



CHAP. clviii.

An Act to confirm a Provisional Order under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Broughty Ferry. [11th August 1869.] A.D. 1869.

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," (25 & 26 Victoria, c. 101), duly made a 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 until it has been confirmed by Parliament, and it is expedient that the said Order should be confirmed:

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:

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed, and shall, from and after the passing of this Act, be absolute, and be as binding and of the like force and effect as if the provisions of the same had been specially enacted in this Act.

Confirmation  
of Provi-  
sional Order.

[Ch. clviii.] *Broughty Ferry Provisional Order* [32 & 33 VICT.]  
*Confirmation.*

A.D. 1869.

SCHEDULE referred to in the foregoing Act.

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BROUGHTY FERRY.

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

(25 & 26 Victoria, chapter 101.)

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WHEREAS by "The General Police and Improvement (Scotland) Act, 1862," it is, inter alia, enacted, clause 79, that "whenever it appears desirable to  
" the magistrates and council or commissioners of police of any royal or parlia-  
" mentary 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 in 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 manage-  
" ment 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 authorized 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 juris-  
" dictions of police, paving, lighting, watching, and others granted to the  
" commissioners of police by any local Acts, and to extend such jurisdiction  
" over the whole limits of such burgh :

" Or whenever it appears desirable to the magistrates and councils or the  
" commissioners of police of contiguous burghs that provision should be made  
" for executing any great conduits or main sewers or any other drainage  
" works necessary for the more effectually draining of such contiguous burghs :

"(1.) The magistrates and council or the commissioners of any burgh, or the  
" magistrates and councils or commissioners of contiguous burghs,  
" as the case may be, 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 :

[32 & 33 VICT.] *Broughty Ferry Provisional Order* [Ch. clviii.]  
*Confirmation.*

A.D. 1869.

“(2.) Upon the receipt of any such petition inquiry may be directed by  
“ such Secretary of State in the district in respect to the several  
“ matters mentioned in the petition, after giving fourteen days’ notice  
“ of the time, place, and subject of the inquiry, and if requisite the  
“ sheriff shall proceed to the district to make the inquiry :

“(3.) The sheriff shall for the purposes of the inquiry have power to call for  
“ such information from the magistrates and councils or commissioners  
“ of police as he may consider necessary, and to do all such matters  
“ and things as may be expedient for the purposes of the inquiry :

“(4.) It shall be lawful for any of Her Majesty’s Principal Secretaries of  
“ State to issue a Provisional Order under his hand and seal of office  
“ in relation to the several things mentioned in the said petition,  
“ either in accordance with the prayer thereof or with such modifica-  
“ tions or alterations as may appear to him to be requisite :”

AND WHEREAS “The General Police and Improvement (Scotland) Act, 1862,” and “The General Police and Improvement (Scotland) Act, 1862, Amendment Act, (1868,)” and the Act 31 Victoria, chapter 12, intituled “An Act to confirm a Provisional Order under ‘The General Police and Improvement (Scotland) Act, 1862,’ relating to the burgh of Broughty Ferry,” are in force within the burgh of Broughty Ferry :

AND WHEREAS by clause 114 of “The General Police and Improvement (Scotland) Act, 1862,” it is enacted that “the commissioners of burghs authorized by this Act to maintain constables shall from time to time appoint at a fixed annual salary a superintendent of police, who shall not be removable or subject to have his salary diminished by the commissioners unless with the approbation of the chief magistrate of the burgh or of the senior magistrate of police and the sheriff, or, in case of their differing in opinion, of Her Majesty’s Advocate for the time being ; and as often as such commissioners shall fix the number of constables which they shall judge necessary for the burgh the said superintendent of police is hereby authorized and empowered to appoint proper persons for the duty, and to direct their distribution within the burgh, and to remove them at pleasure ; and the superintendent of police may also be appointed surveyor of paving and draining and inspector of cleansing : Provided always, that no burgh to be established in virtue of this Act shall be entitled to maintain constables in terms of this Act unless the population of such burgh shall, according to the last census for the time being, amount to seven thousand or upwards, it being hereby declared that the true intent and meaning of this Act in that respect is that all such burghs shall in regard to constables be subject to or regulated by the County Police Act, twentieth and twenty-first of Victoria, chapter seventy-two, anything in this Act to the contrary notwithstanding :”

AND WHEREAS the population of the said burgh of Broughty Ferry amounts to upwards of five thousand, but does not, according to the last census, amount to seven thousand, and the said burgh is not entitled to maintain constables in terms of “The General Police and Improvement (Scotland) Act, 1862 :”

[Ch. clviii.] *Broughty Ferry Provisional Order* [32 & 33 VICT.]  
*Confirmation.*

A.D. 1869.

AND WHEREAS, in virtue of the powers contained in the Act 20 & 21 Victoria, chapter 72, sections 58 and 59, the said burgh of Broughty Ferry has been formed into a separate police district of the county of Forfar, and the number of constables to be appointed for such district has been declared as one sergeant and three constables, and one sergeant and three constables have accordingly been appointed therefor :

AND WHEREAS, by clause 411 of "The General Police and Improvement (Scotland) Act, 1862," it is inter alia enacted that "all actions, prosecutions, and proceedings for crimes and offences committed within the burgh, or for the recovery of fines, penalties, forfeitures, or expenses under the police provisions of this Act, the mode of recovering which is not herein otherwise provided for, shall be sued for before the magistrates of police in the police court at the instance of the procurator fiscal to be appointed as herein authorized :"

AND WHEREAS doubts have arisen whether a police court can be established in the said burgh of Broughty Ferry until the inhabitants thereof amount to seven thousand, and until the commissioners of police of the said burgh shall appoint a superintendent of police and constables for the said burgh in terms of clause 114 of the first-recited Act ; and it is desirable to remove these doubts and to give the necessary powers for enabling a police court to be established, and also for making other arrangements for the better watching and police of the said burgh :

AND WHEREAS a petition under the provisions of "The General Police and Improvement (Scotland) Act, 1862," has been presented to me as one of Her Majesty's Principal Secretaries of State by the commissioners of police of the said burgh of Broughty Ferry, praying for the issue of a Provisional Order authorizing the establishing of a police court within the said burgh, and also authorizing the constables of the county police for the county of Forfar, stationed and to be stationed within the district of Broughty Ferry, to act within the said burgh under "The General Police and Improvement (Scotland) Act, 1862," in all respects as if they had been appointed by the commissioners of police in virtue of that Act :

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 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 from and after the passing of any Act of Parliament confirming the same,—

1. The following words and expressions in this Provisional Order shall, for the purposes hereof and of the recited Acts, and of the "Public Health (Scotland) Act, 1867," and all that has followed or may hereafter follow thereon, in or regarding the said burgh of Broughty Ferry, have the several meanings hereby assigned to them ; viz., "Police Act" shall

[32 & 33 VICT.] *Broughty Ferry Provisional Order* [Ch. clviii.]  
*Confirmation.*

A.D. 1869.

mean "The General Police and Improvement (Scotland) Act, 1862;" "Broughty Ferry" and "burgh of Broughty Ferry" shall mean the burgh of Broughty Ferry, according to its present boundaries and also according as its boundaries may from time to time hereafter be revised and extended; "commissioners of police" and "commissioners" shall mean the commissioners of police of Broughty Ferry; "magistrates" shall mean the magistrates of Broughty Ferry; "superintendent of police" and "superintendent" shall mean the sergeant or chief officer of police stationed in Broughty Ferry; "county police constables" and "constables" shall mean the sergeant and constables of police of the said county of Forfar stationed or to be stationed in the said district of Broughty Ferry; and "district" shall mean the county police district of Broughty Ferry, according to its present boundaries and also according as its boundaries may from time to time hereafter be extended in virtue of this Provisional Order.

2. It shall be lawful for the magistrates, with the consent in writing of the chief constable of the county of Forfar, to appoint from time to time by writing, and during pleasure, as procurator fiscal for the burgh of Broughty Ferry; any one of the constables of the county police of Forfarshire; and it shall be lawful for the chief constable of the county of Forfar to appoint, and the said chief constable shall, on the written requisition of the magistrates, or a majority of their number, appoint as constables for the burgh of Broughty Ferry the whole or any one or more of the county police constables stationed in Broughty Ferry, and such constables so appointed shall, in addition to the powers and duties competent to or incumbent on them as county constables, have all such and the like powers, duties, and privileges as by the Police Act are conferred or made incumbent on the superintendent of police and constables authorized to be appointed under clause 114 of the Police Act.
3. All warrants and deliverances which may be issued by the magistrates shall be served and executed by any one of the constables to be appointed in virtue of this Provisional Order excepting the constable holding the office of procurator fiscal.
4. Without prejudice to the Police Act, and to the adoption which has been made of the whole parts, sections, and clauses thereof within the burgh of Broughty Ferry, clause 125 and the whole of part VI., section VI., thereof, excepting clause 429, are incorporated with and declared to form part of this Provisional Order, and to be in force within and applicable to the burgh of Broughty Ferry from and after the date of any Act of Parliament confirming this Provisional Order.
5. It shall be lawful for any magistrate of Broughty Ferry, without the necessity of any complaint, to direct the chief constable to remove any constable under him, acting under or in virtue of the Police Act and this Provisional Order, whose conduct in any proceedings that shall form the subject of investigation before such magistrate shall in the opinion of such magistrate render such constable unfit to be any longer retained

[Ch. clviii.] *Broughty Ferry Provisional Order* [32 & 33 VICT.]  
*Confirmation.*

A.D. 1869.

- in the police establishment of Broughty Ferry, and such constable shall be removed from Broughty Ferry accordingly.
6. This Provisional Order shall apply to and include the revised and extended boundaries of the burgh of Broughty Ferry according as the boundaries of the said burgh may from time to time hereafter be revised and extended.
  7. All expenses incurred and to be incurred in obtaining this Provisional Order, and connected therewith and incidental thereto, and in carrying the same into execution, shall be assessed for and defrayed out of the police assessments authorized by the Police Act to be levied within the burgh of Broughty Ferry, but no sergeant or constable acting under the recited Acts or this Provisional Order shall be entitled to any pay or remuneration for so acting.
  8. It shall be lawful for the commissioners of police to contract and agree with the commissioners of supply for the county of Forfar to pay to the said commissioners of supply annually such sums as may from year to year be found requisite for the purposes of the Act 20 & 21 Victoria, chapter 72, within the district of Broughty Ferry; and, in the event of such contract being entered into, all powers to assess for the purposes of the said Act 20 & 21 Victoria, chapter 72, within the district of Broughty Ferry, shall, so long as such contract subsists and the sums thereby contracted to be paid by the police commissioners are duly paid, be suspended; and the commissioners of police shall be entitled to assess for and pay the said sums out of the police assessments authorized by the Police Act to be levied within the burgh of Broughty Ferry.
  9. It shall be lawful for the commissioners of police to purchase, feu, or lease ground and premises within the burgh of Broughty Ferry, and to build thereon cells and other premises for the accommodation of the county police establishment, and to give the use of the same rent free to such police establishment, and to defray the costs and expenses thereof out of the said police assessments.
  10. It shall be lawful for the commissioners and magistrates, in place of appointing a superintendent of police, and bringing part III., section II. of the Police Act into operation within the burgh of Broughty Ferry, to continue to act under this Provisional Order, although the population of the said burgh may at any time, according to the last census for the time, amount to seven thousand or upwards; but without prejudice to their appointing a superintendent of police, and bringing the said part and section of the Police Act into operation within the burgh of Broughty Ferry, at any time they shall see fit to do so after the population shall amount to seven thousand.
  11. In the event of the commissioners of police appointing a superintendent of police for the burgh of Broughty Ferry in virtue of clause 114 of the Police Act, and otherwise bringing part III., section II. of the Police Act into operation within the said burgh, sections 2 and 3 of this Provisional Order, and also the said Act 20 & 21 Victoria, chapter 72, shall cease to be in force within the said burgh, and all powers of assess-

[32 & 33 VICT.] *Broughty Ferry Provisional Order* [Ch. clviii.]  
*Confirmation.*

ment within the said burgh under or for the purposes of the said Act 20 & 21 Victoria, chapter 72, shall thenceforth cease and determine, and the whole property and effects of the police establishment in the district of Broughty Ferry, so far as belonging to the commissioners of supply of the county of Forfar, shall be transferred to the commissioners of police under the burden of any special debt or proportion of general debt for police purposes effeiring to the district of Broughty Ferry that may have been contracted by the commissioners of supply of the county of Forfar with consent of the commissioners of police.

A.D. 1869.  
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Given under my hand and seal this thirtieth day of July One thousand eight hundred and sixty-nine.

(L.S.)            (Signed)            H. A. BRUCE.

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