skylights, or otherwise, to the satisfaction of the surveyor, and any owner failing so to do when required by the magistrates and council or their surveyor shall be liable to a penalty not exceeding forty shillings; and the magistrates and council may cause such means of lighting to be provided, and the expense thereby incurred shall be recoverable as a private improvement assessment.

19. The magistrates and council may from time to time cause to be put up, at, or upon the rails, or in or upon the walls of buildings, or elsewhere in the streets, public or private, as they think proper, index plates showing the positions of the fireplugs in such streets or other places, or may indicate, by painting or other mode upon the walls of such buildings, the position of such fireplugs without being liable to any claim for compensation for so doing; and any person who shall cause any obstruction to the putting up of such plates or painting, or who shall pull down, deface,

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or destroy any such plate or painting, shall be liable in a penalty not exceeding forty shillings for each offence.

20. The owner or person in charge of any hackney carriage who shall convey in such carriage any dead body, except in cases of sudden death from accident or otherwise, shall be liable in a penalty not exceeding five pounds, and, failing payment, be liable to imprisonment for any period not exceeding sixty days.

21. Clauses 126, 149, 170 to 181, both inclusive, 212, 215, and 279 of the General Police Act shall, as regards the burgh of Leith, be read and construed so that the word "street" or "streets" used therein shall include streets public or private; and the paragraph in clause 3 of the General Police Act interpreting the expression "private street" shall, as regards the burgh of Leith, be read as if the words "used by carts and" were omitted therefrom.

SCHEDULE referred to in Section 3 of the foregoing Order.

THE LEITH MUNICIPAL AND POLICE ACT, 1848.

Section 30, in so far as it provides that the magistrates and council shall keep or cause to be kept a separate book or books applicable to each of the several trusts which may be under their management, in which shall be engrossed the whole proceedings and transactions had in regard to them respectively.

Given under my hand and seal at Whitehall this fourteenth day of June, One thousand eight hundred and seventy-seven.

(L.S.) RICH. ASSHETON CROSS.

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