



CHAPTER cliv.

An Act to authorise the Lord Provost Magistrates and Council of the City of Edinburgh to widen alter and improve existing streets places and districts within the said City to make provision for the appointment of Town Clerk and to regulate that office to amend Acts and for other purposes. [27th July 1893.]

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WHEREAS the municipal and police administration of the city and Royal burgh of Edinburgh and other matters connected therewith are vested in and managed by the Lord Provost magistrates and council of the said city (herein-after called "the magistrates and council") under among others the Edinburgh Municipal and Police Acts 1879 to 1891:

And whereas for the purpose of improving the sanitary condition of certain districts of the city and of opening out the same for the more convenient conduct of traffic it is expedient that the widenings alterations and improvements of existing streets districts and places herein-after mentioned should be authorised to be carried out by the magistrates and council and that they should be empowered to acquire certain lands and to stop up and discontinue certain streets closes and thoroughfares:

And whereas it is expedient to open out and improve the sanitary condition of the neighbourhood of the City Fever Hospital and to provide for the better ventilation and more convenient use of the same and for that purpose to acquire certain adjoining lands and that the magistrates and council should be empowered to purchase such lands:

And whereas it is expedient that the magistrates and council should acquire certain other lands at and near the Royal Exchange for improving and increasing the accommodation in the City Chambers:

And whereas it is expedient that for the purposes of this Act the magistrates and council should be empowered to levy rates and assessments and to borrow money:

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And whereas it is reasonable and would be expedient to vary the provisions of the Lands Clauses Acts with respect to compensation in the case of certain insanitary or uninhabitable properties as herein-after provided :

And whereas it is expedient that the provisions of the foresaid Acts relating to the municipal and police administration and other matters within the city and Royal burgh of Edinburgh should be amended as herein-after mentioned :

And whereas it is expedient that provision should be made for the appointment of town clerk of the said city and for the regulation of that office :

And whereas it is expedient that further powers should be conferred upon the magistrates and council as herein-after provided :

And whereas plans and sections showing the lines and levels of the street widenings and other works authorised by this Act and the lands proposed to be taken for the purposes thereof and the lands to be acquired for the other purposes of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands or houses which may be taken under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Midlothian and also with the principal sheriff clerk of the county of the city of Edinburgh and the same are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas 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 (that is to say) :—

Short title.

1. This Act may be cited for all purposes as the *Edinburgh Improvement and Municipal and Police (Amendment) Act 1893* and where the *Edinburgh Municipal and Police Acts 1879 to 1891* are referred to in conjunction with this Act they may be cited as the *Edinburgh Municipal and Police Acts 1879 to 1893*

PART I.—PRELIMINARY.

2. This Act is divided into parts as follows :—

Part I.—Preliminary.

Part II.—Street and other improvements and acquisition of lands.

Part III.—Assessments and borrowing powers.

Division of Act into parts.

Part IV.—Regulation of office of town clerk.

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Part V.—Amendment of Acts.

Part VI.—Miscellaneous.

3. In this Act and for the purposes of this Act unless there be something in the subject or context inconsistent with or repugnant to such construction the several words and expressions to which meanings are assigned by the Edinburgh Municipal and Police Acts 1879 to 1891 have the same respective meanings: Interpreta-
tion of terms.

“The Act of 1879” means the Edinburgh Municipal and Police Act 1879;

“The Act of 1882” means the Edinburgh Municipal and Police Extension Act 1882;

“The Act of 1885” means the Edinburgh Extension and Sewerage Act 1885;

“The Act of 1890” means the Edinburgh Municipal and Police Extension Act 1890;

“The Act of 1891” means the Edinburgh Municipal and Police (Amendment) Act 1891;

“The Edinburgh Municipal and Police Acts” mean and include the Acts of 1879 to 1891 as amended by this Act and this Act;

“The city” “the burgh” mean the city and Royal burgh of Edinburgh according to the municipal boundaries thereof at the passing of this Act.

4. The Lands Clauses Acts shall be incorporated with and form part of this Act. Incorporation
of Acts.

PART II.—STREET AND OTHER IMPROVEMENTS AND ACQUISITION OF LANDS.

5. Subject to the provisions of this Act and to the powers of deviation herein-after mentioned the magistrates and council may in the lines and situation and upon the lands in that behalf delineated on the deposited plans and described in the deposited books of reference and according to the levels shown on the deposited sections make and maintain the widenings alterations extensions and improvements herein-after mentioned of existing streets districts and places within the city together with all necessary and proper works and conveniences connected therewith or incidental thereto respectively and may for these purposes and also for the purpose of improving the sanitary condition of the districts and opening out the same and for the more convenient conduct of traffic enter upon purchase take hold and use such of the lands houses and Power to
make street
widenings
and other
works.

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A.D. 1893. property shown on the deposited plans and described in the deposited books of reference as may be required for or in connexion with the said works and purposes or any of them.

Widening
&c. of
streets.

6. The street widenings alterations extension and improvements herein-before referred to and authorised by this Act are the following (that is to say) :—

- (1) A widening alteration and improvement wholly in the parish of St. Cuthberts in the city of Edinburgh (Work No. 1) of part of the streets called Bristo Street Charles Street Park Street and Park Place commencing at the points where the said Bristo Street and Park Street join with the street of Teviot Place and terminating in Charles Street at a point in line with the north side of Charles Street Lane ;
- (2) A widening alteration and improvement wholly in the parish of St. Cuthberts in the said city (Work No. 2) of the south side of the street called Salisbury Place commencing at the junction of Salisbury Place and Causewayside and terminating at the junction of Salisbury Place and Minto Street ;
- (3) A widening alteration extension and improvement wholly in the parish of St. Cuthberts in the said city (Work No. 3) of the street called West Newington Place commencing at a point in Causewayside eighty-six yards or thereabouts northwards from the line of the north side of Salisbury Place and terminating in West Newington Place in line with the centre of Blackwood Crescent ;
- (4) A widening alteration and improvement wholly in the city parish of Edinburgh in the said city of part of the south side of Cowgate (Work No. 4) commencing at Candlemaker Row at the point where Cowgate joins that street and terminating in Cowgate at a point opposite to McConochie's Close ;
- (5) A widening alteration and improvement wholly in the parish of St. Cuthberts in the said city of part of the south side of the street called South Back of Canongate (Work No. 5) commencing at the street called Pleasance at the point where the said South Back of Canongate joins that street and terminating in South Back of Canongate opposite the eastern boundary of the premises No. 20 South Back of Canongate ;
- (6) A widening alteration and improvement wholly in the parish of St. Cuthberts in the said city (Work No. 6) of the east side of part of the street called Pleasance commencing at a point in the said street in line with the northern boundary of the property situated at the north-west corner of Carnegie Street

and terminating at a point in the said street called Pleasance in line with the north gable of property No. 142 Pleasance; A.D. 1893.

(7) A widening alteration and improvement wholly in the parish of St. Cuthberts in the said city of parts of the street called West Port on both sides thereof (Work No. 7) commencing at a point in line with the western gable of Nos. 76 78 80 and 82 West Port and terminating at the junction of West Port with the Grassmarket;

(8) A footpath wholly in the parish of St. Cuthberts in the said city (Work No. 8) commencing at the junction of Orwell Terrace and Caledonian Crescent and terminating at the north-east corner of West Fountain Place.

7. For the purpose of opening out and improving the sanitary condition of the neighbourhood of the City Fever Hospital and for securing the better ventilation and more convenient use of the said hospital the magistrates and council may subject to the provisions of this Act and in addition to the other lands which they are by this Act authorised to acquire enter upon take hold and use such of the lands houses and property shown on the deposited plans within the area marked A and described in the deposited books of reference which they may require for these purposes or either of them The said lands houses and other property are the following :—

City Fever
Hospital
improve-
ment.

The lands houses and other property situate lying and being within an area marked A and delineated on the deposited plans bounded by a line commencing at the eastern corner of Cowgate and High School Wynd and extending eastwards along the south side of Cowgate to the north-east corner of the public playground there thence southwards along the eastern boundary of the said public playground and the western boundary of the property Nos. 12 and 13 High School Yards to the south-west corner of the said last-mentioned property thence eastwards along the north side of High School Yards to the south-eastern corner of the property No. 15 High School Yards thence northwards along the eastern boundary of the said last-mentioned property to the south-western corner of the open area or courtyard situate in rear of the property Nos. 341 343 345 and 347 Cowgate thence eastwards along the southern boundary of the said open area or courtyard to the south-eastern corner of the same thence northwards eastwards and northwards along the eastern boundary of the said open area or courtyard and the eastern boundary of the property Nos. 341 343 345 and 347 Cowgate to the north-eastern corner of the said last-mentioned

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property thence eastwards along the south side of Cowgate to the point of junction of Cowgate and Pleasance thence south-eastwards along the eastern boundaries of the properties situated on the west side of Pleasance to a point in line with the north side of Drummond Street thence in a westerly direction for a distance of eleven yards towards the south-eastern corner of the City Fever Hospital premises thence northwards in line of and along the eastern boundary of the said City Fever Hospital premises to the north-eastern corner of the same thence westwards along the northern boundary of said last-mentioned property to High School Yards thence westwards along the south side of High School Yards to the north-western corner of the City Fever Hospital thence northwards across the street of High School Yards to the north-western corner of the said street thence north-westwards along the east side of High School Wynd to the point from which it started all in the city parish of Edinburgh Royal burgh city and county of the city of Edinburgh and county of Midlothian.

City
Chambers
improve-
ment.

8. For the purpose of improving the accommodation within the City Chambers and for the more convenient conduct of the public business of the city therein the magistrates and council may subject to the provisions of this Act and in addition to the other lands which they are by this Act authorised to acquire enter upon take hold and use such of the lands houses and property shown on the deposited plans within the area marked B and described in the deposited books of reference which they may require for these purposes or either of them The said lands houses and other property are the following:—

The lands houses and other property situate lying and being within an area marked B and delineated on the deposited plans bounded by a line commencing in Warriston Close at the south-western corner of the property No. 6 Writers' Court and No. 7 Royal Exchange and extending northwards along the east side of the said Warriston Close to the north-western corner of the premises belonging to the Edinburgh Working Men's Club No. 7 Royal Exchange thence eastwards along the northern boundary of the said last-mentioned property to the western boundary of the City Chambers thence northwards along the western boundary of the said City Chambers to the north-western corner of the same thence eastwards across Mary King's Close to the western boundary of the open ground belonging or attached to the said City Chambers thence north-

wards to the north-western corner of the said open ground thence eastwards along the south side of Cockburn Street to the north-eastern corner of the said open ground thence southwards along the west side of Allan's Close for a distance of thirty-nine yards or thereby thence eastwards across the said Allan's Close and southwards along its eastern side to the south-eastern corner of the City Chambers thence westwards along the southern boundary of the said City Chambers to the east side of Royal Exchange thence northwards and westwards along the east and north sides of the said Royal Exchange to the east side of Mary King's Close thence southwards along the east side of the said last-mentioned close to the south-east corner of the same thence westwards across said close to the south-eastern corner of the property Nos. 7 Royal Exchange and 6 Writers' Court thence westwards along the southern boundary of the said last-mentioned property and in a straight line in continuation across Writers' Court and along the southern boundary of property Nos. 6 Writers' Court and 7 Royal Exchange to the point from which it started all in the city parish of Edinburgh Royal burgh city and county of the city of Edinburgh and county of Midlothian.

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9. If there be any omission mis-statement or erroneous description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited books of reference the magistrates and council after giving ten days notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that such omission mis-statement or erroneous description arose from accident or mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is mis-stated or erroneously described and the decision of the sheriff in such matter shall be final.

Omission or mis-statement in plans or books of reference may be corrected.

10. The certificate of the sheriff shall be deposited in the office at Edinburgh of the principal sheriff clerk of the county of Midlothian and a duplicate thereof shall be deposited at the office of the sheriff clerk of the county of the city of Edinburgh and with the session clerk of the parish in which the lands to which such certificate relates are situate and such certificate and duplicate shall be kept by such sheriff clerk and session clerk respectively along with the other documents to which they relate and thereupon the deposited plans and books of reference shall be deemed to be

Certificates to be deposited.

A.D. 1893. — corrected in accordance with the certificate and the magistrates and council may enter on purchase take hold and use for the purposes of this Act any lands in accordance with such certificate as if such omission mis-statement or erroneous description had not been made.

Limiting period for compulsory purchase of lands.

11. The powers of the magistrates and council for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the commencement of this Act.

Special provisions as to compensation.

12. In settling any question of disputed compensation under this Act for the following houses lands or other property which are insanitary or uninhabitable and which may be taken for and in connexion with the street widenings alterations extensions and improvements following namely (Work No. 4) the houses and lands on the deposited plans numbered 2 city parish of Edinburgh (Work No. 5) the houses and lands on the deposited plans numbered 2 and 3 parish of St. Cuthberts (Work No. 6) the houses and lands on the deposited plans numbered 11 to 15 parish of St. Cuthberts (Work No. 7) the houses and lands on the deposited plans numbered 6 to 11 parish of St. Cuthberts the following provisions shall have effect notwithstanding anything to the contrary contained in the Lands Clauses Acts (that is to say):—

The estimate of the value of such houses lands or other property shall be based upon the fair market value as estimated at the time of the valuation being made of such houses lands or other property due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state and to the state of repair thereof without any additional allowance in respect of the compulsory purchase.

In assessing any such compensation evidence shall be receivable by the jury arbiter or other authority to prove—

(1st) That the rental of the lands houses or other property was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inhabitants ; or

(2nd) That the same are in such a condition as to be a nuisance within the meaning of the Public Health (Scotland) Act 1867 and any Acts amending the same or are in a state of defective sanitation or are not in reasonably good repair ; or

(3rd) Are unfit and not reasonably capable of being made fit for human habitation ;

and if the jury arbiter or other authority is satisfied by such evidence then the compensation—

- (a) shall in the first case so far as it is based on rental be based on the rental which would have been obtainable if the house or premises were occupied for legal purposes and only by the number of persons whom the house or premises were under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and
- (b) shall in the second case be the amount estimated as the value of the house or premises if they had been put into a sanitary condition or into reasonably good repair after deducting the estimated expense of putting them into such condition or repair; and
- (c) shall in the third case be the value of the land and of the materials of the buildings thereon.
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13. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of these Acts and of this Act grant to the magistrates and council any easement servitude right or privilege not being an easement of water required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and ground annuals or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements servitudes rights and privileges as aforesaid respectively.

Power to take easements &c. by agreement.

14. The magistrates and council in addition to the powers conferred by the Edinburgh Municipal and Police Acts may purchase and acquire by agreement any lands in or adjacent to the city or they may use any lands belonging to them for the time for the purposes respectively of a knackery and of a public hall or other building for public purposes but nothing in this Act shall exempt the magistrates and council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands so acquired.

Power to acquire lands by agreement for certain purposes.

15. And whereas in the exercise of the powers of this Act it may happen that portions only of the lands houses buildings or manufactories shown on the deposited plans may be sufficient for the purposes of this Act and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section ninety of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses buildings or manufactories described in the schedule to this Act annexed and whercof portions

Owners may be required to sell parts only of certain properties.

A.D. 1893. — only are required for the purposes of this Act may (if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the magistrates and council such portions only without the magistrates and council being obliged or compellable to purchase the whole or any greater portion of such properties the magistrates and council always paying for the portions taken by them and making compensation for any damage sustained by the owners of such properties and other persons interested therein by severance or otherwise.

For pro-
tection of
Caledonian
Railway
Company.

16. For the protection of the Caledonian Railway Company (in this section called the Caledonian Company) the following provisions shall unless otherwise agreed between the magistrates and council and the Caledonian Company have effect:—

- (1) The footpath (Work No. 8) shall when constructed so far as it passes under the railway of the Caledonian Company be of the following dimensions namely twelve feet in width and ten feet in height;
- (2) The roof shall be formed of trough flooring with concrete infilling and covering of asphalt or other impervious material and so as to be as far as practicable water-tight and there shall be a clear depth of formation of at least one foot nine inches from the upper surface of the said covering or any part of the works of the subway to the rail level;
- (3) In constructing the footpath provision shall be made for one or more openings in the side walls under the railway of the Caledonian Company for the purpose of affording a means of communication between such footpath and the railway of the Caledonian Company but any such means of communication shall except as regards the openings in the side walls be made and maintained at the cost of the Caledonian Company and so far as it interferes with or affects the footpath or the property of the magistrates and council the same shall be done and completed and maintained to the satisfaction of the burgh engineer;
- (4) The magistrates and council shall in constructing the footpath interfere as little as possible with the railway and works of the Caledonian Company and the said work shall so far as the same shall pass under the railway of the Caledonian Company be carried out under the superintendence and to the reasonable satisfaction of the engineer for the time being of the Caledonian Company and in the manner and according to plans to be

reasonably approved by such engineer before the said work so far as aforesaid is begun and in all things at the expense of the magistrates and council and so as to cause as little injury as possible to the railway works lands or property of the Caledonian Company or interruption to the passage or conduct of traffic over or upon such railway and if in consequence of the construction or the repair of such footpath any injury be caused to any such railways works lands or property or any interruption to such traffic the magistrates and council shall make full compensation to the Caledonian Company in respect of such injury or interruption and the amount of such compensation shall be recoverable with full costs from the magistrates and council by all and the same means as a simple contract debt is recoverable. If any difference shall at any time arise between the magistrates and council and the Caledonian Company or their respective engineers with respect to any matter arising under this section such difference shall be referred to and determined by an engineer to be agreed on or failing agreement to be appointed by the sheriff on the application of either the magistrates and council or the Caledonian Company.

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17.—(1) The magistrates and council shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

Restrictions
on displacing
persons of
labouring
class.

(A) They shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the other circumstances of the case; and

(B) They shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally

A.D. 1893. — and after the Secretary for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Secretary for Scotland may have approved of any such scheme or of any modifications of any such scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.

(5) If the magistrates and council acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit modify such penalty.

(6) For the purpose of carrying out any scheme under this section the magistrates and council may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section ninety of the Public Health (Scotland) Act 1867 shall be incorporated with this Act and shall apply to the purchase of lands by the magistrates and council for the purposes of any scheme under this section in the same manner in all respects as if the scheme were one of the purposes of that Act.

(7) The magistrates and council may on any lands belonging to them or purchased or acquired under this section or under any provisional order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell let or otherwise dispose of such dwellings and any lands purchased or

acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys which they may be authorised to raise or apply for the purposes of the magistrates and council : A.D. 1893.

Provided that all lands on which any buildings have been erected or provided by the magistrates and council in pursuance of any scheme under this section shall for the period of twenty-five years from the date of the scheme be appropriated solely for the purpose of such dwellings and every conveyance or lease of such lands and buildings by the magistrates and council shall contain proper conditions for securing that the buildings on such lands shall during such period of twenty-five years be used exclusively for the purpose of such dwellings and shall be endorsed with notice of this enactment :

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this sub-section subject to such conditions (if any) as he may see fit.

(8) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

(9) The magistrates and council shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any provisional order in pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any such inquiry and a sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of the person so appointed.

(10) For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

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Power to
stop up
streets.

18. The magistrates and council may if they own or acquire all the property on both sides of any one or more of the following streets closes lanes courts yards passages and stairs namely High School Yards Hatter's Court Ink's Close and Mary King's Close (so far as the last-mentioned close is situate between the northern wall of the City Chambers Buildings and its southern extremity in line with the southern gable of property numbers six Writers' Court and seven Royal Exchange) stop up and discontinue as a public street or thoroughfare the street close lane court yard passage or stairs in which they shall so own or acquire the property The land and soil of the streets or thoroughfares so stopped up and discontinued shall be and the same are hereby vested in the magistrates and council freed and discharged from the public use thereof.

Power to
deviate.

19. In executing the works authorised by this Act or any of them the magistrates and council may deviate laterally to any extent within the limits of deviation defined on the deposited plans provided that no part of any work extends beyond such limits and they may deviate from the levels thereof as referred to the datum line shown on the deposited sections to any extent not exceeding three feet.

Magistrates
and council
may take
down build-
ings and lay
out lands and
sell or let
those not
required.

20. The magistrates and council may subject to the provisions and for the purposes of this Act take down the whole or such part as they think fit of the buildings situate on any of the lands acquired by them under the authority of this Act and sell and dispose of the materials thereof and may use lay out and appropriate such lands or any part or parts thereof in such way and manner as they may deem best for effecting such purposes and for improving the health amenity and convenience of the city and the respective districts thereof and the magistrates and council may by public auction or private bargain re-sell feu out or grant leases of such portions of the lands and the buildings thereon which they may acquire as aforesaid as they may think proper on such terms and subject to such conditions as they may determine and for such prices feu duties ground annuals rents or other consideration as they can obtain for the same and may in like manner sell such feu duties and ground annuals and generally may deal with the lands and buildings acquired by them as aforesaid under this Act as absolute proprietors thereof.

Power to
make subsi-
diary works
&c.

21. Subject to the provisions of this Act and within the limits defined on the deposited plans the magistrates and council in connexion with the widened altered extended and improved streets and other works by this Act authorised or any of them and for the

purposes thereof may make junctions and communications with any existing streets wynds closes and thoroughfares which may be intersected or interfered with by or be contiguous to the new streets and the widened altered and improved streets or any of them and may make diversions widenings or alterations of lines or levels by stairs or otherwise of any existing streets for the purpose of connecting the same with the said new or widened altered or improved streets or any of them or otherwise and they may from time to time remove alter either temporarily or permanently all streets roads sewers drains mains and pipes which they find it necessary or convenient for any of the purposes of this Act so to interfere with making to all persons who sustain any damage by any of the works in this section referred to compensation in that behalf such compensation in case of dispute to be ascertained in manner prescribed by the Lands Clauses Acts with respect to the settlement of questions of disputed compensation for lands.

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22. In executing any works by this Act authorised the magistrates and council may raise sink or otherwise alter the position of any sewer or drain watercourse water pipe or gas pipe belonging to or connected with any building adjoining or near to the site of any such work and also any main sewer or any other main or pipe laid down or used for carrying a supply of water or gas and also subject to the provisions of the Telegraph Act 1878 any pipe tube wire or apparatus laid down for telegraphic or other purposes and may remove any other obstruction causing as little detriment and inconvenience as circumstances admit and making full compensation for all damage caused by any such alteration Provided that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 and 1888 to which the provisions of section 15 of the former Act apply.

Alterations
of sewers
and gas and
water pipes.

23. Where by reason of the execution of any of the works by this Act authorised the level of any street is raised or otherwise changed or any alteration of any step door or entrance into any house or building or of any pavement sewer drain or culvert adjoining or belonging to any premises in the street is rendered necessary the alteration shall be made by and at the expense of the magistrates and council.

Alterations
consequent
on changing
levels of
streets to be
made at
expense of
magistrates
and council.

24. The magistrates and council may cause such parts of the widened altered extended or improved streets herein-before authorised to be laid out and formed as carriageways or open spaces or

Carriage and
footways
vaults
cellars &c.

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—
and owner-
ship thereof.

to be laid out and formed for foot passengers as they may think fit and may construct and provide in connexion therewith such vaults cellars arches sewers drains and other works and conveniences as they may think proper and may by public auction or private bargain sell feu out or grant leases of such vaults and cellars or may permit the owners or lessees of the lands or buildings on the sides of such streets to construct vaults and cellars under such streets and to hold or occupy such vaults and cellars upon such terms and conditions as may be agreed upon and upon such new and widened altered or improved streets being laid out and formed in manner above specified the provisions of the Edinburgh Municipal and Police Acts and any other Acts in force within the city for the time shall extend and apply thereto and the solum thereof shall be vested in the magistrates and council.

Period for
completion
of works.

25. If the works shown on the deposited plans and authorised by this Act are not completed within twelve years from the commencement of this Act then on the expiration of that period the respective powers by this Act granted to the magistrates and council for executing the works not so completed or in relation thereto shall cease except as to so much thereof as is then completed.

Magistrates
and council
not to be
bound to
execute all
works.

26. Nothing in this Act contained shall make it binding on the magistrates and council to execute all the works by this Act authorised or to purchase all the lands houses and property in this Act mentioned or referred to but they may subject to the provisions of this Act execute such or such parts of the said works and purchase such of the said lands houses and property as it shall from time to time seem to them expedient to execute and purchase and the execution of any works or purchase of any lands houses or property under this Act shall be in the absolute discretion of the magistrates and council for the time being.

For protec-
tion of gas
mains and
pipes.

27. If in the construction of the street widenings and improvements and other works by this Act authorised any gas mains or pipes are or may be interfered with the magistrates and council shall before proceeding to interfere with appropriate or stop up any streets lanes or closes in or under which gas mains or pipes are laid give at least fourteen days previous notice of their intention so to do to the clerk to the Edinburgh and Leith Corporations Gas Commissioners (herein-after referred to as "the gas commissioners") and shall submit a plan and section showing the intended alterations proposed by which any gas mains and pipes in any such street lane or close shall or may be affected or interfered with and the same

shall be subject to the reasonable approval of the engineer of the gas commissioners and any alteration or removal or diversion of any such gas mains or pipes shall be done and executed by the gas commissioners or by persons to be employed by them and the expense thereof and all expenses and charges incident thereto and consequent on any of the said works or operations shall be repaid by the magistrates and council to the gas commissioners. A.D. 1893.

28. If in the construction of the street widenings and improvements and other works by this Act authorised any water mains and pipes are or may be interfered with the magistrates and council shall before proceeding to interfere with appropriate or stop up any streets lanes or closes in or under which water mains or pipes are laid give at least fourteen days previous notice of their intention so to do to the clerk to the Edinburgh and District Water Trustees (herein-after referred to as "the water trustees") and shall submit a plan and section showing the intended operations proposed by which any water mains and pipes in any such street lane or close shall or may be affected or interfered with and the same shall be subject to the reasonable approval of the engineer to the water trustees and any alteration or removal or diversion of any such water mains or pipes shall be done and executed by the water trustees or by persons to be employed by them and the expense thereof and all expenses and charges incident thereto shall be repaid by the magistrates and council to the water trustees. For the protection of the water mains and pipes.

29. If any difference shall at any time arise between the magistrates and council and the gas commissioners or the water trustees or their respective engineers with respect to any of the matters referred to in the two next preceding sections or with reference to the time taken or required for executing any of the works or operations therein mentioned such difference shall be referred to and determined by an engineer to be agreed on by the magistrates and council and the gas commissioners or the water trustees as the case may be or failing such agreement to be appointed by the sheriff on the application of either the magistrates and council or the gas commissioners or the water trustees as the case may be. Differences to be settled by arbitration.

PART III.—ASSESSMENT AND BORROWING POWERS.

30. The magistrates and council are hereby authorised to assess levy recover apply and use for the execution of the works and carrying out the powers objects and purposes of this Act or any of them and for the acquisition of lands and heritages and servitudes easements or other property which may be required in connexion Power to apply burgh assessment.

A.D. 1893. — therewith the burgh assessments under their control authorised by the Act of 1879 as extended by the Act of 1882 and the Act of 1885 and the Act of 1890 and as amended by the Act of 1891 and this Act applicable to general improvements under the third head of estimate or so much thereof as may be necessary therefor in the way and manner and by the same means as are provided in the Act of 1879 as so extended and amended.

Application
of provisions
of Act of
1879 as to
borrowing.

31. The magistrates and council are hereby authorised to borrow money for executing the works and carrying out the powers objects and purposes of this Act or any of them and for the acquisition of lands and heritages and easements and other property which may be required in connexion therewith on the security of the burgh assessments before mentioned under their control applicable to general improvements to be levied and applied and used as in this Act provided and they shall provide a sinking fund for the repayment of the sums so borrowed and sections 81 to 92 of the Act of 1879 as to borrowing money are as amended by the Act of 1891 and by this Act incorporated herewith and the powers and provisions therein contained as so amended by the Act of 1891 and by this Act shall be held to apply to the purposes of this Act and to the money borrowed under the authority of this Act as if such sections as so amended were re-enacted in this Act.

Sinking
fund.

32. The magistrates and council notwithstanding any provisions to the contrary in the Edinburgh Municipal and Police Acts shall annually set apart out of the moneys to be levied for the purposes of those Acts or any of them a sum or sums equal to not less than one-thirtieth part of the sums to be hereafter borrowed under the said Acts or any of them or to be borrowed under this Act on the security of any portion of the burgh assessments and the magistrates and council shall from time to time apply the sum or sums so set apart as a sinking fund in paying off the principal sums so borrowed and section 84 of the Act of 1879 and section 83 of the Act of 1891 are hereby amended accordingly with respect to the sinking fund for repayment of money so to be borrowed.

PART IV.—REGULATION OF OFFICE OF TOWN CLERK.

Regulation
of office of
town clerk.

33. The following enactments shall apply to the office of town clerk of Edinburgh and shall have effect from and after the passing of this Act and whenever William Skinner the present town clerk shall cease to hold that office :—

(1) Every person appointed after the passing of this Act to the office of town clerk shall be paid for his personal services an

adequate salary to be fixed by the magistrates and council in lieu of all fees and emoluments whatsoever pertaining to the office or claimable in respect of the official duties which the town clerk is as such required to perform and such salary may from time to time be raised or reduced by and at the pleasure of the magistrates and council but so that the salary be in no case reduced below an adequate amount ;

- (2) The magistrates and council may arrange and agree with the town clerk to act as law agent parliamentary solicitor clerk and secretary of the magistrates and council in regard to all or such parts of the business of the magistrates and council and to all or any one or more of the municipal or other trusts corporations boards and commissions now existing or which may be hereafter created in connexion with or in which the magistrates and council may be interested as they may think proper from time to time to entrust to him and the magistrates and council may pay the town clerk in respect of such services an additional salary to be fixed by them and all fees and emoluments payable to him as such law agent parliamentary solicitor clerk or secretary or payable in respect of services of any deputy or assistant town clerks and other persons employed on the establishment and staff of the town clerk shall be charged collected accounted for and applied as herein-after provided ;
- (3) The town clerk shall have the management direction and control of the town clerk's department and the staff thereof and power from time to time to appoint suspend and dismiss the persons employed in the said office He may also subject to the approval of the magistrates and council appoint one or more deputy or assistant town clerks The salaries to be paid to the deputy or assistant town clerks and other persons employed on the said establishment shall be fixed by the town clerk with the approval of the magistrates and council ;
- (4) The city chamberlain shall be treasurer of a fund to be called "The Town Clerk's Fee Fund" the accounts of which shall be kept in connexion with the municipal accounts of the city and all fees and emoluments pertaining to the office of town clerk and all the fees and emoluments referred to in sub-section (2) of this section and also all costs charges and disbursements recoverable from third parties and recovered (the right of recovering such costs charges and disbursements in proceedings between the magistrates and council and third parties being in no respect prejudiced by this Act) shall be collected by the city chamberlain on a certificate by the town clerk of the

A.D. 1893.

amount of the same respectively and shall be placed to the credit of the said fee fund ;

(5) The city chamberlain shall use and apply the moneys of the said fee fund in paying the salaries of the town clerk the deputy or assistant town clerks and the other persons employed on the establishment or staff of the department and any retiring allowance granted or which may be granted to them or any of them and all disbursements and payments made or incurred in connexion with and for the proper equipment of the department and if the same be insufficient the common good and funds and property of the magistrates and council shall be liable for the deficiency and such deficiency shall be placed to the debit of the magistrates and council in their proper municipal account but if there be any surplus of the said fee fund in any year after satisfying the said purposes and the other purposes of this section such surplus shall be placed to the credit of the said municipal account of the magistrates and council ;

(6) The magistrates and council may at any time after the passing of this Act make and execute an agreement with the aforesaid William Skinner for his retirement from the office of town clerk at such date and on such retiring allowance as may be agreed on and such retiring allowance shall form a first charge on the said fee fund subject to the provision hereinbefore contained as to the liability of the common good and funds and property of the magistrates and council for any deficiency in the fee fund the magistrates and council may also on the resignation hereafter of any town clerk other than the said William Skinner grant to such town clerk a retiring allowance of such amount and payable during his life or for such shorter period all as the magistrates and council may determine Provided that no retiring allowance shall be granted to a town clerk unless such town clerk shall have been in office for a period of at least fifteen years or shall from failing health or other such like cause be disabled from performing the duties of the office and the magistrates and council may at any time commute any retiring allowance into a capital sum to be paid out of the fee fund or common good or other funds of the magistrates and council of such amount as shall be fixed by the manager for the time being of the Scottish Widows Fund and Life Assurance Society whom failing by an actuary to be named by the sheriff on the application of the magistrates and council as the value of an annuity equal in amount to such retiring allowance having regard to the age of the person so

entitled and the period for which such retiring allowance has been granted. Provided that retiring allowances shall not at any one time be paid to more than two persons who have held the office of town clerk; A.D. 1893.

- (7) Nothing in this Act contained shall in any way extend or prejudicially affect or impair the rights and interests of the magistrates and council on the one hand or of the said William Skinner on the other hand in or in relation to the office of town clerk while the said William Skinner shall continue in office.

PART V.—AMENDMENT OF ACTS.

34. The Act of 1879 and the Act of 1891 are hereby amended as follows:— Amendment of Acts.

- (1) The magistrates and council shall from time to time appoint a chief constable at a fixed annual salary who shall not be removable or subject to have his salary diminished by the magistrates and council unless with the approbation of the lord provost of the city and the sheriff or in case of their differing in opinion of the Secretary for Scotland but may be suspended by the magistrates with consent of the sheriff for a definite period pending any inquiry instituted with a view to his removal and sections 48 and 49 of the Act of 1879 are hereby amended accordingly; Appointment of chief constable &c.
- (2) Sections 40 41 and 66 of the Act of 1879 shall be read as if the words "second Tuesday of August" occurring therein respectively were omitted therefrom and the words "fourth Tuesday of July" were inserted in lieu thereof in each of the said sections respectively; (Books of accounts to be kept &c.)
(Accounts to be balanced yearly &c.)
(Expenses to be estimated.)
- (3) Section 166 of the Act of 1879 shall be read as if the words "and dangerous to passengers or to the occupiers thereof or of the neighbouring houses or buildings the burgh engineer shall immediately cause such occupiers endangered thereby" were omitted therefrom and the words "the burgh engineer shall immediately cause the occupiers (if any)" were inserted in lieu thereof and as if the words "if they find it necessary after hearing parties" were inserted after the words "procurator fiscal of such court"; (Dangerous houses or buildings to be taken down and secured by owners.)
- (4) Section 232 of the Act of 1879 shall be read as if the words "three hundred" occurring therein were omitted and the words "four hundred" were inserted in lieu thereof; (Penalty for excess of numbers.)

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(Width of streets and height of houses.)

(Height of houses in existing streets.)

(5) Sections 42 and 44 of the Act of 1891 are hereby amended as follows :—

Section 42 shall be read as if the words “or building” were inserted after the words “dwelling-house” first occurring therein ; and

Sections 42 and 44 shall be read as if the word “habitable” occurring therein respectively were omitted therefrom and as if the following proviso were added to each of those sections respectively “Provided further that the height
“ of houses or buildings which are in or which abut on
“ any lane or side or back street shall not to the extent of
“ 40 feet backward from such lane or side or back street
“ measured from the face of the wall of such houses or
“ buildings exceed the height of one and a half times the
“ width of the lane or side or back street unless otherwise
“ sanctioned by the magistrates and council ” ;

(Petition with plan and sections of new houses &c. to be lodged.)

(Open spaces in rear of houses &c.)

(6) Section 48 of the Act of 1891 shall be read as if the word “internal” occurring in the proviso thereof was omitted therefrom ;

(7) Section 50 of the Act of 1891 shall be read as if the words “immediately adjacent thereto” were omitted therefrom and the words “directly attached thereto and pertaining to and
“ used exclusively in connexion with such new house or
“ building altered for the purpose of being used as a house” were inserted in lieu thereof and as if the words “and light” were inserted after the word “ventilation” occurring therein and as if the following words were added after the words
“ business purposes ” occurring therein “but where any build-
“ ing is to be used for business premises as much open space
“ shall be required as in the discretion of the dean of guild
“ court shall be sufficient for the purposes of light and
“ ventilation but not exceeding the extent required by this
“ section in the case of a house ” ;

(8) Rule 17 of the schedule of the Act of 1891 shall be read as if the words “and to such extent” were inserted therein after the words “other material.”

PART VI.—MISCELLANEOUS.

Material of fronts of houses or buildings to be approved.

35. All plans with respect to new houses or buildings or to houses or buildings proposed to be altered or rebuilt lodged with the clerk of the dean of guild court in terms of section 48 of the Act of 1891 shall in addition to the requirements of that section set

forth thereon the material proposed to be used in the construction of the elevations of any house or building and no person shall build alter or rebuild any house or building until the approval of such material has been given by the said court. A.D. 1893.

36. From and after the passing of this Act no house shall be built or constructed and no existing house shall be altered in such a manner that such house exclusive of any lobbies closets presses and recesses therein shall be of less than the dimensions following viz. :—

- Houses of one apartment 1000 cubic feet ;
- Houses of two apartments 1600 cubic feet ;
- Houses of three apartments 2400 cubic feet :

For the purpose of this section the word "recesses" means and includes any recess which being in a room of a house and having no separate window is not open from front to back from floor to ceiling and from side to side and free of fixtures.

37. From and after the passing of this Act no stable or byre shall be built or constructed and no existing stable or byre shall be altered and no building shall be converted into a stable or byre except in accordance with the conditions and provisions following (that is to say) :—

- (1) The materials used in the construction of the buildings and the system of draining ventilating and lighting and the paving of the floors and court yards shall be subject to the previous approval of the dean of guild court ;
- (2) The cubic air space within such stable or byre shall not be less than eight hundred feet for each animal :

Provided always that the foresaid provisions of this and the two next immediately preceding sections shall be in addition to the other provisions applicable to houses and buildings respectively under the Edinburgh Municipal and Police Acts or any of them Any person failing to comply with the foresaid provisions of this and the two next immediately preceding sections shall be liable to the penalty specified in section 59 of the Act of 1891 which section shall for the purposes of this Act be incorporated herewith.

38. The powers conferred on the magistrates and council by section 32 of the Act of 1879 with respect to retiring or other allowances to meritorious officers incapacitated from service by age or otherwise shall extend and apply also to all meritorious persons incapacitated from service who are in any capacity serving or have served or been employed by the magistrates and council and upon

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A.D. 1893. whom the magistrates and council may in their discretion think fit to confer any retiring or other allowance.

Courts and closes to be white-washed.

39. The magistrates and council may in addition to the powers conferred on them by the Edinburgh Municipal and Police Acts and in order to secure greater cleanliness and to prevent the spread of disease require the owners and occupiers or either of them to whitewash at such time or times as the magistrates and council may determine the walls and roofs of all closes within the city and the walls of all open courts from the pavement up to the highest part of the house or building and the magistrates and council may failing such owners or occupiers or either of them to execute such work within such time as the magistrates and council shall consider reasonable themselves execute such work from time to time and either charge the owner with the cost thereof and sue for and recover the amount from the owner as a debt or make the same a charge on the burgh assessment.

Use of schools and public rooms for poll at municipal elections.

40. The returning officer at the municipal elections within the city of Edinburgh may use free of charge for the purpose of taking the poll at such elections any school or room the expense of maintaining which is payable either in whole or in part out of any local rate but the magistrates and council shall make good any damage done to such school or room and defray any expense incurred by the person or body of persons corporate or unincorporate having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

Application of certain sections &c. of Burgh Police (Scotland) Act 1892.

41. With respect to the annual election on the first Tuesday in November of town councillors for the city and Royal burgh of Edinburgh sections 39 40 and 41 and Schedules IX. and X. of the Burgh Police (Scotland) Act 1892 are hereby incorporated with and shall form part of this Act.

Power to appoint judges in police court.

42. The magistrates and council may at any time appoint any of their number who have held the office of lord provost or bailie of the city and Royal burgh to act as judges in the police court of the city for such time as they continue to be members of the town council without re-election and during such time the person or persons so appointed may lawfully exercise all jurisdictions powers and authorities now competent to or exercisable by the magistrates of the city as judges of police in the said police court.

Filling up vacancy in council.

43. From and after the second Tuesday in November one thousand eight hundred and ninety-three and notwithstanding anything to the contrary contained in the Royal Burghs (Scotland)

Act 1833 any vacancy occurring in the town council in the course of the year by the death disability or resignation of any town councillor such vacancy shall be filled up by the electors of the ward and the following provisions shall have effect:—

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- (1) The nomination and election shall subject to the provisions herein-after in this section mentioned be made and conducted and the costs and charges defrayed in all respects as at the annual election held on the first Tuesday in November ;
- (2) The nomination or nominations of a candidate or candidates by the electors of the ward shall be lodged with the town clerk within five clear days of a notice of the vacancy being given by the town clerk in any newspaper published in Edinburgh the town clerk shall insert such notice as soon as conveniently may be after the occurrence of the vacancy ;
- (3) If more than one candidate is nominated for the vacancy the election shall take place on a day to be appointed by the magistrates and council by a notice published in one or more of such newspapers but shall not take place sooner than five clear days from the publication of such notice ;
- (4) The person so nominated or if more than one the person so elected by the electors of the ward shall hold the office of councillor during the period which the person last vacating such office might lawfully have held it :

Provided always that if such vacancy occurs within three months of the next succeeding annual November election the magistrates and council may if they think fit resolve that the same shall not be filled up until such annual election on the first Tuesday in November.

44. Nothing contained in this Act shall invalidate any acts matters or things or any actions suits or proceedings which have been done or commenced or are depending or any penalties incurred under the powers or authority of any Act amended or repealed by this Act all which shall be and continue as good valid and available for all purposes and for and against all persons as if this Act had not been passed.

Saving of rights.

45. All costs charges and expenses attending the preparation obtaining and passing of this Act and incidental thereto shall be paid out of the common good or burgh assessments or one or other of them.

Costs of Act.

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SCHEDULE referred to in the foregoing Act.

THE SCHEDULE.

Lands Buildings and Manufactories of which portions only may be taken
without taking the whole.

Parishes.	No. on Deposited Plans.
St. Cuthberts (Work No. 1)	53 54 54 54 54 55.
St. Cuthberts (Work No. 2)	4 5.
St. Cuthberts (Work No. 5)	7.
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