CHAPTER vi.

An Act to incorporate the Glasgow Court Houses Commissioners, and to authorise them to borrow a further sum of money; and for other purposes. [13th May 1872.]

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WHEREAS an Act was passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled "An "Act for erecting and maintaining a justiciary court hall and other "apartments for the use of the Justiciary Court at Glasgow, and "also public offices for the city of Glasgow and the Lower Ward of "the county of Lanark, and for other purposes therein mentioned;" and another Act was passed in the nineteenth and twentieth years of the reign of Her present Majesty, intituled "An Act for enlarging "and improving the Justiciary Court House and court houses and "public buildings of the city of Glasgow and county of Lanark, for "erecting additional buildings, for amending the Act relating thereto, "and for other purposes;" and another Act was passed in the thirty-first and thirty-second years of the reign of Her present Majesty, intituled "An Act for enlarging and improving the court houses "and public buildings of the city of Glasgow and county of Lanark, "and erecting additional court houses, halls, and buildings, and for "other purposes;" which Acts are herein-after termed "the recited Acts:"

6 & 7 W. 4. c. xxiv.

19 & 20 Vict. c. xxxv.

31 & 32 Vict. c. lxxxix.

And whereas the Commissioners appointed and acting under the recited Acts have erected court houses, offices, and buildings for the accommodation of the sheriff courts in Glasgow, and have acquired certain lands and buildings for the enlargement and improvement of the said court houses, offices, and buildings, and the other purposes of the recited Acts, and have borrowed the sum of thirty thousand pounds under the authority of the recited Acts:

And whereas it is expedient that the said Commissioners should be incorporated, and should be authorised to borrow an additional sum of money for the purposes of the recited Acts and this Act, and

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that the provisions of "The Sheriff Court Houses Act, 1860," with respect to the payment of the expense of erecting and improving court houses, should be made applicable to the court houses, offices, and buildings to be erected, enlarged, altered, or improved under the authority of this Act; but these objects cannot be effected without the 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:

Short title.

1. This Act may be cited for all purposes as "The Glasgow Court Houses Amendment Act, 1872."

Interpretation of terms.

2. In this Act the several words and expressions to which meanings are assigned by the third-recited Act and the Acts incorporated therewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Commissioners" in the recited Acts and this Act shall mean the Glasgow Court Houses Commissioners incorporated by this Act; and the word "clerk" shall mean the clerk for the time being to the Commissioners.

Commissioners incorporated.

3. The Commissioners named and appointed or to be named and appointed by or under the provisions of the recited Acts or any of them, shall be and are hereby incorporated for the purpose of carrying the recited Acts and this Act into execution, by the name of "The Glasgow Court Houses Commissioners," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of the recited Acts and this Act.

Court houses and other property vested in the Commissioners.

4. The court houses, halls, offices, and buildings, and lands and other property and effects, real and personal, heritable and moveable, erected or acquired by and belonging to or held by the said Commissioners under the recited Acts, shall be and are hereby vested in the Commissioners incorporated by this Act, and may be held, used, and disposed of by the Commissioners for the purposes of the recited Acts and this Act.

Powers of Acts vested in the Commisssioners.

5. All the powers, rights, and privileges conferred by the recited Acts and the Acts incorporated therewith on the said Commissioners under the recited Acts are hereby conferred on and vested in the Commissioners incorporated by this Act, and may be used and exercised by the Commissioners in the same manner and to the

same extent and effect as such powers, rights, and privileges might lawfully have been used and exercised by the said Commissioners under the recited Acts before the passing of this Act.

Deeds to remain in force.

6. All dispositions, conveyances, contracts, deeds, instruments, and securities made or granted by or in favour of the said Commissioners under the recited Acts, and all purchases and sales made by them, and notices given by them, shall be and remain as valid and effectual as if this Act had not been passed, in favour of, against, or with respect to the Commissioners incorporated by this Act.

Debts and obligations of Commissioners.

7. All debts, claims, obligations, and liabilities due by or imposed on the Commissioners under the recited Acts shall be paid and fulfilled by the Commissioners incorporated by this Act; and all debts, claims, obligations, and liabilities due to or recoverable or enforceable by the said Commissioners under the recited Acts shall be payable to and may be recovered and enforced by the Commissioners incorporated by this Act.

Actions not to abate.

8. Any action, arbitration, or proceeding to which the said Commissioners under the recited Acts may be parties at the passing of this Act shall not abate, but may be continued by or against the Commissioners incorporated by this Act, without any formal procedure; and in any such action, arbitration, or proceeding the Commissioners shall for all purposes represent the said Commissioners under the recited Acts.

General saving of rights.

9. Notwithstanding the incorporation of the Commissioners, everything before the passing of this Act done, suffered, or confirmed under or by virtue of the recited Acts shall be and remain as valid and effectual as if this Act had not been passed; and the incorporation of the Commissioners and this Act respectively shall accordingly be subject and without prejudice to everything so done, suffered, or confirmed before the passing of this Act, and to all rights, liabilities, claims, and demands, present or future, which, if the Commissioners had not been incorporated and this Act had not been passed, would be incident to or consequent on anything so done, suffered, or confirmed.

Power to borrow money.

10. In addition to the money authorised to be borrowed by the recited Acts it shall be lawful for the Commissioners to borrow on mortgage or cash credit, on the security of the assessments authorised to be levied by the third-recited Act, any sum not exceeding sixty thousand pounds, and to make and grant mortgages and assignations of the said assessments, or such other deeds as may be necessary, in security of the payment of the money so borrowed

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and interest thereon; and if, after having borrowed the said sum or any part thereof, the Commissioners shall pay off the same otherwise than by means of the sinking fund herein-after mentioned, or of any surplus assessments, or of any money received by them in respect of increased accommodation for the sheriff courts in Glasgow, it shall be lawful for them again to borrow the amount so paid off, and so from time to time as they shall think proper; provided that any surplus assessments which shall not be applied in or towards reducing future assessments, and any money received by the Commissioners as aforesaid, shall be applied exclusively in repayment of money borrowed by them under the authority of the recited Acts or this Act.

Extending provisions of recited Acts to money borrowed under this Act.

11. The provisions contained in sections eleven to nineteen, both inclusive, of the second-recited Act, and the schedules thereto annexed, and the provisions contained in section twenty-three of the third-recited Act as to the sinking fund, shall respectively extend and apply to the money by this Act authorised to be borrowed, in the same manner and to the same effect as if such money had formed part of the money by the recited Acts authorised to be borrowed.

Saving existing mortgages.

12. Nothing in this Act contained shall prejudice or affect any mortgage or assignation in security granted by the said Commissioners under the recited Acts for money borrowed by them under the authority of the recited Acts or any of them, and which is subsisting at the passing of this Act.

Arrears may be enforced by appointment of judicial factor.

13. In the event of any principal money borrowed under the authority of the recited Acts or this Act, or any interest thereon, not being paid within two months after the same shall have become due, and after twenty-one days previous demand thereof in writing, containing notice of the intention to make the application after-mentioned, and which twenty-one days may form part of the said two months, it shall be lawful for any mortgagee having interest on a mortgage in arrear to the amount of two hundred pounds, or for any mortgagee with principal or principal and interest in arrear to the amount of five thousand pounds, or for several mortgagees having interest in arrear to the amount of two hundred pounds in the aggregate, or for several mortgagees with principal or principal and interest in arrear to the amount of five thousand pounds in the aggregate, to render their security effectual by the appointment of a judicial factor; and the application for such appointment may be made from time to time, when such arrears arise, by summary petition to the Court of Session in either division thereof, or in time

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of vacation to the Lord Ordinary on the bills, who are hereby respectively authorised, on such application being made by any mortgagee or mortgagees holding the sums in arrear before specified, to appoint from time to time some person as judicial factor, to the effect and with the powers herein-after mentioned, unless previously to such application being advised the sums due with interest and expenses shall have been paid to the petitioner or petitioners; and the interlocutor making such appointment shall not be subject to review or appeal, but without prejudice to the legal rights of recovery competent to such mortgagee or mortgagees.

Powers and duties of judicial factor.

14. The judicial factor so appointed, on finding security in common form, shall have and may exercise all the powers conferred by the recited Acts or this Act on the Commissioners for or in relation to fixing, imposing, levying, and recovering the rates by the recited Acts, or any of them, authorised to be levied, and maintaining the court houses, halls, offices, and buildings, and other property vested in the Commissioners, and the Commissioners shall deliver to him all rate books and other books and documents necessary for that purpose; and after defraying the expense of such application and maintenance the judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several persons entitled to payment out of the rates and revenues; and the judicial factor shall continue to act not only until all arrears of interest, or of principal and interest, of mortgages due at the date of his appointment, and all interest due on any of the said sums, and any interest which shall have become due during his continuance in office, with interest and expenses, including the expenses of the application for his appointment and of carrying the purposes thereof into execution and for obtaining his discharge, 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 on payment as aforesaid of such interest and expenses, the Commissioners may apply to the Court of Session in either division thereof, or in time of vacation to the Lord Ordinary on the bills, for the recall of the appointment of the judicial factor, and the court or the Lord Ordinary may recall such appointment accordingly.

Application of money borrowed.

15. All money borrowed under the authority of this Act shall be applied for the purposes of the recited Acts and this Act, and to no other purpose whatsoever.

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Applying provisions of Sheriff Court Houses Acts.

16. The provisions of "The Sheriff Court Houses Act, 1860," and of the Act twenty-ninth and thirtieth Victoria, chapter fifty-three, amending that Act, shall be and are hereby made applicable to the court houses, offices, and buildings for the accommodation of the sheriff courts in Glasgow to be erected, enlarged, altered, or improved by the Commissioners under the authority of this Act; and the Commissioners shall have the same powers and be subject to the same obligations as commissioners of supply have or are subject to under the provisions of the said Sheriff Court Houses Acts; and the duties imposed by the said Act of 1860 on the convener of the county shall be performed by the chairman of the Commissioners, and the duties imposed by that Act on the clerk of supply of the county shall be performed by the clerk to the Commissioners: Provided that it shall not be lawful for the Commissioners to levy any assessment or to borrow money under the authority of the said Act of 1860, and that it shall not be necessary to call or hold any meeting of the commissioners of supply of the county of Lanark, under the provisions of that Act, with respect to the said court houses, offices, and buildings in Glasgow.

Confirmation of agreement.

17. The agreement between the Glasgow Court Houses Commissioners, the Lord Provost, magistrates, and council of the city of Glasgow, and the commissioners of supply of the county of Lanark, which is set forth in the schedule to this Act annexed, is hereby confirmed and shall be carried into effect.

Expenses of Act.

18. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the assessments to be levied or the money to be borrowed under the authority of the recited Acts and this Act.

SCHEDULE referred to in this Act.

Agreement between the Glasgow Court Houses Commissioners, herein-after called the Court Houses Commissioners, on the first part; the Lord Provost, Magistrates and Council of the city of Glasgow, herein-after called the Corporation, on the second part; and the Commissioners of Supply of the county of Lanark, as representing the Lower Ward of the county, herein-after called the Commissioners of Supply, on the third part.

Whereas by "The Glasgow Court Houses Amendment Act, 1868," herein-after called "the Act of 1868," the Court Houses Commissioners are authorised to provide additional accommodation for the purposes of the corporation, the justice of peace courts, the sheriff courts, and the justiciary courts at Glasgow, and they are in course of carrying these purposes into effect pursuant to that Act: And whereas plans have been adjusted and approved in terms of the Act of 1868, showing certain additional and altered accommodation to be provided by the Court Houses Commissioners: And whereas a Bill is now depending in Parliament, intituled "A Bill to incorporate the Glasgow Court "Houses Commissioners, and to authorise them to borrow a further sum of "money, and for other purposes," herein-after called "the Bill:" And whereas the following arrangements have been made between the parties hereto: It is therefore agreed, by and between the parties hereto, as follows:

1. The said plans are signed as relative hereto by the parties subscribing this agreement, and shall be carried into effect, except in so far as any alterations thereon may be hereafter required by the Secretary of State for the Home Department or the Lords of the Treasury, in pursuance of the provisions of "The Sheriff Court Houses Act, 1860," and the Bill.

2. The total sum expended by the Court Houses Commissioners in carrying into effect the purposes of the Act of 1868 and the Bill shall be apportioned between the parties interested, as follows:

The city of Glasgow shall bear exclusively the proportion of such total expenditure applicable to the accommodation afforded to the corporation for purposes purely municipal, credit being allowed to the corporation for the present value of the accommodation hitherto occupied by them and hereafter to be occupied by the sheriff court and justice of peace court and the officials of those courts.

The city of Glasgow and the Lower Ward of the county, including the burgh of Rutherglen, shall bear the remainder of the said total expenditure, according to their several valuations, the same being applicable to the increased accommodation for the sheriff courts, the justice of peace court, and the justiciary court, and their several officials.

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The assessments authorised by the Act of 1868 shall be levied by the Court Houses Commissioners in such proportions on the city of Glasgow and the Lower Ward of the county, including the burgh of Rutherglen, and be so applied as to meet the payment of the said expenditure when apportioned on the several parties as before provided.

Any sums which may be received from the Lords of the Treasury under the provisions of "The Sheriff Court Houses Act, 1860," in respect of increased accommodation for the sheriff courts in Glasgow, shall be applied exclusively in payment or reduction of the proportion of expenditure to be borne by the city of Glasgow and the Lower Ward of the county, including the burgh of Rutherglen, jointly.

In case of any difference of opinion between the parties hereto as to the value of the accommodation hitherto occupied by the corporation, and hereafter to be occupied by the sheriff courts and their officials, or as to the apportionment of the said total expenditure, under the Act of 1868 and the Bill, as between the parties liable therefor, the same shall be determined by a practical valuator to be appointed by the parties hereto for that purpose, or in case of their failing to agree upon a valuator, then by a valuator to be appointed by the Lord Advocate of Scotland for the time being, on the application of the parties, or of any of them in case of the others delaying or refusing to concur in such application.

3. The expense of maintenance and repairs and all annual expenses shall be borne as follows:

The city of Glasgow shall bear exclusively all such expenses, so far as applicable to the accommodation provided to the corporation for purposes purely municipal.

The city of Glasgow and the Lower Ward of the county, including the burgh of Rutherglen, shall bear the remainder of such expenses, according to their several valuations, except in so far as any portion of the said expenses applicable to the accommodation for the sheriff courts may be received from the Lords of the Treasury.

Separate accounts of the portion of the expense applicable to the sheriff courts shall be kept by the Court Houses Commissioners.

The assessments under the Act of 1868 already levied and to be levied shall be applied so as to meet the above apportionment of expenses in the manner provided by this agreement.

4. Copies of the printed accounts of the Court Houses Commissioners shall be annually furnished by their clerk to the clerk of supply of Lanarkshire within seven days after the stated annual meeting of the Court Houses Commissioners.

In witness whereof these presents, written by Henry Lovegrove, clerk to Messrs. Vacher and Sons, law stationers, Parliament Street, Westminster, are executed by the parties hereto as follows; videlicet,—They are subscribed by the Honorable James Watson, Lord Provost of the city of Glasgow, James Moir and James Bain, bailies of the said city, and Henry Glassford Bell, sheriff of the county of Lanark, four of the Court Houses Commissioners, for and on behalf of the Court Houses Commissioners, and by the said Honorable James Watson, Lord Provost, James Moir and James Bain, bailies, Edward John Scott, William Miller and John Ure, councillors of the said city of Glasgow, for and on behalf of the corporation, all at London, on the fifteenth day of

March one thousand eight hundred and seventy-two, before these witnesses, Mathew Anderson, writer in Glasgow, and William Campbell, assistant assessor and surveyor for the city of Glasgow; and by James Hozier, of Mauldslie Castle, and John Meek, of Fortesset, both commissioners of supply of the said county of Lanark, and William Alston Dykes, clerk of supply of the said county, for and on behalf of the commissioners of supply, as follows, namely, by the said James Hozier, at Mauldslie Castle aforesaid, on the sixteenth day of March, and year last mentioned, before these witnesses, Samuel Frost, his butler, and James McCubbing, his footman; and by the said John Meek and William Alston Dykes, both at Hamilton, on the day, month, and year last mentioned, before these witnesses, William Meek, residing at Cadzow Bank, Hamilton, and William Tait, apprentice to the said William Alston Dykes. A.D. 1872.

M. Anderson, witness.
W. Campbell, witness.
Samuel Frost, witness.
James McCubbing, witness.
William Meek, witness.
Will. Tait, witness.

Jas. Watson, Chairman of the Glasgow Court Houses Commissioners.
Jas. Moir.
Jas. Bain.
Henry Glassford Bell, Sheriff of Lanarkshire.
Jas. Watson, Lord Provost.
James Moir, Bailie.
Jas. Bain, Bailie.
E. J. Scott, Councillor.
Wm. Miller, Councillor.
John Ure, Councillor.
James Hozier, Commissioner of Supply.
John Meek, Commissioner of Supply.
W. Alston Dykes, Clerk of Supply.

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