CHAPTER lxviii.

An Act to confirm a Provisional Order of the Local Government Board relating to the Borough of Birmingham. A.D. 1881.

[27th June 1881.]

WHEREAS the Local Government Board have, as regards the borough of Birmingham, made the Provisional Order set forth in the schedule hereto, under the provisions of the Public Health Act, 1875: 38 & 39 Vict. c. 55.

And whereas it is requisite that the said Order should be confirmed by Parliament:

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

1. The Order as set out in the schedule hereto shall be and the same is hereby confirmed, and all the provisions thereof shall, from and after the passing of this Act, have full validity and force. The Order in schedule confirmed.

2. This Act may be cited as the Local Government Board's Provisional Order Confirmation (Birmingham) Act, 1881. Short title.

SCHEDULE.

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BOROUGH OF BIRMINGHAM.

Provisional Order for altering and amending a Confirming Act.

To the Mayor, Aldermen, and Burgesses of the Borough of Birmingham, in the County of Warwick;—

And to all others whom it may concern.

WHEREAS by a Provisional Order of the Local Government Board dated the Twentieth day of May, one thousand eight hundred and eighty, and duly confirmed by the Local Government Board's Provisional Orders Confirmation (Bethesda, &c.) Act, 1880, (which Order and Act are herein-after respectively referred to as "the Provisional Order," and "the Confirming Act,") the Mayor, Aldermen, and Burgesses, of the Borough of Birmingham (herein-after referred to as "the Corporation,") are authorised to issue certain stock, to be called "the Birmingham Corporation Stock" (herein-after referred to as "the stock");

And whereas by sub-division (2) of Art. II. of the Provisional Order it is provided that the stock shall be a charge upon the fund, rates, and undertakings therein mentioned, and the revenues of all landed and other property vested in or belonging to the Corporation, and any other revenue, which may be acquired by the Corporation, or upon such of the above securities as may be declared by the Corporation prior to the creation of the stock;

And whereas by sub-divisions (12) to (34) both inclusive, of Article II. of the Provisional Order, and by the Second and Third Schedules to that Order, provision is made with respect to the transfer of the stock, the keeping by the Corporation of a register of the stock, and the transfers thereof, the delivery by the Corporation of certificates and coupons to the holders of the stock, and the charging of fees for such certificates;

And whereas by sub-division (35) of Art. II. of the Provisional Order it is provided that no notice of any trust expressed, implied, or constructive, shall be received by the Corporation or by any registrar or officer of the Corporation in respect of any of the stock whether issued to bearer or otherwise;

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And whereas by sub-division (39) of Art. II. of the Provisional Order it is provided that the expenses from time to time incurred by the Corporation in payment of compensation for stamp duty in respect of the stock, shall be deemed to be expenses incurred by the Corporation for the several purposes for which the stock, or as the case might be, the annuities, mortgages, or bonds converted into the stock, is or have been issued, and that such expenses may be charged as capital expenses;

And whereas by Art. VII. of the Provisional Order it is provided that subject to the provisions of that Order as to stock certificates to bearer and coupons, trustees, or other persons, for the time being, having power to invest any moneys in nominal debentures or nominal debenture stock issued under the Local Loans Act, 1875, shall have power to invest such moneys in stock issued under the Provisional Order; provided, that in cases where two or more persons are successively interested in the trust funds, no such investment shall be made at a price exceeding the redemption value of the stock;

And whereas the Corporation have issued stock to the amount of two million pounds under the powers in that behalf contained in the Provisional Order, and have entered into arrangements with the Governor and Company of the Bank of England (herein-after referred to as "the Bank,") with reference to the management of such stock, and the keeping of books wherein all transfers of such stock shall be entered;

And whereas by Section 297 of the Public Health Act, 1875, it is enacted that any Act confirming any Provisional Order made in pursuance of any of the Sanitary Acts or of the Public Health Act, 1875, may be repealed, altered, or amended by any Provisional Order made by the Local Government Board and confirmed by Parliament;

And whereas the Provisional Order is a Provisional Order, made in pursuance of the Public Health Act, 1875;

And whereas the Corporation have applied to the Local Government Board to partially repeal and amend the Confirming Act, so far as it relates to the Provisional Order;

And whereas the Local Government Board, upon receipt of the said application, directed Local Inquiry to be held on the subject, which Inquiry was held, after due public notice, and report has been made to them thereon:

Now therefore, We, the Local Government Board, in pursuance of the powers given to Us by the Statutes in that behalf, do hereby Order that, from and after the date of the Act of Parliament confirming this Order (herein-after referred to as "the commencement of this Order"), the Confirming Act, so far as it relates to the Provisional Order, shall be altered and amended in such a manner that the following provisions shall take effect; that is to say,—

Art. I. The Corporation may from time to time enter into such arrangements as they may think proper with the Bank for carrying into effect the provisions of the Provisional Order as hereby amended, with reference to the creation and transfer of the stock and the management thereof, and for the keeping of books wherein all transfers of the stock shall be entered and the proper remuneration of the Bank with reference thereto; and all arrangements

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made by the Corporation with the Bank before the commencement of this Order for the above purposes, or any of them, are hereby confirmed.

Art. II. Sub-divisions (12.) to (35.), both inclusive, of Art. II. of the Provisional Order, shall not apply to any of the stock, with respect to which any such arrangements as aforesaid shall at any time have been made, so long as such arrangements shall remain in force; and in lieu thereof, so long as such arrangements shall remain in force, the following provisions shall have effect with respect to such stock; viz.:

(1.) The stock shall not be liable to foreign attachment by the custom of London, or otherwise.

(2.) Books (herein-after referred to as "the transfer books") shall be kept at the Bank wherein all transfers of the stock shall be entered. Every such entry shall be conceived in proper words for the purpose of transfer, and shall be signed by the person making the transfer, or, if he is absent, by his attorney thereunto lawfully authorised by writing under his hand and seal, attested by two or more credible witnesses. The person to whom a transfer is so made may, if he think fit, underwrite his acceptance thereof.

(3.) The person becoming entitled to any of the stock or dividend thereon in consequence of the death, bankruptcy, or marriage of the holder of such stock, or of any devolution in law from such holder or otherwise than by transfer of the stock, shall produce such evidence of his title as may be reasonably required by the Bank; and the person so becoming entitled to any of the stock may transfer such stock to another person without being registered himself.

(4.) The executors or administrators of a deceased holder of any of the stock shall alone be recognised by the Bank as having any title to such stock or any dividend thereon. The Bank shall not be required to allow any executors or administrators to transfer any of the stock until the probate of the will of, or the letters of administration to, the deceased has or have been left with the Bank for registration, and may require all the executors who have proved the will to join in the transfer.

(5.) Except as herein-before provided or as otherwise provided by Act of Parliament, no other mode of transferring the stock shall be good in law.

(6.) The transfer books kept under the provisions of this Order shall be primâ facie evidence of all matters therein entered under the provisions of this Order, and of the title of persons entered therein as owners of any of the stock who are mentioned therein as such owners; and the provisions of the Bankers Books Evidence Act, 1879, shall apply to the transfer books and to all other books, accounts, and documents kept by the Bank under the provisions of this Order.

(7.) The Bank may from time to time close the transfer books on any day in the month next preceding that in which the dividends on the stock are payable, and keep the said books closed for such period as they may think proper, but so that the said books be not at any time so closed for more

than fifteen days; and the Bank shall on each occasion of closing the said books give notice of the day upon which and the period during which the said books will be and remain closed by advertisement in one daily morning newspaper circulating generally in the city of London, published at least seven days previously to the day upon which the said books are to be closed, and the persons who on the day of such closing are inscribed in the said books as holders of the stock shall as between them and their transferees of the stock be entitled to the dividend thereon becoming payable next after that day.

(8.) The Bank shall not be required to allow any executors or administrators to receive any dividend on the stock held by their testator or intestate until the probate of the will, or the letters of administration, has or have been left with the Bank for registration.

(9.) The Bank before allowing the transfer of or the receipt of any dividend on any stock may, if the circumstances of the case appear to them to make it expedient, require evidence of the title of any person claiming a right to transfer the stock or to receive the dividend. That evidence shall be the declaration of competent persons under the Statutory Declarations Act, 1835, or of such other nature as the Bank may require.

(10.) Where any of the stock is standing in the name of an infant or person of unsound mind jointly with any person not under legal disability, a letter of attorney for the receipt of the dividends on the stock shall be sufficient authority in that behalf, if given under the hand and seal of the person not under disability, attested by two or more credible witnesses. The Bank before acting on the letter of attorney may require proof to their satisfaction of the alleged infancy or unsoundness of mind by the declaration of competent persons under the Statutory Declarations Act, 1835, or in such other manner as the Bank may require.

(11.) The Bank may from time to time, with the sanction of the Corporation, make arrangements for payment of dividends on the stock by sending warrants through the post. Every warrant so sent by post shall be deemed a cheque within the meaning assigned to the same term in the Crossed Cheques Act, 1876.

(12.) Where a holder of any of the stock desires to have his dividend warrants sent to him by post, he shall make a request for that purpose to the Bank in writing, signed by him in a form approved by the Bank and the Corporation, and shall give to the Bank an address in the United Kingdom, or in the Channel Islands, or the Isle of Man, to which the letters containing the warrants are from time to time to be sent. The posting by the Bank of a letter containing a dividend warrant addressed to a holder of any of the stock at his request under this Order at the address given by him to the Bank shall, as respects the liability of the Bank, be equivalent to the delivery of the warrant to the said holder of the stock himself.

(13.) The Bank may, if they think fit, on demand issue to the holder of any of the stock a stock receipt specifying the name and address of such holder and the amount of stock to which he is entitled, and such stock receipt shall

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be primâ facie evidence of the title of the holder at the date of the stock receipt to the amount of stock stated therein, but the want of such stock receipt shall not prevent the owner of any of the stock from transferring the same.

(14.) If any such stock receipt be worn out or damaged, then the same may upon the production thereof be cancelled and another similar stock receipt may be given to the holder of the stock therein specified, or if such stock receipt be lost or destroyed, then, upon proof thereof to the satisfaction of the Bank, a similar stock receipt may be given to the holder of the stock specified in the stock receipt so lost or destroyed, and in either case a due entry of the substituted stock receipt shall be made in the transfer books.

(15.) Subject to the provisions of this order with respect to trustees, and to the conditions herein-after mentioned, every person inscribed in the transfer books as entitled to any stock may obtain from the Bank a certificate or certificates of title to his stock or to part thereof, transferable by delivery and with coupons annexed entitling the bearer of the coupons to the dividends payable in respect of that stock or part of stock (which certificate is herein-after referred to as a "stock certificate to bearer").

(16.) A trustee shall not apply for or hold a stock certificate to bearer or coupon unless he is authorised so to do by the terms of his trust, and any contravention of this provision by a trustee shall be deemed to be a breach of trust; but this provision shall not impose on the Bank any obligation to inquire whether a person applying for or holding a stock certificate to bearer or coupon is or is not a trustee, or subject them to any liability in the event of their granting a stock certificate to bearer or coupon to a trustee, or dealing with a trustee as the holder of a stock certificate to bearer or coupon, or invalidate any stock certificate to bearer or coupon if granted.

(17.) No stock certificate to bearer shall be granted in respect of any sum of stock not being fifty pounds, one hundred pounds, two hundred pounds, five hundred pounds, or one thousand pounds:

(*a.*) The coupons annexed to a stock certificate to bearer shall comprise the dividends to be payable in respect of the stock described in such stock certificate during a limited period; at the expiration of such period fresh coupons shall be issued by the Bank for a further limited period, and so for successive periods during the continuance in force of such stock certificate, but the Bank may, if they think fit, in lieu of issuing fresh coupons in respect of a stock certificate to bearer give in exchange a fresh stock certificate to bearer with coupons annexed;

(*b.*) Coupons shall be payable on presentation at the chief establishment of the Bank at the expiration of three clear days from the day of presentation, and at any branch establishment of the Bank situate more than ten miles from the chief establishment at the expiration of five clear days from the day of presentation;

(*c.*) The payment to the bearer of any coupon of the amount expressed therein shall be a full discharge to the Bank and the Corporation from all liability in respect of that coupon and the dividend represented thereby:

(*d.*) If any stock certificate to bearer or coupon issued under this Order is lost or destroyed, the Bank may grant a new stock certificate to bearer or coupon on receiving indemnity to their satisfaction:

(*e.*) A stock certificate to bearer shall entitle the bearer to the stock therein described, and shall be transferable by delivery:

(*f.*) When any stock certificate to bearer is outstanding, the stock represented thereby shall cease to be transferable in the transfer books:

(*g.*) The bearer of a stock certificate to bearer may, on delivery of such certificate and of all unpaid coupons belonging thereto to the Bank, and on compliance with any regulations made under this Order, require to be entered in the transfer books as a holder of the stock described in such stock certificate, and thereupon that stock shall be re-entered in the name and with the address required by the bearer of such stock certificate, and become transferable in the transfer books, and the dividends thereon shall thenceforth be payable as if no stock certificate to bearer had been issued in respect of that stock:

Save in so far as relates to the mode of transfer and to the payment of dividends thereon, any of the stock described in a stock certificate to bearer issued under this Order shall be a charge on the same securities, and be subject to the same provisions as to redemption, and (save in so far as such stock certificate to bearer is a negotiable security) shall be subject to the same incidents in all respects as if it had continued registered in the transfer books as stock transferable therein.

(18.) There shall be charged with respect to the several proceedings in relation to stock receipts and stock certificates to bearer the fees specified in the Schedule to this Order annexed, or such less fees as may be determined by the Corporation: Provided that where the Bank, in lieu of issuing fresh coupons in respect of a stock certificate to bearer, give in exchange a fresh stock certificate to bearer with coupons annexed, no fee shall be charged in respect of such fresh stock certificate. All fees payable in pursuance of this Order shall be payable to the Bank, and shall be carried by the Bank to the account of the Corporation.

(19.) The Bank, with the sanction of the Corporation, may from time to time issue any forms that may be required for carrying into effect the provisions of this Order, and may also from time to time make any regulations that are not inconsistent with this Order relative to the following things, and when made may alter, vary, or repeal any such regulations, and make other regulations instead thereof or in addition thereto, and any such regulations for the time being in force shall be duly observed; viz.:

(*a.*) The periods for which coupons are to be given:

(*b.*) The mode in which the Bank is to act in issuing stock certificates to bearer, or entering in the transfer books the bearers of stock certificates to bearer or their nominees:

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(c.) The mode of proving the title of or identifying any person applying for a stock receipt or stock certificate to bearer:

(d.) With respect to anything necessary for carrying into effect the provisions of this Order which relate to or affect the Bank.

(20.) No notice of any Trust in respect of any of the stock, or of any stock receipt, or of any stock certificate to bearer, or of any coupon shall be entered in the transfer books or be receivable by the Bank or the Corporation, nor shall the Bank or the Corporation be in any way affected by notice of any such trust.

Art. III. In addition to the expenses mentioned in sub-division (39) of Art. II. of the Provisional Order, any expenses already or hereafter incurred by the Corporation in respect of the stock other than expenses incurred in connexion with bookkeeping and the management of the stock shall be deemed to have been and to be expenses incurred by the Corporation for the several purposes for which the stock, or as the case may be, the annuities, mortgages, or bonds converted into stock is or have been issued, and such expenses may be charged as capital expenses.

Art. IV. For the purposes of the Act of Parliament passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty Queen Victoria (chapter 98), intituled "An Act to consolidate and amend the statute "law of England and Ireland relating to indictable offences by forgery," all the stock shall be deemed to be capital stock of a body corporate within the meaning of that Act; and for the purposes of the Forgery Act, 1870, the terms "stock certificate" and "coupon" in the last-mentioned Act shall be deemed to include a stock receipt and a stock certificate to bearer, and a coupon under this Order.

Art. V. Nothing in this Order shall take away, abridge, or prejudicially affect any of the rights, remedies, or priorities of the holders of annuities, or mortgages, or bonds of the Corporation mentioned in sub-division (9) of Art. II. of the Provisional Order, all which rights, remedies, and priorities as they exist at the commencement of this Order are hereby preserved; nor shall anything in this Order relieve the Corporation from any restriction to which the Corporation is at the commencement of this Order subject under the same sub-division or otherwise in relation to any of those annuities.

Art. VI. The Provisional Order and this Order, may be respectively cited as the Birmingham Corporation Stock Order, 1880, and the Birmingham Corporation Stock Order, 1881, and may be cited together as the Birmingham Corporation Stock Orders, 1880 and 1881.

The SCHEDULE above referred to.

Fees chargeable under the above Order.

On the issue of a stock receipt or of a substituted stock receipt in lieu of a stock receipt worn out, damaged, lost, or destroyed, a fee not exceeding two shillings and sixpence.

On the issue of a stock certificate to bearer or of a new stock certificate to bearer in lieu of a stock certificate to bearer lost or destroyed, a fee not exceeding five shillings on every hundred pounds of stock included in the stock certificate to bearer, and a proportional sum for any less sum.

If the applicant is the registered holder of an amount of the stock divisible into several sums of fifty pounds or multiples of fifty pounds, he may, subject to the provisions of this Order as to the sums for which stock certificates to bearer may be granted, require such sums of fifty pounds or such multiples of fifty pounds to be distributed amongst different stock certificates to bearer as he thinks fit, subject to this proviso, that if the number of certificates required by him exceed the proportion of five to a thousand pounds, he shall, in respect of each certificate constituting that excess, pay a sum of sixpence in addition to the per-centage fee.

On the entry in the transfer books of the stock included in a stock certificate to bearer there shall be charged a fee not exceeding five shillings.

Given under the Seal of Office of the Local Government Board, this Twenty-ninth day of April, in the year One thousand eight hundred and eighty-one.

J. G. Dodson, President.
(L.S.) John Lambert, Secretary.

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