

**CHAPTER v.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Banff Town Hall. A.D. 1924.

[18th December 1924.]

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict.
c. 47.

Be it therefore enacted by the King'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 Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirma-
tion of
Order in
schedule.

2. This Act may be cited as the Banff Town Hall Order Confirmation Act 1924. Short title.

A.D. 1924.

SCHEDULE.

BANFF TOWN HALL.

Provisional Order to authorise the transfer to and vesting in the Town Council of the Royal Burgh of Banff of certain property of the benefit or benevolent society of the Saint Andrew's Lodge of Freemasons Number 52 Banff to make provision with reference to the dissolution of the Society and the disposition of its property and for other purposes.

WHEREAS the Lodge of Freemasons now known as the Saint Andrew's Lodge of Freemasons Number 52 Banff (hereinafter referred to as "the Lodge") was founded in the year 1736 :

And whereas by a charter granted by the Grand Lodge of Free and Accepted Masons for the Kingdom of Scotland to the Lodge on the twenty-fourth day of April one thousand seven hundred and forty-nine the erection and constitution of the Lodge was ratified approved and confirmed and the Lodge was thereby erected constituted and appointed a true and regular lodge of free and accepted masons :

And whereas the members of the Lodge were divided into two classes namely participating members and honorary members the participating members alone being interested in the funds of the Lodge and alone eligible for office in the Lodge the honorary members being specially excluded from participation or interest in the said funds and from holding an office in the Lodge but entitled to all the benefits of masonry :

And whereas differences having arisen between the honorary members and the participating members of the Lodge on the question of right of office therein the said Grand Lodge on the assumption that the participating members as such were a benefit or benevolent society separate and distinct from the Masonic Lodge directed that the funds of the two bodies should be

separated and kept separate so as to permit of the property and funds belonging to the participating members being administered and managed by them or for their behoof and that the property and funds which might thereafter by the said separation or otherwise belong to the Lodge as such should be administered by the office-bearers of the Lodge :

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And whereas a motion was tabled at the annual meeting of the Lodge on the thirtieth day of November one thousand eight hundred and ninety-three in the following terms :—

“ That the rules be amended in the way and manner provided in the constitution to permit of honorary members being office-bearers with safeguards for the interests of the participating members and annuitants in the present property and funds by separation of these and the management thereof from the masonic department or otherwise ” :

And whereas the said motion was considered at four meetings subsequent to the thirtieth day of November one thousand eight hundred and ninety-three and was again considered and disposed of at the annual meeting of the Lodge held on the thirtieth day of November one thousand eight hundred and ninety-four was adopted passed and accepted at all the said meetings and was passed accordingly :

And whereas on the thirtieth day of November one thousand eight hundred and ninety-four the property belonging to the participating members in trust for themselves decayed or superannuated participating members and the widows of previous participating members whom failing their orphan children consisted of—

(First) The tenement or piece of ground in the royal burgh of Banff marked number seven on the proprietors' plan of certain new streets in the said burgh being the subjects contained in the Instrument of Sasine in favour of William Barclay and James Mackay as trustees therein mentioned recorded in the particular Register of Sasines Reversions &c. kept for the burgh of Banff the eleventh of November one thousand eight hundred and fifty-two less the portion thereof disposed to William Robert Gordon ;

A.D. 1924.

(Second) The whole grates gasaliers gas and water fittings shop hall and other furnishings and generally the whole moveable property therein;

(Third) The subjects and rights contained in and conveyed by the disposition and bond of servitude of light by George Steele baker in Banff in favour of George Cumming and Robert Morrison as trustees therein mentioned dated the fifth and recorded in the said Register the sixth both days of January one thousand eight hundred and eighty-seven; and

(Fourth) The sum of one hundred and eighty-five pounds:

And whereas at a meeting of the Lodge held at Banff on the said thirtieth day of November one thousand eight hundred and ninety-four it was resolved and declared that the said subjects first second third and fourth hereinbefore described were and should be the property of the participating members for the benevolent purposes of the said constitution as distinguished from the masonic purposes thereof and that the said participating members should constitute a benefit or benevolent society separate and distinct from the Lodge as such for the benevolent purposes of the said constitution and the master and treasurer of the Lodge were thereby authorised and empowered to assign convey dispoise and make over to and in favour of certain trustees named by the participating members acting as a benevolent society in trust for the purposes thereof and to their successors in office to be appointed under rules adopted at the said meeting the said whole property hereinbefore described for the exclusive use of the said benefit or benevolent society and that the said separation being thus provided for and completed the Lodge as distinguished from the said benefit society might appoint office-bearers from their number whether answering to the then description of participating or honorary members or otherwise and should and might conduct the affairs of the Lodge in conformity with byelaws to be approved of by Grand Lodge but excluding always therefrom the said property to be conveyed to the participating members and that the said benefit or benevolent society and the Lodge should exist the one without prejudice of the other the participating members to continue full members of the

masonic branch of Lodge Number 52 and interested in the funds thereby provided for the same as fully as if the separation had not taken place : A.D. 1924.

And whereas in order to provide for the working of the said benefit or benevolent society the rules hereinbefore referred to were adopted at the said meeting :

And whereas the said rules provide (inter alia) that the Society should be called the Benefit or Benevolent Society of the Saint Andrew's Lodge of Freemasons Number 52 Banff (hereinafter referred to as "the Society") and that the purposes of the Society should be the following to which and the necessary expense of management the whole funds should be exclusively applied (First) For affording an allowance to members during sickness infirmity and old age or on superannuation (Second) For affording an annuity to the widows of members during widowhood and failing widows the orphan children of members while under fourteen years of age :

And whereas by the said rules it was (inter alia) provided that the funds of the Society were designed for meeting the claims of superannuated members to aid and assist such members as by age sickness infirmity or unforeseen accident may be rendered incapable of earning their livelihood and for the benefit of the widows of members in widowhood failing them the orphan children who are deprived of both parents while under fourteen years of age at such rates as the state of the funds and circumstances of the Society generally may in the opinion of the annual meeting as declared by a majority of votes permit or warrant and that all the property and effects of the Society were and should be vested in the chairman and treasurer for the time being as trustees :

And whereas by Article XII. of the said rules it was further provided that the income of the Society arising from rents interest of money quarter pence and fines should be ascertained annually from which should be deducted repairs of properties feu-duty public burdens interest on borrowed money (if any) and incidental expenses the balance being the free income should be paid into the funds of the Society and such sum thereof as should be required for the purpose of the said Article XII. should be paid in name of sick allowances and annuities :

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And whereas by Article XIV. of the said rules it was also provided that the Society might at any time be dissolved by the consent of five-sixths in value of the members testified by their signature to some instrument of dissolution and also by the written consent of every person for the time being receiving or entitled to receive relief annuity or other benefit from the funds of the Society unless the claim of such person be first duly satisfied or adequate provision made for satisfying such claim the value of members to be ascertained by giving one vote to every member and an additional vote for every five years that he has been a member but to no one member more than five votes in the whole :

And whereas by a disposition dated thirtieth November and recorded in the said particular Register of Sasines Reversions &c. kept for the burgh of Banff first December both in the year one thousand eight hundred and ninety-four Henry Munro the master and Robert Morrison the treasurer of the Lodge and as such trustees for behoof of the Lodge and heritably vested in trust in the subjects thereafter mentioned disposed assigned conveyed and made over to and in favour of James Smith the chairman and Peter Lyon the treasurer of the Society and to their successors in office to be appointed in terms of the rules of thirtieth November one thousand eight hundred and ninety-four or in any future alterations thereof to be made in conformity with law and to their assignees heritably and irredeemably the said subjects including the subjects described in the schedule to this Order with entry thereto at the said thirtieth November one thousand eight hundred and ninety-four :

And whereas the number of members of the Society on the said thirtieth day of November one thousand eight hundred and ninety-four was fourteen and there were also on that date fourteen annuitants only of the Society :

And whereas on the fourth day of March one thousand nine hundred and four the members of the Society were only six in number and there were eight annuitants only of the Society :

And whereas at a meeting of the members of the Society held on the said fourth day of March one thousand nine hundred and four with a view to proceedings being

adopted for effecting the early dissolution of the Society a resolution was passed unanimously providing (inter alia) for determining the interest of each member on superannuation and of each member's widow whether superannuation should have occurred or not and of each widow then on the annuitants' list and for offering to the Town Council of Banff the Lodge and other buildings belonging to the Society with the additional ground unbuilt upon fronting Seafield Street being the subjects described in the schedule to this Order subject to all the burdens conditions obligations restrictions and others contained in the title deeds thereof all as set forth in the said resolution :

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And whereas the proposals set forth in the said resolution were not carried out and the said resolution has never been carried into effect :

And whereas no masonic member has since the thirtieth day of November one thousand nine hundred and three joined the Society :

And whereas the said Peter Lyon is now the sole trustee and also the sole surviving member of the Society and there are including the said Peter Lyon five persons and no more who are entitled to receive relief annuity or other benefit from the funds of the Society :

And whereas the said Peter Lyon is desirous with a view to the dissolution of the Society of transferring to the provost magistrates and councillors of the royal burgh of Banff (hereinafter referred to as "the Town Council") the property now vested in him as such trustee other than jewels emblems and other strictly masonic moveable property on the terms and subject to the conditions hereinafter contained including (inter alia) the acceptance by the Town Council of the liability to satisfy the claims of every person entitled to receive relief annuity or other benefit from the funds of the Society :

And whereas the subjects hereinbefore referred to and described in the schedule to this Order include a hall and offices which hall is and has long been the only public hall in the burgh available for public meetings and entertainments and similar purposes and it would be expedient and in the public interest that the said hall and the other property vested in the said trustee (except

A.D. 1924. — as aforesaid) should be vested in the Town Council for the benefit of the inhabitants of the burgh and that the said hall and offices should be utilised as a town hall :

And whereas the amount paid to each of the persons entitled to receive relief annuity or other benefit from the funds of the Society has during the last five years been the sum of five pounds per annum :

And whereas the Town Council are willing to accept the said property on the terms and subject to the conditions hereinafter contained and in accordance with the said Article XIV. of the said rules to undertake the liability to satisfy the claims of the persons receiving or entitled to receive relief annuity or other benefit as aforesaid :

And whereas no provision is contained in the rules of the Society with reference to the disposition of the property of the Society in the event of its dissolution :

And whereas it is expedient that provision should be made as hereinafter contained with reference to the disposition of the property of the Society and for the dissolution of the Society :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows :—

Short title
and com-
mencement
of Order.

1.—(1) This Order may be cited as the Banff Town Hall Order 1924.

(2) This Order shall commence and have effect on and from the date of the passing of the Act confirming the same which date is in this Order referred to as “the commencement of this Order.”

Interpreta-
tion.

2. In this Order unless the context otherwise requires the following expressions respectively have the following meanings (that is to say):—

“The burgh” means the royal burgh of Banff;

“The Town Council” means the provost magistrates and councillors of the burgh;

“The Lodge” means the Saint Andrew’s Lodge of Freemasons Number 52 Banff; A.D. 1924.

“The Society” means the benefit or benevolent society of the Lodge;

“The trustee” means Peter Lyon the sole surviving member and trustee of the Society or his successor in office as such trustee.

3.—(1) Subject to the provisions of this Order the trustee may and shall within six months from the commencement of this Order transfer assign convey and make over to the Town Council the subjects described in the schedule to this Order together with the buildings thereon and also all fixed and moveable chattels pictures and other effects all as vested in or in the possession of the trustee for or on behalf of the Society (other than jewels emblems and other masonic moveable property to be handed over to the Lodge in accordance with the section of this Order of which the marginal note is “Masonic jewels &c. to be transferred to the Lodge”) and the trustee shall execute and deliver to and in favour of the Town Council all such dispositions assignments or other conveyances of the same as may be necessary in that behalf and shall be bound at the request of the Town Council to execute and do and concur in executing and doing all deeds and acts for making up and completing a title or titles in name of the Town Council to the said property and on completion of such title or titles the said property shall become and shall thenceforth be transferred to and vested in the Town Council subject to the provisions of this Order and thenceforth the Town Council in their own name shall subject as aforesaid have and hold the said property (which transfer and vesting is in this Order referred to as “the transfer”).

Transfer to
Town
Council of
certain pro-
perty of the
Society.

(2) If any difference shall arise between the trustee and the Town Council with respect to the form provisions or sufficiency of any of the documents to be executed or the deeds or acts to be executed or done by the trustee in accordance with this section such difference shall on the application of either the trustee or the Town Council be determined by arbitration as hereinafter provided.

(3) All costs charges and expenses incurred in preparing and executing any deeds dispositions assignments

A.D. 1924. — or other conveyances for the purposes of giving effect to this section shall be paid by the Town Council.

Town Council to be liable for payments to annuitants.

4. The Town Council shall as from the transfer pay to each and every person receiving or entitled to receive at the commencement of this Order relief annuity or other benefit from the funds of the Society and who shall survive the transfer the sum of five pounds per annum the payment of which sum per annum shall be a full satisfaction and discharge of every claim by or on behalf of each such person against the Society or the property of the Society transferred to and vested in the Town Council.

Masonic jewels &c. to be transferred to the Lodge.

5. The trustee shall on or before the transfer hand over to the Lodge all jewels emblems and other masonic moveable property in his possession as such trustee (with the exception of any portrait or portraits) and an inventory thereof signed by the master of the Lodge shall be a full and sufficient discharge to the trustee in respect thereof.

Dissolution of Society.

6. On the transfer the Society shall be and the same is hereby dissolved and shall be deemed to have been dissolved in accordance with the rules of the Society.

Discharge to trustee.

7. On and after the transfer this Order shall operate as a full and complete discharge and exoneration to the trustee of his whole actings and intromissions in connection with the property of the Society transferred in accordance with the provisions of this Order and shall free and relieve him of all liability past present or future with regard thereto.

Utilisation of buildings &c. for purposes of town hall.

8. The Town Council shall subject to the provisions of this Order hold and maintain the hall and offices and the other buildings which are included in the subjects described in the schedule to this Order together with the chattels and effects transferred to them in pursuance of this Order as and for the purposes of a town hall and for the use and behoof of the inhabitants of the burgh and the Town Council shall have and may exercise all the powers in that behalf contained in the Burgh Police (Scotland) Acts 1892 to 1911 and any Act amending the same for and with respect to the maintenance and repair of the said hall offices and buildings and any extensions or alterations thereof and for the making of byelaws rules

and regulations for regulating the use of the said hall offices and buildings and fixing the charges to be made by the Town Council in respect of the use of the same or of any portions thereof to the same effect as if the said hall offices and buildings had been erected or acquired under the said Acts and for the purpose of enabling the Town Council to impose a general improvement rate to provide for the expense of administering the said hall offices and buildings and any other expenses payable by the Town Council under this Order the passing of the Act confirming this Order shall be deemed equivalent to a resolution to make provision for the general improvement of the burgh in terms of the said Acts.

A.D. 1924.

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9. The Town Council shall permit the Lodge to have the use of a suitable room or rooms within the buildings referred to in the next preceding section of this Order or any additions to such buildings so far as such rooms may be required for meetings necessary for the transaction of the business of the Lodge and shall also permit the Lodge to have the use of the said hall for the suitable celebration of Saint Andrew's day and shall not make any charge in respect of the use for the purposes aforesaid of any such room or rooms or of the said hall.

Use of
rooms and
hall by the
Lodge.

Any difference which may arise between the Town Council and the Lodge under this section shall on the application of either the Town Council or the Lodge be determined by arbitration as hereinafter provided.

10. The Town Council may subject to the consent of the Secretary for Scotland but not otherwise and in manner authorised by and subject to the provisions of the Burgh Police (Scotland) Acts 1892 to 1911 borrow from time to time on the security of the general improvement rate of the burgh such moneys as the Town Council may require for the following purposes (that is to say):—

Power to
Town
Council to
borrow.

(a) For payment of the costs charges and expenses referred to in the section of this Order of which the marginal note is "Costs of Order" the sum requisite for that purpose;

(b) For payment of the costs charges and expenses incurred by the Town Council in carrying into effect the section of this Order of which the marginal note is "Transfer to Town Council of

A.D. 1924.
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certain property of the Society," such amount as shall be requisite for the purpose;

- (c) For payment of any costs incurred by the Town Council in altering or extending the hall offices or buildings referred to in the section of this Order of which the marginal note is "Utilisation of buildings &c. for purposes of town hall" such sum or sums as may be necessary:

Any moneys borrowed under this section shall notwithstanding anything in the Burgh Police (Scotland) Acts 1892 to 1911 contained be repaid by the Town Council within such period and by such method as the Secretary for Scotland may prescribe and the Secretary for Scotland shall have and may exercise in relation to such consent as aforesaid all the powers of section 93 of the Local Government (Scotland) Act 1889 Provided that any moneys borrowed for the purposes mentioned in paragraphs (a) and (b) of this section shall be repaid within a period of five years after the commencement of this Order.

Arbitration.

11. Any difference arising under the sections of this Order of which the marginal notes are "Transfer to Town Council of certain property of the Society" and "Use of rooms and hall by the Lodge" shall be referred to and determined by the sheriff of Aberdeen Kincardine and Banff as sole arbiter and his decision shall be final.

Costs of
Order.

12. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Town Council either out of the general improvement rate of the burgh or out of money borrowed for that purpose under the powers of this Order or partly out of the said rate and partly out of money so borrowed.

[15 GEO. 5.]

Banff Town Hall
Order Confirmation Act, 1924.

[Ch. v.]

The SCHEDULE referred to in the foregoing Order. A.D. 1924

(First) That area or piece of ground in the royal burgh of Banff bounded as follows videlicet on the north by the street called Seafield Street on the south partly by property belonging or reputed to belong to and occupied by William Williamson and partly by property belonging or reputed to belong to the trustees of the Church of Christ on the east by Castle Street and on the west by property belonging or reputed to belong to and occupied by James Legge together with the buildings erected on the said area of ground hereby described and (Second) the real burden and right of servitude of light constituted by and as specified and described in the disposition and bond of servitude of light granted by George Steele baker in Banff in favour of George Cumming collector of county rates Banff then master and Robert Morrison merchant there then treasurer of the Saint Andrew's Lodge of Freemasons in Banff as trustees for behoof of the said Lodge dated the fifth and recorded in the particular Register of Seisins Reversions &c. kept for the burgh of Banff the sixth both days of January one thousand eight hundred and eighty-seven.

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