CHAP. 59.

An Act to amend "The Public Libraries (Scotland) Act, 1867," and to give additional facilities to the Local Authorities entrusted with carrying the same into execution. A.D. 1871.

[31st July 1871.]

WHEREAS it is expedient to amend "The Public Libraries Act (Scotland), 1867," and to give additional facilities and powers to the local authorities entrusted with the control, management, and regulation of libraries, museums, and art galleries established under the powers and provisions of said Act, in order to render such libraries, museums, and art galleries of greater utility: 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:

Sections 7 & 8 of 30 & 31 Vict. c. 37. repealed.

1. Sections seven and eight of the said "Public Libraries Act (Scotland), 1867," are hereby repealed.

Parts of 10 & 11 Vict. c. 16. incorporated.

2. The "Commissioners Clauses Act, 1847," with respect to the following matters, that is to say, with respect to the liabilities of the Commissioners, and to legal proceedings by or against the Commissioners, and with respect to mortgages to be executed by the Commissioners, excepting sections eighty-four, eighty-six, and eighty-seven, shall, except where expressly varied by this Act, be incorporated with this Act.

Interpretation of terms.

3. The several words and expressions to which by the "Commissioners Clauses Act, 1847," partially incorporated with this Act, meanings are assigned, shall in this Act have the same respective meaning, unless there be something in the subject or context repugnant to such construction; provided always, that in the last recited Act the expression "the special Act" shall mean the first-recited Act and this Act, and the expression the Commissioners

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shall mean and include the magistrates and council in the case of a burgh, and the board in the case of a parish or district, and the committee appointed in terms of the first-recited Act, in the discharge of their respective duties under the said first-recited Act and this Act. Section three of the Public Libraries Act (Scotland), 1867, shall be read as if the words "provost, or in his absence the senior magistrate for the time being" were inserted instead of "chief or senior magistrate."

Powers of borrowing limited.

4. The magistrates and council or the board, as the case may be, may, from time to time, borrow at interest on mortgage or bond, on the security of the rates to be levied in pursuance of the first-recited Act and this Act for the purposes thereof, a sum or sums of money not exceeding the capital sum represented by one fourth part of the library rate of one penny per pound authorised by the first-recited Act capitalized at the rate of twenty years purchase of such sum.

Sinking fund.

5. The magistrates and council or the board, as the case may be, are hereby required to set apart annually, as a sinking fund for the extinction of capital sums borrowed under the authority of this Act and the said first-recited Act, a sum equal to at least one fiftieth part of the money so borrowed, and such sinking fund shall be from time to time applied for the redemption of mortgages created under the authority of this Act, and to no other purpose whatever, and shall be lodged in any of the banks in Scotland incorporated by Act of Parliament or Royal Charter, or invested in government securities, or lent out at interest in the name and at the discretion of the magistrates and council or the board, as the case may be, until the same be applied for the purposes before specified.

Estimates to be made up.

6. The committee shall, in the month of April in every year, make up, or cause to be made up, an estimate of the sums required in order to defray the interest of any money borrowed, the payment of the sinking fund, and the expense of maintaining and managing all libraries, art galleries, or museums under their control, for the year after Whitsunday then next to come, and for the purpose of purchasing the articles or things authorised to be purchased by the first-recited Act, for such libraries, art galleries, or museums, and shall report the same to the magistrates and council in the case of a burgh, or to the board in the case of a parish, for their consideration and approval.

Annual expenditure to be raised

7. The magistrates and council or board, as the case may be, are hereby empowered and required to levy and assess for the pur-

poses of the first-recited Act and this Act, a rate not exceeding the sum of one penny in the pound of the yearly rental of such burgh or district, to cover the sum necessary for the purpose of defraying the interest of any money borrowed, and the payment of the sinking fund, together with such sum or sums as they shall fix as the proper and necessary expenses of maintaining and managing all such libraries, art galleries, or museums; and the magistrates and council or board, as the case may be, are also hereby empowered to levy and assess such sum as may be necessary for the purchase of the articles or things authorised to be purchased by the first-recited Act for such libraries, art galleries, or museums; provided always, that the rates so to be levied and assessed shall not exceed the rate authorised by the first-recited Act.

by assessment not exceeding one penny per pound.

8. The magistrates and council in the case of a burgh, and the board in the case of a district, shall cause the accounts of their receipts, payments, and liabilities with reference to the execution of the first-recited Act and this Act to be annually audited by one or more competent auditors not being members of the committee, and which yearly accounts, as soon as the same shall have been audited, shall be signed by two of the magistrates and council or two members of the board, as the case may be, and shall be printed, and be inserted in one or more newspapers published or circulated in the burgh or district.

Accounts to be audited and published annually.

9. It shall be lawful for the committee, subject to the approval of the magistrates and council or board, as the case may be, to make byelaws for regulating all or any matters and things whatsoever connected with the control, management, protection, and use of any property, articles, or things vested in them or under their control, for the purposes of the first-recited Act or this Act, and to impose such penalties for breaches of such byelaws, not exceeding five pounds for each offence, as may be considered expedient; and from time to time, as they shall think fit, to repeal, alter, vary, or re-enact any such byelaws; provided always, that such byelaws shall not be repugnant to the law of Scotland, and before being acted on shall be signed by a quorum of the committee, and approved of by the magistrates and council or the board; and approved of and confirmed by the sheriff, and inserted weekly, for at least two weeks, in a newspaper published or circulated in the district; and all byelaws so made, signed, approved of, confirmed, and published shall be observed by and binding on all parties concerned therein; provided also, that such byelaws shall be so framed as to allow the

Power to make byelaws.

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judge before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such judge shall think fit: Provided always, that nothing herein contained shall preclude the magistrates and town council or board, as the case may be, from recovering the value of articles or things damaged, or the amount of the damage sustained, against all parties liable for the same.

Penalties and forfeitures to be recovered by action.

10. All penalties and forfeitures exigible under this Act, and the Acts incorporated wholly or partially herewith, or under any byelaw made in pursuance thereof, may be recovered by an ordinary small debt action in the name of the clerk to the committee for the time being, before either the sheriff or justices of the district, and the same shall be payable to the committee, and shall, when recovered, be applied by them for the purposes of this Act, and in any prosecution under this Act an excerpt from the books of the library committee, certified by the librarian or other proper officer, shall be held equivalent to the books of the library committee, and all entries in the books of the library committee bearing that any book or books mentioned or referred to therein has or have been borrowed by the person complained against, shall be taken and received as evidence of the fact, and the onus probandi shall be thrown on the party complained against, and, if decree passes against said party, he shall be found liable in costs.

Actions to be brought in the name of the clerk of the committee.

11. All actions at the instance of the committee shall be brought in name of the clerk of committee, and in all actions against the committee it shall be sufficient to call the clerk to the committee for the time being as defender, and service on him shall be sufficient service, and all actions brought by or against the clerk to the committee in his official character shall be continued by or against his successors in office without any action of transference.

Mode of supplying vacancies in the committee in case of resignation, death, or disability.

12. In the event of any vacancy occurring in the committee during their term of office by the resignation of any member of committee, the magistrates and council or board, as the case may be, may, at a meeting thereafter, elect a member of committee in place of the member so resigning, provided always that such member so resigning shall give at least fourteen days previous notice of his intention so to resign to the clerk, and in the event of any vacancy occurring in the committee during their term of office by the disability or death of any member of committee, the committee shall intimate the same to the town clerk or clerk to the board, and the magistrate and council or the board, as the case

may be, may, at a meeting thereafter, elect a member of committee in room and place of the member of committee who may have become disqualified or died: Provided always, that no proceeding of the committee shall be invalidated or be illegal in consequence of there being any vacancy in the number of committee.

Power to lend out books.

13. It shall be lawful for the committee, and they are hereby authorised and empowered, to lend out for the purpose of being read by the inhabitants of the district or burgh for which they are constituted the books in the library, or which may be purchased for the library, or such of them as they may consider proper.

Power to make and issue catalogues.

14. The committee may compile and print catalogues of all articles and things in the libraries, art galleries, or museums under their charge, and reports of their proceedings, and sell the same, the proceeds to be applied for the purposes of this Act.

Power to issue books to certain institutions.

15. The committee may lend books for the use of the inmates of industrial schools, training ships, reformatories, barracks, and other similar institutions established for or in the district for which the library may be constituted.

Short title.

16. This Act may be cited as "The Public Libraries Act (Scotland, 1867,) Amendment Act, 1871."

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