

ANNO PRIMO

VICTORIÆ REGINÆ.

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CAP. LXXVIII.

An Act to amend an Act for the Regulation of Municipal Corporations in *England* and *Wales*.

[17th *July* 1837.]

WHEREAS an Act was passed in the Fifth and Sixth Years of the Reign of His present Majesty, intituled *An Act to provide for the Regulation of Municipal Corporations in* England *and* Wales, providing among other things for the Election of certain Officers in manner and form therein declared, but such Elections have not in all Cases been duly made according to the Provisions of the said Act: And whereas Doubts are entertained by and before whom the Meetings for such Elections can now be convened and holden for the Purpose of supplying such Deficiencies: And whereas the Elections of Corporate Officers and others are liable to be questioned by reason of any Defect that may be in the Title of the presiding Officer before whom the Election may have been had, notwithstanding that the Election may have been otherwise good in all respects: For Remedy thereof be it 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, That no Election of any Person into any Corporate Office which shall take place after the passing of this Act shall be liable to be questioned by reason of any Defect in the Title or Want of Title of the Person before whom such Election may have been had, provided that the Person before whom such

5 & 6 W. 4. c. 76.

Election not to be questioned for Title of presiding Officers;

such Election shall be had shall be then in the actual Possession of or acting in the Office giving the Right to preside at such Election; and, subject and without Prejudice to the Provisions for discontinuing Proceedings herein-after contained, all Elections into any Corporate Office since the Twenty-fifth Day of *December* in the Year One thousand eight hundred and thirty-five, in any Borough named in either of the Schedules (A.) and (B.) annexed to the said Act for regulating Corporations, and all Acts duly done in right of their Office since the said Twenty-fifth Day of *December* by the Persons chosen at any such Election, and all Acts duly done by any Person with reference to any such Election, shall be good to all Intents and Purposes, notwithstanding any Defect in the Title or Want of Title in the Person so presiding arising from the Provisions of the said Act or of any former Charter or any local Custom not having been duly complied with, and notwithstanding that there may not have been at the Time of the passing of the said Act any such Body Corporate as is named in the Schedule (A.) or (B.) of the said Act in conjunction with the Name of the Borough in which such Election may have been had, or any such Officer as is charged by the said Act with the Execution of such Duties; provided that the Person or Persons before whom or by whose Authority any such Election may have been had, or by whom any Summons shall have been issued, or List made out or received, or other Act done for holding or with reference to any such Election, shall have *bonâ fide* taken upon himself the Duties of the Office giving Right to preside at such Election, or issue such Summons, or make out or receive such List, or do such Act as aforesaid: Provided nevertheless, that nothing herein-before contained shall prevent any such Election or Act done by any Person from being questioned and set aside by reason of any Fraud or any Irregularity or Defect other than is herein-before specified: Provided also, that nothing in this Act contained shall extend to invalidate any Payment *bonâ fide* made, or to invalidate or render valid any Notice to quit given before the passing of this Act, or render liable to any Penalty or Punishment any Person who would not have been liable to such Penalty or Punishment in case this Act had not been made.

provided that the Person shall have taken upon himself the Office.

Proviso.

Proviso.

All Elections duly made since 25th December good, though the whole Number of Aldermen not elected.

II. And be it enacted, That all Elections duly made or other Acts duly done since the said Twenty-fifth Day of *December* at any Meeting of the Council or Councillors of any Borough named in either of the Schedules of the said Act by a Majority of the Members of the Council or Councillors present at such Meeting, the whole Number present not being less than One Third Part of the Number of the whole Council, shall be good notwithstanding that the whole or due Number of Aldermen may not have been then elected: Provided always, that nothing in this Act contained shall extend to affect the Right of any Person to prove the Validity or Invalidity of any Election or Act had or done before the passing of this Act, and hereby made good or valid, in any Action already brought or hereafter to be brought to try the Right to any Office of Profit, or to recover the Profits or Receipts thereof; and every such Action in which it may be material to either Party to prove the Validity or Invalidity of any such Election or Act shall be tried and decided

Nothing herein to affect any Person in Actions to try the Right to Office of Profit.

to all Intents and Purposes as if this Act had not passed; provided, that such Action shall be brought within Twelve Calendar Months after the passing of this Act.

Elections before the Election of Assessors to be valid.

III. And be it enacted, That all Elections had before the passing of this Act, or to be had under this Act, in any Borough named in either of the said Schedules, at any Time before the Election of Assessors for such Borough, shall be as good as if had before the Mayor and Assessors jointly.

5 & 6 W. 4. c. 76. s. 43. in part repealed.

IV. And whereas by the said Act it is provided, that in every Case in which there shall be a Division into Wards of any Borough the Assessors who shall hold the Court for revising the Burgess Lists with the Mayor shall be the Assessors of the Mayor's Ward; and it may be, in case the Mayor be chosen from among the Aldermen, that there is no Mayor's Ward in such Borough; be it enacted, That so much of the said Act as provides that the Assessors who shall hold the Court for revising the Burgess Lists with the Mayor shall be the Assessors of the Mayor's Ward is hereby repealed; and in every Borough divided into Wards Two Assessors shall be chosen on the Twenty-first Day after the passing of this Act, and in every subsequent Year on the First Day of *March*, or on the following Day if that Day be on a *Sunday*, to hold the Court for revising the Burgess Lists with the Mayor, in like Manner as is provided in the said Act concerning the Election of Two Auditors of such Borough; and no Burgess List which shall have been revised before the passing of this Act by the Mayor alone, or by the Mayor assisted by any other Person or Persons, shall be taken to have been ill revised by reason of the Mayor not having been assisted by the Assessors of the Mayor's Ward, but every such revised List, if otherwise revised according to the Provisions of the said Act, shall be good, and the fair and true Copy thereof, made according to the Provisions of the said Act, shall be the Burgess Roll for the present Year in that Borough.

Two Revising Assessors to be chosen in like Manner as the Auditors are.

Burgess Ro. not to be questioned for the Title of the Mayor or Assessors.

V. And be it enacted, That after the passing of this Act no Burgess Roll shall be liable to be questioned by reason of any Defect of Title or Want of Title of the Mayor or Assessors by whom the same shall have been revised, or any or either of them, provided that he or they shall have been in the actual Possession and Exercise of the Office of Mayor or Assessor, as the Case may be.

Burgess Roll to be in force until Revision of new Burgess Roll.

VI. And be it enacted, That in every Borough in which by reason of any Neglect or Informality a new Burgess Roll of the said Borough shall not have been duly made in any Year within the Time directed by the said Act, the Burgess Roll which was in force before the Time appointed for the Revision shall continue in force until such new Burgess Roll shall have been duly made.

Corporations not dissolved by Neglect to make new Burgess Roll.

VII. And be it enacted, That no Body Corporate named in the Schedules of the said Act for regulating Corporations, in which no new Burgess Roll was made in the Month of *October* last, shall therefore be taken to have been dissolved, but every such Body Corporate shall

shall have and continue to have perpetual Succession, and all the Rights, Powers, Privileges, and Liabilities which it would have had if the new Burgess Roll had been duly made; and in any Case in which no Councillors shall have been elected on the First Day of last *November* to supply the Place of those who were then to go out of Office according to the Provisions of the said Act, the Councillors who were to continue in Office shall so continue in like Manner and for the same Time as if such new Election had been duly made.

As to reckoning a former Person's Rating and Occupancy as Part of a subsequent Occupier's.

VIII. And be it enacted, That in every Case in which, under the Provisions of the said Act for regulating Corporations, any Person shall be entitled to reckon the Rating and Occupancy of any House, Warehouse, Counting-house, or Shop in any Borough by any other Person as Part of his own Rating and Occupancy, it shall not be necessary, in support of the Title of such Person to be enrolled on the Burgess Roll, to prove that he was an Inhabitant Householder within the said Borough, or within Seven Miles of the said Borough, or that he was an Occupant or rated within the same, before the Title to such House or other Property as aforesaid shall have devolved upon him.

Rating in Name of former Occupier sufficient.

IX. And be it further enacted, That the Rating in the Name of the Person previously occupying shall be considered a sufficient Rating of the Person so entitled until a new Rate shall be made subsequent to such Devolution of Title as aforesaid.

Provision for certain Cases in which there has been Equality of Votes.

X. And be it enacted, That in every Borough named in the said Schedules in which or in any Ward or Wards of which it is doubtful who should have gone out of the Council in the Month of *November* last, by reason of the same Number of Votes having been given for Two or more Persons, and by reason of the Council not having determined who should then go out of Office according to the Provisions of the said Act for regulating Corporations, all the Councillors in such Borough or Ward respecting whose Continuance in Office any such Doubt shall arise shall continue in Office for the same Time as if they had been elected on the said First Day of *November* now last past; and the Council shall determine which of them shall go out of Office on the First Day of *November* now next ensuing; and if the Doubt shall extend to those who should have gone out of Office on the First Day of *November* now next ensuing, the Council shall also determine which of them shall go out of Office on the First of *November* in the Year One thousand eight hundred and thirty-eight.

Repeal of Provision relating to Vacancies in the Council.

Provision in lieu thereof.

XI. And be it enacted, That so much of the said Act for regulating Corporations as provides that no new Election of Councillors shall be made by reason of any extraordinary Vacancy in the Office of Councillor unless the Number of Councillors remaining after such Vacancy shall not exceed Two Thirds of the whole Number of the Council of the Borough, is hereby repealed; and that every Election of a Councillor to supply any such extraordinary Vacancy, either alone or together with other Councillors, which shall have been had on

on the First Day of *November* last, shall be valid, although the Number of Councillors did then exceed Two Thirds of the whole Number of the Council, and although such Vacancy may have happened more than Ten Days previously to the said First Day of *November* last, if in other respects such Election shall have been duly had according to the Provisions for the annual Election of Councillors contained in the said Act for regulating Corporations; and the Councillor elected by the smallest Number of Votes at such Election, if elected with other Councillors, shall be the Councillor elected to supply such extraordinary Vacancy as aforesaid; and in every Case in which more than One such extraordinary Vacancy shall be so supplied the Councillor elected by the smallest Number of Votes shall be taken to be elected in the Room of him who would regularly have first gone out of Office, and the Councillor elected by the next smallest Number of Votes shall be taken to be elected in the Room of him who would regularly have next gone out of Office, and so with respect to the other.

Vacancies among the Councillors or Ward Assessors, how to be supplied.

XII. And be it enacted, That in every Borough named in the said Act in which by reason of any Failure in complying with the Directions of the said Act the full Number of Councillors or Ward Assessors hath not been elected according to the true Intent and Meaning of the said Act, the Burgesses of the Borough, or of the several Wards in which the Vacancies may be that ought to be filled up, as the Case may be, shall on the Fourteenth Day after the passing of this Act openly assemble and elect the Councillors and Ward Assessors, to be elected in the Manner directed in the said Act; and the Mayor, or if there shall be no Mayor the Councillor assessed to the Poor to the greatest Amount in respect of any Messuage, Land, Tenement, Tithe, or other Hereditaments of which he is Occupier and also Owner within such Borough, shall preside at such Election in the Case of a Borough not divided into Wards, and in the Case of a Borough divided into Wards the Councillors elected in each Ward shall separately choose the Councillor who shall preside at the Election of Councillors and Ward Assessors in that Ward, or in case a Majority of them in any Ward cannot agree, then the Councillor elected in that Ward who is assessed to the Poor to the greatest Amount in respect of any Messuage, Land, Tenement, Tithe, or other Hereditaments of which he is Occupier and also Owner within the Borough, shall preside at such Election, and shall have in that Behalf all the Powers given by the said Act to the Mayor of the Borough in the first Election of Councillors.

Mayor or Councillor to convene a Meeting of the Council to supply Vacancies in the Office of Alderman or Mayor.

XIII. And be it enacted, That the Mayor of every Borough named in the said Act, and in which no Alderman or less than the full Number of Aldermen shall have been elected, or if there shall be no Mayor the Councillor who shall be chosen for that Purpose by the greatest Number of Councillors within the Borough, or in case a Majority of them shall not be able to agree, then the Councillor chosen before the passing of this Act assessed and being Occupier and Owner as aforesaid to the greatest Amount in the whole Borough, shall within Ten Days after the Vacancies (herein-

before last mentioned) shall have been filled up convene a Meeting of the Council for the Purpose of filling any Vacancies in the Office of Alderman, or of Mayor, or of Mayor and Alderman, as the Case may be; and at every such Meeting such Mayor or Councillor shall preside, and the Council shall proceed to elect the Aldermen then to be elected; and immediately after the Election of Aldermen, if any Aldermen are then to be elected, the Council shall proceed to elect a Mayor, if there shall then be no Mayor; and the Councillor by whom the Meeting was convened shall continue to preside at the Election of Mayor; and in every Case of Vacancy which may be occasioned among the Councillors by reason of any such Election of Aldermen, and which ought to be filled according to the Provisions of the said Act, the Mayor shall convene a Meeting of Burgesses for the Purpose of filling such Vacancy in the Manner provided by the said Act in the Case of extraordinary Vacancies in the Office of Councillor: Provided always, that the President of any such Meeting of the Council holden under the Provisions of this Act for the Election of a Mayor or Alderman in any Borough in which there shall be no Mayor shall have a second or casting Vote in case of an Equality of Votes.

Manner of electing Aldermen.

XIV. And be it enacted, That after the passing of this Act the Election of Aldermen by the Council shall be in manner following; that is to say, every Member of the Council entitled to vote in that Election may vote for any Number of Persons, not exceeding the Number of Aldermen then to be chosen, by personally delivering at such Meeting, to the Mayor or Chairman of the Meeting, a voting Paper containing the Christian Name and Surname of the Persons for whom he votes, with their respective Places of Abode and Descriptions, such Paper being previously signed with the Name of the Member of Council voting; and the Mayor or Chairman of the Meeting, as soon as all the voting Papers have been delivered to him, shall openly produce and read the same, and immediately afterwards deliver them to the Town Clerk, to be kept among the Records of the Borough; and in case of Equality of Votes among those entitled to vote the Mayor or Chairman shall have a casting Vote, whether or not he may be entitled to vote in the first instance.

Auditors and Assessors disqualified to be of the Council.

XV. And whereas by the said Act for regulating Corporations it is provided, that no Burgess shall be eligible to be or be elected an Auditor or Assessor who shall be of the Council; be it also enacted, That no Burgess shall be eligible to be elected a Member of the Council while holding the Office of Assessor or elective Auditor.

In case of Illness of Alderman at Election.

XVI. And be it enacted, That in case of the Illness or Incapacity to act of any Alderman at any Election, the Mayor shall be empowered to appoint another Alderman to act in the Room of such Alderman during such Illness or Incapacity.

Assessor may appoint a Deputy.

XVII. And be it enacted, That every Assessor shall be empowered and he is hereby directed as soon as conveniently may be after his Election, and from Time to Time as the Occasion may

arise or to him may seem fit, to appoint under his Hand a Deputy to act for him in case of his Illness or Incapacity to act at any Election or any Revision of the Burgess Lists; and every such Appointment shall be signified by him in Writing under his Hand to the Council, and shall be recorded on the Minutes of their Proceedings.

Appointment to be signified to the Council.

XVIII. And be it enacted, That at any Election under the Provisions of the said Act or of this Act it shall be lawful for the presiding Officer to close the Poll at any Time before Four of the Clock, if One Hour shall have elapsed during which no Vote shall have been tendered for any Candidate; provided that no Person or Persons have within the last Hour been prevented from coming to the Poll by any Riot, Violence, or other unlawful Means, of which Notice shall have been given to the Returning Officer.

Poll may be closed if an Hour has elapsed without a Vote being tendered.

XIX. And be it enacted, That every Mayor elected under the Provisions of this Act shall continue in Office until his Successor shall have accepted the Office of Mayor, and shall have made and subscribed the Declaration required in that Behalf; and every Alderman and Councillor elected under the Provisions of this Act shall continue in Office for the same Time as if he had been elected in the Month of *November* last according to the Directions of the said Act for regulating Corporations.

Mayor, Aldermen, and Councillors under this Act to continue as if elected in due Time.

XX. And be it enacted, That every Proceeding commenced before the passing of this Act, and still pending in the Court of King's Bench, against any Person upon any Ground on which it is herein declared that the Validity of the Election into any Corporate Office shall not be questioned, or for the Purpose of bringing into question the Validity of any Election or Act which is herein declared to be good, shall be discontinued immediately upon the passing of this Act, upon Payment of the Costs incurred up to that Time; and the Prosecutor or Relator shall be entitled to receive from the Defendant in every such Proceeding all such Costs, to be taxed as between Attorney and Client, according to the Practice of such Court.

Proceedings on account of Defects cured by this Act to be discontinued.

XXI. And be it further enacted, That no Advantage shall be taken of the Invalidity of any Election which shall be rendered valid by this Act in any Action already brought or which may be hereafter brought by any Corporation, but such Action shall be tried on its Merits, as if no such Objection could be set up against the Plaintiff's Right of proceeding, but the Court in which such Action is or shall be brought, or any Judge of the same Court in Vacation, shall on Application of the Defendant, if the Court or Judge think the Invalidity of any such Election would have been a Defence to such Action, order the Plaintiff in any such Action to pay such Defendant his Costs up to the Time of the Application, and also his Costs of the Application, taxed as between Party and Party.

No Advantage to be taken under this Act in Actions brought by any Corporation.

XXII. And be it further enacted, That from and after the Commencement of this Act any Burgess of any Borough shall be at liberty, at all seasonable Times, to make any Copy of or take any Extract from the Book required by the said Act to be kept for the Purpose of entering the Minutes of Council, and also to make any Copy

Power to take Extracts from Minutes, &c.

Copy or take any Extract from any Order in Council of such Borough for the Payment of any Money; and it shall also be lawful for any Alderman or Councillor of any Borough, at all seasonable Times, to make any Copy of or take any Extract from the Book required by the said Act to be kept by the Treasurer of such Borough.

Proceedings of Quo warranto against Mayor, &c. to be commenced within Twelve Months.

XXIII. And be it enacted, That after the passing of this Act every Application to the Court of King's Bench for the Purpose of calling upon any Person to show by what Warrant he claims to exercise the Office of Mayor, Alderman, Councillor, or Burgess in any Borough shall be made before the End of Twelve Calendar Months after the Election or the Time when the Person against whom such Application shall be directed shall have become disqualified, and not at any subsequent Time.

Applications may be made to Court of King's Bench for a Mandamus to put a Burgess on the Roll.

XXIV. And be it enacted, That it shall be lawful for any Person whose Claim shall have been rejected or Name expunged at the Revision of the Burgess Roll of any of the said Boroughs to apply, before the End of the Term then next following, to the Court of King's Bench for a Mandamus to the Mayor for the Time being of that Borough to insert his Name upon the Burgess Roll, and thereupon for the Court to inquire into the Title of the Applicant to be so enrolled; and if the Court shall award such Mandamus, the Mayor shall be bound to insert the Name upon the Burgess Roll, and shall add thereunto the Words "By Order of the Court of King's Bench," and shall subscribe his Name to such Words; and thereupon the Person whose Name shall be so added to the Burgess Roll shall be deemed a Burgess, and entitled to vote and act as a Burgess in all respects as if his Name had been put upon the Burgess Roll by the Mayor and Assessors; and upon every such Application the Court shall have Power to make such Order with respect to the Costs as to the Court shall seem fit.

In case Elections are not made within the Time appointed by 5 & 6 W. 4. c. 76. and this Act, the Corporations may proceed to such Elections on the following Day.

XXV. And be it enacted, That after the passing of this Act, in case no Election shall be made of any Mayor, or any of the Aldermen, Councillors, or other Corporate Officers, in any Borough named in the said Schedules, upon the Day or within the Time appointed by the said Act for regulating Corporations or by this Act for any such Election, or such Election being made shall afterwards become void, whether such Omission or Avoidance shall happen through the Default of the Officer or Officers who ought to preside at such Election, or by any Accident or other Means whatsoever, the Corporation shall not thereby be deemed or taken to be dissolved or disabled from electing such Mayor, Alderman, or Councillor, or other Corporate Officer, for the future, but in any Case where no such Election shall be made as aforesaid the Election for any such Mayor, Alderman, Councillor, or other Corporate Officer may be had, held, and proceeded with upon the Day next after the Day on which such Election ought to have been made, unless such Day shall happen to be on a *Sunday*, and then upon the *Monday* following, and every Act necessary to be done in order to and for the completing such Election shall and may be then done, and the same shall be as effectual and valid for all Purposes as if the Election had been made on the proper Day appointed for that Purpose.

XXVI. And

Powers given to Court of King's Bench under 11 G. 1. c. 4. extended to Elections under 5 & 6 W. 4. c. 76. and this Act.

XXVI. And be it enacted, That after the passing of this Act all the Powers, Authorities, and Jurisdictions by an Act of the Eleventh Year of the Reign of His late Majesty King *George* the First, intituled *An Act for preventing the Inconveniences arising from Want of Elections of Mayors or other Chief Magistrates of Boroughs or Corporations being made upon the Days appointed by Charter or Usage for that Purpose, and directing in what Manner such Elections should be afterwards made*, given to His Majesty's Court of King's Bench in Cases where no Election shall be made of the Mayor, Bailiff or Bailiffs, or other Chief Officer or Officers of Cities, Boroughs, or Towns Corporate, upon the Day or within the Time appointed by Charter or Usage for that Purpose, and that no Election is made pursuant to the Directions in that Act prescribed, or such Election being made shall afterwards become void as in that Act mentioned, shall and the same are hereby extended to all Cases in which no Election shall be made of any Mayor, Alderman, Councillor, or other Corporate Officer, or other Person, to any Corporate Office, on the Day or within the Time appointed for any such Election under the Provisions of the said Act of the Fifth and Sixth Years of the Reign of His present Majesty for regulating Corporations, or of this Act; and the said Court of King's Bench is hereby empowered in all such Cases to award a Mandamus, and to cause such Proceedings to be had thereupon, and to make such Orders, and to do all other Acts, Matters, and Things in respect thereof, as fully and effectually as the said Court is now by Law authorized in any other Cases of Mandamus for the Election of any Officers of Corporations; and the Election to be held under such Mandamus shall be held and the Proceedings thereon conducted within the Borough in the same Manner and under the like Regulations and Provisions as are in the said Act of His Majesty King *George* the First enacted and provided.

Freemen may be admitted who were entitled before the passing of 5 & 6 W. 4. c. 76.

XXVII. And be it declared and enacted, That every Person who at the Time of the passing of the said Act for regulating Corporations was entitled to be admitted to the Freedom of any Borough named in the Schedules to the last-recited Act shall be entitled to be admitted thereunto in like Manner, and subject to the same Conditions, Restrictions, and Limitations, in all respects, as any Person who shall have acquired his Title to such Freedom after the passing of the last-recited Act.

Money borrowed to discharge any pre-existing Debt to be deemed a Debt contracted before the passing of 6 & 7 W. 4. c. 104.

XXVIII. And whereas by an Act passed in the last Session of Parliament, intituled *An Act for the better Administration of the Borough Fund in certain Boroughs*, it is enacted, that it shall be lawful for the Council of any Borough named in the Schedules (A.) and (B.) annexed to the first herein-before mentioned Act, to execute from Time to Time any Deed or Obligation in the Name of the Body Corporate whose Council they are for securing Repayment and Satisfaction of any Debt or Obligation contracted by or on behalf of the said Body Corporate before the passing of the said Act for regulating Corporations; be it enacted, That any Money borrowed by any such Council for the Purpose of being applied and which shall be actually applied in or towards Satisfaction and Discharge of any such pre-existing

Debt or Obligation shall be deemed and taken to be, within the true Intent and Meaning of the said Act of the last Session of Parliament, a Debt contracted by or on behalf of such Body Corporate before the passing of the said Act for regulating Corporations.

Overseers may levy Borough Rates on Parts exclusively of any Parish within the Limits of the Borough.

XXIX. And whereas the Limits of Boroughs in some Cases extend over Parts of Parishes, Townships, and Places, parochial or otherwise, leaving the Remainder of such Parishes, Townships, and Places without the Limits of such Boroughs; and Doubts have arisen whether the said Act contains Provisions under which the Share which ought to be paid by the Parts included within the Limits of any Borough of any Borough Rate to be levied in pursuance of the same Act can be assessed and levied upon such Parts exclusively of the Remainder not within the Limits of the Borough; now be it enacted, That the Overseer or Overseers of the Poor within any Parish, Township, or Place whereof Part lies within the Limits of a Borough as aforesaid, or any Person or Persons who, in pursuance of the Powers contained by reference in the said Act, shall be appointed to act as Overseer or Overseers, shall and may and is and are hereby empowered to levy and raise, in manner directed by the said Act, upon such Part exclusively of any Parish, Township, or Place as is situate within the Limits of such Borough, such Sum or Sums of Money as shall be required to pay every Borough Rate (including Rates already paid by such Overseer or Overseers or other Person or Persons) assessed and to be hereafter assessed under the Authority in the said Act, upon such Part of any such Parish, Township, or Place as lies within the Limits of such Borough.

Certain Matters of local Jurisdiction made cognizable by Justices of Peace for the County, &c. 6 & 7 W. 4. c. 103.

XXX. And be it enacted, That all Matters cognizable by virtue of any Local Act of Parliament or otherwise by any Justice of the Peace or by the General or Quarter Sessions of the Peace having Jurisdiction within any Place which since the passing of the said Act for regulating Corporations, or of an Act passed in the Sixth and Seventh Year of the Reign of His present Majesty, intituled *An Act to make temporary Provision for the Boundaries of certain Boroughs*, has ceased or which under any future Act may cease to be within and to be Part of any Borough or the Liberties thereof, shall be cognizable by the Justices of the Peace or the General or Quarter Sessions of the County, Riding, or Division, Liberty or Jurisdiction, within which such Place is situate, in the same Manner and subject to the same Provisions as the same were within the Jurisdiction of the Justices of the Peace for that Borough or Place, or of the General or Quarter Sessions of the same.

Offences against local Acts made cognizable by Borough Justices.

XXXI. And be it enacted, That after the passing of this Act all Offences committed within any Borough, or the Precincts thereof, against the Provisions of any Local Act of Parliament, shall be cognizable by the Justices of such Borough, and such Justices shall possess all the Powers and Jurisdiction with respect to such Offences which were heretofore possessed by the Justices of any County, Riding, Division, Liberty, or Jurisdiction, by virtue of any such Local Act: Provided always, that in every Case in which Imprisonment might be awarded for any such Offence, or to enforce Payment

of any Penalty imposed by any such Act, such Imprisonment may be awarded to take place in any Gaol to which the Justices of that Borough have Power to commit Offenders.

Before whom Courts of Record may be holden.

XXXII. And be it enacted, That every Court of Record for the Trial of Civil Actions within any Borough named in the Schedules to the said Act for regulating Corporations may in the Absence of the Recorder be holden for all Purposes within the Competency of the said Court (except the Trial of Issues in Law or in Fact) before any Person whom the Recorder shall from Time to Time appoint for that Purpose under his Hand and Seal, such Person being a Barrister at Law or Attorney of Five Years Practice.

Orders, Affidavits, &c., now made by or before the Recorder, may be made by or before the Registrar in Absence of the Recorder.

XXXIII. And be it enacted, That all Rules, Orders, and Affidavits, and all other Matters and Things, (except the Trial of Issues in Law or in Fact,) in any way relating to the Business of any Borough Court of Record not regulated by Local Act of Parliament, of which the Recorder or his Deputy is or hereafter may become the Judge or now acts as Assessor, which must now by Law be made, sworn, or done by or before such Recorder or such Deputy, or other the Judge of the said Court, may be made, sworn, or done, either in Court or out of Court, in the Absence of the said Recorder or his Deputy, by or before the Registrar of such Court, or such other Person, being a Barrister at Law or Attorney of Five Years standing, as the Recorder shall appoint under his Hand and Seal.

Recorders to be sole Judges of Borough Courts in which they act as Assessors. 6 & 7 W. 4. c. 105.

XXXIV. And be it enacted, That in every such Borough Court of Record in which the Recorder acts as Assessor he shall after the passing of this Act be the sole Judge; and that the Provisions of this Act, and of the said Act for regulating Corporations, and also of an Act passed in the last Session of Parliament, intituled *An Act for the better Administration of Justice in certain Boroughs*, shall extend to all such Courts of which the Recorder now acts as Assessor, or of which he shall hereafter become the Judge, any thing in the last-mentioned Acts or either of them to the contrary notwithstanding.

Jurisdiction of Court of Record may be extended.

XXXV. And be it enacted, That if His Majesty shall be pleased, upon the joint Petition of the Council of any Borough named in either of the Schedules to the said Act for regulating Corporations, and of the Justices of the adjoining County, Riding, Parts, or Division of a County, in Quarter Session assembled, to grant that the Jurisdiction of any Court of Record for the Trial of Civil Actions, or of any Court of Requests or of Conscience for the Recovery of Small Debts within such Borough, shall be extended over any District adjacent to the said Borough, and within the Jurisdiction of such Quarter Sessions, such as to His Majesty, with the Advice of His Privy Council, shall seem fit, the Jurisdiction of every such Court respectively shall be extended according to the Tenor of the Grant; and all the Powers and Provisions contained in the said Act for regulating Corporations, and in an Act passed in the last Session of

6 & 7 W. 4. c. 105.

of Parliament, intituled *An Act for the better Administration of Justice in certain Boroughs*, and in this Act, relating to any such Court, shall extend to the whole District comprised within such extended Jurisdiction.

Jurors may be summoned more than once yearly when all who are qualified have been once summoned.

XXXVI. And whereas by the said Act for regulating Corporations it is provided that no Person shall be summoned to serve as a Juror at the Court of Session of the Peace, or Court of Record, in any Borough named in either of the Schedules to the said Act, oftener than once in One Year; be it enacted, That nothing in the said Act contained shall prevent or excuse any Person, qualified and liable to serve on any such Jury, from being summoned a Second Time in One Year in case every Person qualified and liable so to serve shall have been summoned once during that Year.

Councils of Boroughs to have same Powers as Justices in General or Quarter Sessions had in relation to building, &c. Gaols, &c.

XXXVII. And be it enacted, That the several Councils of the Cities of *Canterbury*, *Lichfield*, and *Lincoln*, and of every other Borough named in the Schedules to the said Act for regulating Corporations, shall have all the Powers for building, enlarging, and repairing any Gaol or House of Correction belonging to their City or Borough respectively which the Justices having the Government or ordering of any Gaol or House of Correction in any City or Borough within the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in* England *and* Wales, or of an Act passed in the Fifth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for amending an Act of the last Session of Parliament relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in* England *and* Wales, had in General or Quarter Sessions before the passing of the said Act for regulating Corporations; subject nevertheless to any Alteration made in the last-recited Acts, or either of them, by an Act made in the Fifth and Sixth Years of His Majesty, intituled *An Act for effecting greater Uniformity of Practice in the Government of the several Prisons in* England *and* Wales, *and for appointing Inspectors of Prisons in* Great Britain, and all Things by any Act of Parliament provided to be done at any General or Quarter Sessions of the Peace, in relation to the building, enlarging, or repairing any such Gaol or House of Correction, shall be done at some quarterly Meeting of the Council of the City or Borough: Provided always, that before the building, enlarging, or repairing any such Gaol or House of Correction the Expediency thereof shall first be certified under the Hand of the Recorder or other Judge of such City or Borough: Provided also, that all Rules and Regulations made for the Government of any Prisoners confined in any such Gaol or House of Correction shall be approved by Two or more Justices acting in and for that City or Borough before they shall be transmitted to the Secretary of State.

4 G. 4. c. 64.

5 G. 4. c. 85.

5 & 6 W. 4. c. 38.

XXXVIII. And

Justices of Cities or Boroughs to regulate Gaols, &c. therein at quarterly Sessions.

XXXVIII. And be it enacted, That all the Powers of Regulation which before the passing of the said Act for regulating Corporations were possessed by the Justices having the Government or Ordering of any such Gaol or House of Correction, and all Things by any Act of Parliament provided to be done at any General or Quarter Sessions of the Peace in relation to the regulating of any such Gaol or House of Correction, shall, subject to any such Alteration as aforesaid, be exercised or done by the Justices of the City or Borough to which such Gaol or House of Correction shall belong, and for that Purpose the Justices shall hold a quarterly Session at the usual Times of holding quarterly Sessions of the Peace; provided that no Order made by the Justices in pursuance of these Powers which shall require the Expenditure or Payment of any Money shall be of force until confirmed by the Council of that City or Borough.

Mayor, &c. not to be interested in any Contract for building, &c. Gaols, &c.

XXXIX. And be it enacted, That it shall not be lawful for any Mayor, Alderman, Councilman, or other Officer of a Corporation, to be interested or concerned or employed, directly or indirectly, as an Architect, Builder, Artist, Mechanic, Workman, Merchant, Trader, or otherwise howsoever in any Part of the Work to be done or Materials to be supplied at any such Gaol or House of Correction, or in any Contract whatever relating thereto; and if any one holding such Office shall be so interested, concerned, or employed in such Work or Contract as aforesaid, he shall thenceforward be disqualified from continuing to hold such Office, and also from being thereafter elected or appointed to fill any Corporate Office within any such City or Borough.

Borough Gaol may be built beyond the Limits of the Borough.

XL. And be it enacted, That it shall be lawful for the Mayor, Aldermen, and Burgesses of any Borough, by their Council, to contract for the Purchase of, and to have and hold to them and their Successors, any Lands not exceeding in the whole Five Acres, either within or beyond the Limits of the Borough, and to build thereon a Town Hall, Council House, Police Office, Gaol or House of Correction for the Borough; and any such Gaol or House of Correction, although built beyond the Limits of the Borough, may be declared by a Resolution of the Council, and upon such Resolution shall be taken to be, the Gaol or House of Correction of the Borough, and shall be within the same Jurisdiction and shall be governed and regulated in like Manner as if within the Limits of the Borough.

Gaols, &c. under County Jurisdiction previous to 6 & 7 W. 4. c. 103. excluded from the Provisions of that Act.

XLI. And whereas by the Extension of the Boundaries of certain Boroughs, Cities, and Places, the County Gaols, Court Houses, Depôts for Militia Arms, and other public Edifices and Offices of Counties have been included within the Boundaries of those Cities or Boroughs, and are thereby subject to the Jurisdiction of such Cities or Boroughs and of the Sheriffs and other Municipal Authorities thereof; in Remedy whereof be it enacted, That all County Gaols, Courts, Depôts for Arms, and all Lands, Buildings, Easements, and Appurtenances thereunto belonging, which before the passing of the Act passed in the last Session of Parliament to make temporary Provision for the Boundaries of certain Boroughs, or the

authorized Extension of the Boundaries of any Borough since the passing of that Act, were in, of, or belonging to any County, shall be taken to be and considered and shall remain Part and Parcel of such County, and under the exclusive Jurisdiction of the Authorities of such County, as if the said last-mentioned Act had not passed.

Certain Borough Debtors and Prisoners in Contempt may be removed to the County Gaol.

XLII. And be it enacted, That in every Case in which by virtue of any Contract made between the Council of any Borough and the Justices of any County, Riding, Parts, or Division of a County, Liberty, or Jurisdiction, according to the Provisions of the said Act for regulating Corporations, the Gaol belonging to such County, Riding, Parts, or Division of a County, Liberty, or Jurisdiction shall be used as the Gaol of such Borough, Prisoners for Debt or in Contempt arrested in any such Borough under any Process from any Court may be taken and removed from such Borough and confined in that Part of such Gaol which is appropriated to Debtors, and such Removal shall not be taken to be an Escape: Provided always, that every such Prisoner shall still be taken to be within the legal Custody of the Person or Persons in whose Custody he would have been if imprisoned within the Borough Gaol, and the Sheriff of such County, Riding, Parts, or Division of a County, Liberty, or Jurisdiction shall not be answerable for the safe Custody of any such Prisoner: Provided also, that it shall be lawful for the Person or Persons in whose Custody such Prisoner would have been if imprisoned within the Borough Gaol to take such Security from the Gaoler or Keeper of the Gaol to which any such Prisoner shall be so removed, for the safe Custody of all such Prisoners, as shall be agreed on between the Council and Justices aforesaid.

Period to which Accounts shall be made up.

XLIII. And whereas an Act was passed in the last Session of Parliament, intituled *An Act for the better Administration of the Borough Fund in certain Boroughs*, providing among other things that Accounts of the Receipt and Expenditure on account of the Mayor, Aldermen, and Burgesses of such Boroughs should be sent to One of His Majesty's Principal Secretaries of State, and be laid before both Houses of Parliament; be it enacted, That every such Account shall be made up to the last Period of Audit of the said Receipt and Expenditure, and not further or otherwise.

Orders for Payment of Money may be removed into the Court of King's Bench by Certiorari.

XLIV. And whereas it is expedient to give all Persons interested in the Borough Fund of every Borough a more direct and easy Remedy for any Misapplication of such Fund; be it therefore enacted, That any Order of the Council of any Borough for the Payment of any Sum of Money from or out of the Borough Fund of any Borough may be removed into the Court of King's Bench by Writ of Certiorari, to be moved for according to the usual Practice of the said Court with respect to Writs of Certiorari; and that such Order may be disallowed or confirmed upon Motion and Hearing, with Costs, according to the Judgment and Discretion of the said Court.

Manner of transferring Corporate

XLV. And be it enacted, That any Stocks, Funds, or Public Securities which may be standing in the Books of the Governor and Company

Company of the Bank of *England*, or of any other public Company or Society, in the Name of the Mayor, Aldermen, and Burgesses of any Borough, either under their present or under any former Style or Title of Incorporation, and the Dividends and Interest thereof, and all Bonuses and Accretions thereunto, which shall belong to the Body Corporate of such Borough, without being subject to any Trust for charitable Purposes, may be transferred by and paid to such Person or Persons as the Council of the said Body Corporate shall appoint by an Instrument in Writing under the Corporate Seal of the Borough; provided that such Instrument of Appointment shall be signed and sealed also by the Clerk to the Charitable Trustees of the Borough, who is hereby directed, upon Request, to sign and seal the same.

Property standing in the Bank Books, &c.

XLVI. And be it enacted, That any Stocks, Funds, Securities, and Monies standing as aforesaid in the Name of any such Body Corporate, which shall belong to the Charitable Trustees of the Borough solely upon some charitable Trust or Trusts, may be transferred by and paid to such Person or Persons as shall be appointed under the Hands and Seals of the greater Part of the Trustees, which Appointment shall be attested under the Hand and Seal of the said Clerk, provided that such Instrument as last aforesaid shall be also sealed with the Corporate Seal of the Borough, and the Mayor of the Borough is hereby required, upon Request, to cause the Seal of the Borough to be affixed to such Instrument of Nomination.

Manner of transferring Charitable Property standing in the Bank Books, &c.

XLVII. And be it enacted, That the Dividends and Interest of any Stocks, Funds, Securities, and Monies standing as aforesaid in the Name of any such Body Corporate which shall belong partly to the said Body Corporate, but subject to some charitable Trust or Trusts, may be paid to such Person or Persons as shall be authorized to have the same paid to him or them, by an Instrument in Writing under the Corporate Seal of the Borough, and appointed under the Hands and Seals of the greater Part of the Trustees, which Appointment shall be attested under the Hand and Seal of the said Clerk.

By what Authority and to whom Dividends of charitable and corporate Property standing in the Bank Books, &c. shall be paid.

XLVIII. And be it enacted, That in every Case the Receipt of the Person or Persons authorized to give a Receipt to the said Company or Society, by any Instrument under the Corporate Seal of the said Borough, and also signed and sealed by the Clerk to the Charitable Trustees, shall be an effectual Discharge to the said Company or Society, and all Monies so paid shall be applied to the Uses and in the Manner provided by the said Act; that is to say, so much of the said Monies as may be held on charitable Trusts shall be paid over to the Charitable Trustees of the said Borough, and so much as the said Body Corporate shall be entitled to beneficially shall be paid over to the Treasurer of the Borough, and applied as directed by the said Act as Part of the Borough Fund; but no such public Company or Society as aforesaid shall be bound to see to the due Application thereof, or to the Validity of the Appointment of the Clerk to the Charitable Trustees, or to the Execution of any such Instrument by any

Receipts for Monies, and Application thereof.

any of the said Trustees, or to inquire whether or not the said Stocks, Funds, Securities, or Monies are charged with or held upon any charitable Trust; and every Person authorized to receive any Monies under this Act shall account to the Council and to the Charitable Trustees respectively for all Monies so received by him, and the Council and Trustees respectively shall have the same Remedies against any such Person refusing or wilfully neglecting so to account as are provided by the said Act for regulating Corporations, in the Case of a Treasurer or other Officer appointed by the Council refusing or wilfully neglecting to account, as provided by the said Act, during the Continuance of his Office, or within Three Months after the Expiration of his Office.

Powers of the Act 5 & 6 W. 4. c. 76. may be granted by the Crown to Towns or Boroughs, though not Corporate.

XLIX. And be it enacted, That if the Inhabitant Householders of any Town or Borough in *England* or *Wales* shall petition His Majesty to grant to them a Charter of Incorporation, it shall be lawful for His Majesty, by any such Charter, if He shall think fit by the Advice of His Privy Council to grant the same, to extend to the Inhabitants of any such Town or Borough within the District to be set forth in such Charter all the Powers and Provisions of the said Act for regulating Corporations, whether such Town or Borough be or be not a Corporate Town or Borough, or be or be not named in either of the Schedules to the said Act: Provided nevertheless, that Notice of every such Petition, and of the Time when it shall please His Majesty to order that the same be taken into Consideration by His Privy Council, shall be published in the *London Gazette* One Month at least before such Petition shall be so considered, but such Publication shall not need to be by Royal Proclamation.

Business to be transacted at General or Quarter Sessions for the Counties, &c. in which Boroughs are situate.

L. And be it further enacted, That, in all Boroughs and Places where General or Quarter Sessions of the Peace have under and by virtue of the said recited Act ceased or been discontinued to be holden, all such Business, Matters, and Things which, under or by virtue of any General or Local Act of Parliament, or any Usage or Custom, ought or were usually heard, decided, or transacted at such General or Quarter Sessions by the Justices of the Peace, with the Assistance of any Juries there assembled, shall and may hereafter be heard, decided, and transacted by the General or Quarter Sessions of the Peace for the Counties, Ridings, or Divisions, Liberties, or Jurisdictions in which such Boroughs are situate, and by the Justices of the Peace and Juries there assembled respectively.

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