Anno ſexto

Georgii III. Regis.

CAP. XXXVII.

An Act to explain, amend, and render more effectual, an Act made in the Fourth Year of His preſent Majeſty's Reign, for the better regulating of Buildings, and to prevent Miſchiefs that may happen by Fire, within the Weekly Bills of Mortality, and other Places therein mentioned.

WHEREAS ſo much of the Act paſſed in the Fourth Year of the Reign of His preſent Majeſty King George the Third, intituled, An Act for the better regulating of Buildings, and to prevent Miſchiefs that may happen by Fire, within the Weekly Bills of Mortality, and other Places therein mentioned, as relates to pulling down or rebuilding of Partitions or Party Walls between Houſe and Houſe, enacts, That ſo much of the Act

Preamble, reciting Clauſes in Act 4 *Geo.* III.

of Parliament made in the Eleventh Year of the Reign of His Majesty King George the First, as relates to Party Walls within the said City and Liberty of Westminster, or any Parish, Precinct, or Place, comprized within the Weekly Bills of Mortality, or within the several Parishes of Saint Mary le Bone and Paddington, or within the Parishes of Chelsea and Saint Pancras, or either of them, in the County of Middlesex (except the City of London and the Liberties thereof, and also except the Party Walls of Houses on the River of Thames below Bridge) should, from and after the passing of the said Act of the Fourth Year of the Reign of His present Majesty, extend, and be construed, deemed, and taken to extend, to all Cases whatsoever within the said City and Liberty of Westminster, and the several Parishes, Precincts, and Limits aforesaid, where it is or should be necessary to pull down and rebuild any Party Wall, whether either of the adjoining Houses should or should not be, or require to be rebuilt, or new built: And that from and after the passing of the said last mentioned Act, in case the major Part of the Workmen appointed in Manner prescribed by the said Act, made and passed in the Eleventh Year of the Reign of His Majesty King George the First, to view the Party Wall of any House or Houses, within the said City of Westminster, and the several Parishes, Precincts, and Limits aforesaid, intended to be pulled down, should not, within the Space of One Calendar Month next after such Appointment, sign a Certificate in Writing as by the said last mentioned Act is required, then, and in every such Case, it should and might be lawful to or for any Two or more of His Majesty's Justices of the Peace for the City or County, residing within or near the Parish, Liberty, or Precinct, where the House or Houses, having such Party Wall or Walls intended to be pulled down, should stand; and such Two or more Justices were thereby authorized and required, upon such Application to them for that Purpose made by the Owner or Occupier of either of the Houses between which the Party Wall so proposed to be pulled down should be, to name and appoint One other able Workman to be added to the Workmen appointed by virtue or in pursuance of the said

said Act of the Eleventh of George the First; and the Workmen so appointed by virtue and in pursuance of the said last mentioned Act, and of the said Act of the Fourth of his present Majesty, or the major Part of them, who should meet for that Purpose (Ten Days Notice having been given to, or left at the Dwelling-house of each and every of them, of such intended Meeting) should view the Party Wall so proposed to be pulled down: And in case the major Part of such Workmen should certify in Writing, under their Hands, that such Party Wall was defective and bad, and ought to be pulled down; then, and in such Case, it should and might be lawful to and for the Owner or Occupier of either of the said adjoining Houses to cause such Party Wall to be pulled down and rebuilt; and he or she should have such Remedy for recovering a Moiety of the Expences thereof, as in and by the said Act of the Eleventh Year of his late Majesty King George the First, was given or provided; subject nevertheless to such Appeal to, and Determination by, the Justices of the Peace, as by the same Act was directed: And whereas, notwithstanding the Directions of the said recited Acts, touching the pulling down ruinous, bad, and defective Party Walls, wilful and litigious Persons may endeavour to prevent the same being done, by opposing the Entry of the first Builder into the House which adjoins to such Party Wall, in order to the shoring up the same, for the Purpose of taking down the said Party Wall; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, when the major Part of such Workmen shall have certified in Writing under their Hands, as aforesaid, that the Party Wall of any House or Houses within the said City and Liberty of Westminster, and the several Parishes, Precincts, and Limits aforesaid, is defective and bad, and ought to be pulled down; then, and in every such Case, if any Owner or Occupier of either of the Houses adjoining to such Party Wall shall, upon Notice given of such Certificate as aforesaid, by delivering to him or her a Copy thereof, or leaving the same at the Place of his

Where, upon a Copy of a Certificate delivered, that a Party Wall is defective, and ought to be pulled down,

Admittance shall be refused into the adjoining Houses, to shore up the same,

or her Abode, refuse Admittance to any Builder or Builders, his and their Servants or Workmen, or other Persons employed, to shore up such Houses, or to pull down such Party Wall; then, upon Oath made by such Builder or Builders, his and their Servants or Workmen, or other Persons employed for the Purposes aforesaid, of the Service of the Copy of such Certificate in Manner aforesaid, and of such Refusal, before One or more Justice or Justices of the Peace for the said County, City, or Liberty, it shall and may be lawful for such Justice or Justices before whom such Oath or Oaths shall be made, and they are hereby required, by Warrant or Warrants under his or their Hands and Seals, to authorize and impower such Builder or Builders, his and their Servants or Workmen, or other Persons, in the Presence of a Constable or other Officer of the Peace, at any Time after the End of Fourteen Days after a true Copy of the said Warrant shall be left at the House in which such Shoring is intended to be, between the Hours of Eight in the Morning and Four in the Afternoon, to enter into and upon the House adjoining to such Party Wall, for the Purpose of shoring up such House, and pulling down such Party Wall; and if the outer Door of such House shall be shut, and the Owner or Occupier thereof, or other Person therein, shall refuse to open the same, being thereunto demanded, to break open such outer Door, and remove any Goods, Furniture, Shelves, or other Matter or Thing whatsoever, which shall obstruct the Execution of the said Works respectively; and from and after such Entry as aforesaid, it shall and may be lawful to and for such Builder or Builders, their Servants or Workmen, or other Persons employed by them, from time to time, to re-enter into and upon the said Premises, and abide therein the usual Times of Work, for the shoring up the said House, and taking down such Party Wall, and rebuilding the same: And if any such Owner or Occupier, or other Person or Persons, shall in any Manner obstruct or hinder the Execution of the said Works; every such Owner or Occupier, or other Person or Persons, so offending, shall, for every such Offence respectively, forfeit the Sum of Five Pounds; to be recovered and levied in like Manner as the Penalties are to be recovered and levied by

or pull down such Wall;

the Justice, before whom Complaint of such Refusal shall be made, may grant a Warrant of Entry, &c.

and the Workmen may thereupon enter, and proceed in the Execution of their Work:

Penalty of obstructing them.

the

the said recited Act of the Fourth Year of His present Majesty.

Provided always nevertheless, That no Builder or Builders, or his or their Workmen, Servants, or Agents, or other Persons, employed to build such Party Wall, or to shore up such House, shall make any Entry by virtue of any such Warrant from any Justice of the Peace as aforesaid, unless some General or Quarter Session of the Peace for the County, City, or Liberty, hath happened, after such Certificate and Notice thereof, Ten Days at the least before the Signing such Warrant by such Justice of the Peace; nor in case any such Certificate shall have been quashed at such General or Quarter Session. In what Cases Entry may not be made by virtue of such Warrants.

And whereas by the said Act of the Fourth Year of the Reign of His present Majesty, it is enacted, That from and after the Three Calendar Months therein mentioned, no Timbers, except the Timbers of the Girders and binding Joists, and the Templets under the same, shall be laid into the Party Walls erected or built within the said City or Liberty of Westminster, and the Parishes, Precincts, and Limits aforesaid; and that no Timber of the Roof be laid into such Party Walls, except the Purloins or Kerb thereof; and that the Ends of Girders and binding Joists, lying within such Party Walls, shall not exceed Nine Inches; and that none of the Ends of the Girders or binding Joists in adjoining Houses shall meet or be laid opposite to each other; and that the Sides thereof shall be at least Fourteen Inches distant from each other; and that there shall be Nine Inches at least of solid Brick Work left at or between the Ends of all Lentils, Wall-plates, and Bond-Timbers, which may or shall be laid in or upon the Walls of the Fore and Back Fronts of all Houses which shall adjoin to each other: And whereas it is found by Experience, that the several Rules, Regulations, and Directions, herein before recited, are inconvenient, and no Means of preventing the spreading of Fire; be it therefore enacted and declared by the Authority aforesaid, That from and after the passing of this Act, no Timbers, except the Timbers of the Girders, binding Joists, and the Templets under the same, and necessary Bond Timbers, shall be laid into the Party Walls erected or built, or to be erected or built, accord- Clauses in Act 4 *Geo.* III.

Regulations to be observed with respect to laying Timbers into Party Walls;

according to the Directions of the said recited Act of the Fourth Year of the Reign of His present Majesty, within the said City or Liberty of Westminster, and the Parishes, Precincts, and Limits aforesaid; and that no Timbers of the Roof be laid into such Party Walls, except the Purloins or Kerb thereof; and that the Ends of Girders, and binding Joists, lying within such Party Walls, shall not exceed Nine Inches; and that none of the Ends of the Girders, or binding Joists, in adjoining Houses, shall meet, or be laid opposite to each other; and that the Sides thereof shall be at least Nine Inches distant from each other; and that there shall be Nine Inches at least of solid Brick Work at or between the Ends and Sides of all Bond Timbers; any Law, Statute, Custom, or Usage, to the contrary thereof in any wise notwithstanding: And that if any Head Builder, Master Bricklayer, or Workman, shall offend contrary to the true Intent and Meaning of this present Act, he shall be liable to all the Penalties contained and comprized in the said recited Act of the Fourth Year of His present Majesty, to be sued for and recovered in Manner in the said Act mentioned and declared.

Penalty on Builder, &c. not complying with the said Regulations.

And be it further enacted, That from and after any House or other Building is erected, any Person who shall build next adjoining thereto, and make use of the Party Wall thereof, for laying in the Timbers, or for any other Purpose whatsoever, shall pay to the Person or Persons who hath the Property in such Wall, One Half of the Value of such Wall, or of so much thereof as such Person, who shall build next adjoining thereto, shall make use of, according to such Price for each Rod thereof, as shall be estimated and determined by Two indifferent Persons, One to be chosen by each Party; and in case they differ in Opinion thereabout, then the same to be referred to One indifferent Person, to be chosen by such Arbitrators; and which Value, when so estimated and determined, shall be recovered and recoverable in like Manner as the Price of Party Walls is directed to be recovered by the said recited Act of the Fourth Year of the Reign of His present Majesty.

Provision, with respect to a Compensation for making use of Party Walls by adjoining Houses.

And

And whereas by the said recited Act of the Fourth Year of His present Majesty, a Penalty of Fifty Pounds is inflicted upon the Head Builder, Master Bricklayer, or Workmen, who should neglect to build every House thereafter to be built, according to the Directions of the said recited Act; One Moiety thereof to be paid to the Informer, and the other Moiety to the Poor of the Parish wherein such Buildings shall be erected; such Penalty and Penalties to be recovered by Action of Debt, Bill, Plaint, Suit, or Information, in any of His Majesty's Courts of Record at Westminster: And whereas, since the passing of the said recited Act, there has been a very great Increase of Buildings within the Limits aforesaid; and many of the Houses so built, are not in every Respect built according to the Directions of the said recited Act; whereby the several Owners and Head Builders thereof have incurred the said Penalties, and several Persons are informed against, and now under Prosecution for the same: And whereas, after Conviction of Persons for the said Offences, and Payment of the Penalties inflicted by the said Act, the Parties so offending may nevertheless suffer the Defects in such Houses to remain, instead of amending the same, and thereby in great Measure frustrate the Intent proposed by the said Act, for preventing Mischiefs from Fire: And whereas the said First Owners, Head Builders, or Workmen, of such Houses so irregularly built, are willing and desirous to make good the said Defects, whereby the Intent of the said Act would be fully answered, provided they may be exempted from the Penalties already incurred thereby; be it therefore enacted by the Authority aforesaid, That if any Action, Bill, Plaint, Suit, or Informations, is and are now depending in any of His Majesty's Courts of Record at Westminster, or before any of His Majesty's Justices of the Peace, against any such First Owner, Head Builder, or Workman, for not having built such House or Houses conformable to the Directions of the said recited Act; it shall and may be lawful for the Court where the same shall be respectively brought, and such Court is hereby required, authorized, and impowered, on the Application of such Defendant or Defendants, to make a Rule for the Plaintiff or Informer, in such Action, Bill, Plaint, Suit, or Information, to set forth the particular De-

Clause in Act 4 *Geo.* III.

Clause for exempting, upon certain Conditions, First Owners and others from the Penalties incurred, for not having built conformable to the Directions of the recited Act of 4 *Geo.* III.

fect or Irregularity complained of in the building such House or Houses; and if such Defendant or Defendants shall thereupon enter into an Agreement for making good the Irregularities and Defects so complained of, and rendering the building of such Houses conformable to the Direction of the said recited Act, within a certain Time to be specified in such Agreement, and shall be desirous that such Agreement should be made a Rule of any of His Majesty's Courts of Record; that then, such Agreement being so made, shall and may, upon producing an Affidavit of the Execution thereof by the Witnesses thereunto, or any of them, in the Court of which the same is agreed to be made a Rule, and reading and filing the said Affidavit in Court, be entered of Record in such Court; and a Rule shall thereupon be made by such Court, that such Defendant or Defendants shall, within a certain Time to be limited and specified in such Rule, make good the Defects and Irregularities complained of, and render the building of such House or Houses conformable to the Direction of the said recited Act; and that such Defendant or Defendants shall moreover pay such Costs as the said Court shall direct and award; and also it shall and may be lawful to and for such Justice or Justices of the Peace, before whom any Information or Informations as aforesaid is or are now depending, and such Justice and Justices of the Peace are hereby required, authorized, and impowered, on the Application of any First Owner, Head Builder, or Workman, against whom such Information or Informations shall be given and laid, to accept and receive such Agreement to make good the Defects and Irregularities complained of, and to render the buildings of such Houses conformable to the Directions of the said recited Act.

Upon conforming to the Regulations of the Act, and the Defects complained of being made good,

And be it further enacted, That in every such Case, it shall and may be lawful for, and such Court and Justices of the Peace is and are hereby required, authorized, and impowered, on such First Owner, Head Builder, or Workman, making appear to them respectively,

spectively, that the Defects and Irregularities complained of are made good, and the Building of such House or Houses rendered conformable to the Direction of the said recited Act, according to his or their Agreement entered into for that Purpose, to indemnify, free, and discharge, every such Defendant and Defendants, of, from, and against, all Penalties and Forfeitures incurred or to be incurred for or by reason of not having originally built such Party Walls pursuant to the Directions of the said Act, or for or by reason of any other Defect or Irregularity, whereby such Houses are otherwise built than pursuant to such Directions; any thing in the said Act contained to the contrary notwithstanding.

Defendant to be discharged from the Penalties.

Provided always, That this Act, or any thing herein contained, shall not extend, or be construed to extend, to indemnify any Person against whom final Judgement shall have been given in any Action of Debt, Bill, Plaint, or Information, in any of His Majesty's Courts of Record, for any Penalty incurred by having neglected to make such Party Walls, or, in any other Respect, to build such Houses pursuant to the Directions of the said Act of the Fourth Year of his present Majesty.

This Act not to extend to the Indemnification of Persons, against whom final Judgement has already been given.

And be it further enacted by the Authority aforesaid, That if any Head Builder or Master Bricklayer shall, from and after the First Day of June, One thousand seven hundred and sixty six, erect or build, or cause to be erected and built, any House or Houses within the said City or Liberty of Westminster, and the Parishes, Precincts, and Limits aforesaid, contrary to the Directions of the said recited Act, or of this present Act; then every such Head Builder or Master Bricklayer shall not only pay the Penalties whereof he or they shall be convicted, but also shall, within the Space of Six Months next after his or their being convicted of such Offence in manner by the said recited Act prescribed, make good all such Defects and Irregularities whereof he or they shall have been so convicted,

From and after 1 *June*, 1766, Head Builders, &c. acting contrary to the Directions of the former or present Act, are made liable not only to the Penalties incurred, but to make good the Defects and Irregularities of which they shall be convicted;

ed, and render the building of such House or Houses conformable to the Directions of the said recited Act, or of this present Act: And in case such Head Builder or Master Bricklayer shall not, within Six Months after such Conviction, have made good such Defects and Irregularities, and rendered the building of such Houses conformable to the Directions of the said recited Act, or of this present Act; then, every such Head Builder, Master Bricklayer, or Workman, shall forfeit the further Sum of Fifty Pounds, to be applied as aforesaid, and to be likewise levied and recovered in manner as by the said recited Act is directed, and so toties quoties, for every Six Months that such Defects and Irregularities shall continue, and such House or Houses remain built otherwise than conformable to the Directions of the said recited Act, or of this present Act.

and if they exceed a limited Time, in so doing they forfeit moreover 50 *l.* &c.

And be it further enacted by the Authority aforesaid, That if any Workman or Servant to such Head Builder or Master Bricklayer, shall wilfully, carelessly, or negligently, and without the Direction, Privity, or Consent, of such Head Builder or Master Bricklayer, do any thing toward the building of such House or Houses, contrary to the Directions of the said recited Act, or of this present Act, every such Workman or Servant so offending, shall, for every such Offence, forfeit the Sum of Five Pounds, to be paid to the Informer; and if the same shall not be paid immediately upon his being convicted of such Offence before One or more Justice or Justices of the Peace for the said County of Middlesex, or for the City and Liberty of Westminster, upon the Oath of One or more credible Witness or Witnesses (which Oath such Justice or Justices is and are hereby impowered to administer) or upon his own Confession; then the Offender shall, by Warrant under the Hand and Seal of such Justice or Justices, be committed to the House of Correction for the Space of Three Months, without Bail or Mainprize, unless the said Penalty shall be sooner paid.

Workman taking on himself to act contrary to the Directions of the recited or present Act, forfeits 5 *l.*

and if not forthwith paid, he is to be committed for 3 Months.

Limitations of Actions and Informations against First Owners and Builders.

And be it further enacted by the Authority aforesaid, That if any Action shall be brought, or Suit commenced, or Information given to any of his Majesty's Justices of the Peace for the said County of Middlesex, or City or Liberty of Westminster, against any Person or Persons, for any Thing done by any First Owner, Head Builder, or Head Workman, contrary to the true Intent and Meaning of the said recited Acts passed in the Sixth and Seventh Years of the Reign of her late Majesty Queen Anne, and in the Eleventh Year of the Reign of his late Majesty King George the First, and in the Fourth Year of the Reign of his present Majesty, or of this Act, such Action, Suit, or Information, shall be laid or brought within Three Months next after the Fact done, and not afterwards.

Limitation of Actions against Persons for Matters done in pursuance of Act 4 *Geo.* III. or of this Act.

And be it further enacted by the Authority aforesaid, That if any Action shall be brought, or Suit commenced, against any Person or Persons for any thing done in pursuance of the said recited Act of the Fourth Year of his present Majesty, or of this Act, such Action or Suit shall be laid or brought within Six Months next after the Fact done, and not afterwards; and shall be laid or brought in the County or Place where the Fact was committed, and not elsewhere; and the Defendant or Defendants in such Action may plead the General Issue, and give this Act, and the Special Matter, in Evidence, at any Trial to be had thereupon; and that the same was done in pursuance and by the Authority of this Act; And if the same shall appear to have been so done, or if any Action or Suit shall not be brought within the Time before limited, or shall be brought in any other County or Place than as aforesaid, then the Jury shall find for the Defendant or Defendants; or if the Plaintiff or Plaintiffs shall become nonsuited, or suffer a Discontinuance of his or their Action or Actions, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if, upon Demurrer, Judgement shall be given against the Plaintiff or Plaintiffs, the said Defendant or Defendants shall

General Issue.

Treble Coſts. have Treble Coſts, and ſhall have ſuch Remedy for recovering the ſame, as any Defendant or Defendants hath or have for Coſts in any other Caſes by Law.

Publick Act. And it is hereby further enacted, That this Act ſhall be deemed and taken to be a Publick Act; and ſhall be judicially taken Notice of as ſuch, by all Judges, Juſtices, and all other Perſons whatſoever, without ſpecially pleading the ſame.

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FINIS.