

ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

CAP. XLIV.

An Act for the Erection of a Penitentiary House for the Confinement of Offenders convicted within the City of *London* and County of *Middlesex*; and for making Compensation to *Jeremy Bentham* Esquire, for the Non-performance of an Agreement between the said *Jeremy Bentham* and the Lords Commissioners of His Majesty's Treasury, respecting the Custody and Maintenance of Convicts.

[20th *April* 1812.]

WHEREAS an Act passed in the Nineteenth Year of the Reign of His present Majesty, intituled *An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment of certain Offenders:* And whereas another Act passed in the Thirty-fourth Year of the Reign of His present Majesty, intituled *An Act for erecting a Penitentiary or Penitentiary Houses, for confining and employing Convicts:* And whereas Penitentiary Houses have not yet been erected; but certain Lands and Premises have been purchased of the Most Honourable the Marquis of *Salisbury*, at *Milbank* near *Tothill Fields*, and a Conveyance thereof made to *Jeremy Bentham* Esquire, under the Authority of the said last recited Act; and the same thereby became vested in the said *Jeremy Bentham*, as Feoffee, for the Purposes of the said Act: And whereas it is expedient that a separate Penitentiary House should be built, for the Purpose of confining Offenders convicted of transportable Offences within the City of *London* and the County of *Middlesex* only, or

19 G. 3. c. 74.

34 G. 3. c. 84.

capitally convicted within the ſaid City and the ſaid County, and pardoned on condition of being confined under this Act, upon the ſaid Ground and Premiſes ſo purchaſed and veſted in the ſaid *Jeremy Bentham* as aforeſaid: May it therefore pleaſe Your Majeſty that it may be enacted; and 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 it ſhall and may be lawful for His Majeſty to appoint Three Perſons to carry into Execution the Purpoſe of this Act, and to be Superviſors of the Houſe and Buildings to be erected in purſuance thereof, and from Time to Time to remove them or any of them, and appoint others in the Room of ſuch as ſhall be ſo removed, or ſhall die or reſign their Truſt; and to allow ſuch Superviſors ſuch Compenſation for their Expences, occaſioned by the Diſcharge of their Duty, as His Majeſty ſhall deem reaſonable, to be paid from Time to Time by Warrants from the Commiſſioners of His Majeſty's Treaſury or the High Treaſurer for the Time being.

Appointment of Superviſors.

II. And be it further enacted, That as ſoon as ſuch Superviſors ſhall be ſo appointed as aforeſaid, all the Lands, Houſes, Buildings, Tenements, and Premiſes ſo purchaſed by the ſaid *Jeremy Bentham*, or now veſted in him for the Purpoſe of the ſaid Act of the Thirty-fourth Year aforeſaid, ſhall veſt abſolutely, and without any Conveyance or Aſſignment thereof, in His Majeſty, His Heirs and Succeſſors, for the Uſe of the Public and the Purpoſes of this Act, free from all Incumbrances created by the ſaid *Jeremy Bentham* or any Perſon claiming under him.

After ſuch Appointment Lands purchaſed to be veſted in His Majeſty.

III. And be it further enacted, That it ſhall be lawful for the ſaid Superviſors, by the Direction and with the Conſent and Approbation of the Lord High Treaſurer for the Time being, or any Three or more of the Commiſſioners of the Treaſury for the Time being, to erect or cauſe to be erected, or contract and agree with any Perſon or Perſons for the erecting ſuch Houſe and other Buildings as ſhall be expedient and neceſſary for the Purpoſes aforeſaid, and to do all ſuch other Matters and Things as may be neceſſary for carrying this Act into Execution.

Superviſors to erect a Penitentiary Houſe.

IV. And whereas a Propoſal was made in the Year One thouſand ſeven hundred and ninety-two, by the aforeſaid *Jeremy Bentham*, to contract with the Lords Commiſſioners of the Treaſury for the Management of One thouſand Male Convicts in a National Penitentiary Houſe to be erected by the ſaid *Jeremy Bentham* for that Purpoſe; and Articles of Agreement, founded on ſuch Propoſal, were prepared and approved of on Behalf of the ſaid Lords Commiſſioners of the Treaſury, in whom Powers were veſted by the Act of the Thirty-fourth Year of His preſent Majeſty above recited, to conclude ſuch Contracts and Agreements for the Erection of National Penitentiary Houſes under the ſaid Act, as they ſhould deem neceſſary and expedient; but ſuch Articles of Agreement have never been executed: And whereas the ſaid *Jeremy Bentham* was appointed Feoffee of the Lands above-mentioned under the ſaid Act, with a View to the Erection of a National Penitentiary Houſe under the ſaid Contract, and has been authorized and encouraged to take Meaſures for carrying ſuch intended Agreement into Effect, and received an Advance of Two thouſand Pounds in the Year One thouſand ſeven hundred and ninety-four for that Purpoſe; and the ſaid *Jeremy Bentham* ſtates himſelf

Appointment of Arbitrators for ſettling Queſtions between the Public and Mr. Bentham.

to

to have expended large Sums of Money over and above the ſaid Sum of Two thouſand Pounds, in making Preparations for the Performance of the ſaid Agreement on his Part, with reſpect to the Plan of the ſaid intended Building, the Employment to be therein given to Convicts, and the Syſtem of Management thereunto to be adapted, and to have transferred, and with Enlargements adapted to the Object of ſuch Preparations, an extenſive Syſtem of Mechanical Works, of the Invention of his Brother, Brigadier General *Samuel Bentham*, to whom the ſame were ſecured by divers Patents, and whereon a Capital to a conſiderable Amount, produced by the Sale of divers Eſtates, had been expended, from which, by reaſon of ſuch Transference, no Advantage thereafter could nor can now be reaped; and it is alſo ſtated by the ſaid *Jeremy Bentham*, that the ſaid Brigadier General *Bentham* has relinquiſhed in his Favour ſuch Compenſation as the ſaid *Samuel Bentham* might be entitled to in reſpect of the Matters aforeſaid: And whereas it is not now deemed expedient that ſuch Contract with the ſaid *Jeremy Bentham* ſhould be carried into Effect, but it is juſt and reaſonable that the ſaid *Jeremy Bentham* ſhould be paid the Sums ſo by him expended, and ſhould moreover receive a liberal Compenſation for all Loſs and Damage by him and the ſaid *Samuel Bentham* ſuſtained by reaſon of the Non-fulfilment thereof, deducting from ſuch Claims any Profits which he may have derived from the Lands of which he has been in Poſſeſſion as Feoffee under the Appointment mentioned above; be it therefore enacted, That Two Perſons ſhall be choſen Arbitrators for the Purpoſe of ſettling all Queſtions between the Public and the ſaid *Jeremy Bentham*, ariſing out of the ſaid Agreement or intended Agreement, one of whom ſhall be choſen by the ſaid Lords Commiſſioners of the Treaſury, and the other by the ſaid *Jeremy Bentham*; and if the Arbitrators ſo choſen ſhould not be able to agree on their Award upon the Points referred to them, within Six Months after the ſaid Arbitrator on the Part of the ſaid Lords Commiſſioners of the Treaſury ſhall be choſen and notified to the ſaid *Jeremy Bentham*, that then and in ſuch Caſe the ſaid Arbitrators ſhall name a Third Perſon, whoſe Deciſion thereupon ſhall be final; and that the ſaid Lords Commiſſioners of His Majeſty's Treaſury are hereby empowered and required to iſſue out of the Conſolidated Fund, by Warrant ſigned by any Three or more of them, the Net Sum ſo awarded to the ſaid *Jeremy Bentham*, within One Month after the ſaid Award ſhall have been made; and in the mean Time the ſaid Lords Commiſſioners of His Majeſty's Treaſury, or any Three of them, are hereby authorized and directed to iſſue and pay Net ſuch Annual Sum as may appear to them to be equal to the Net Annual Profit of the ſaid Lands in the Hands of the ſaid *Jeremy Bentham*: Provided always, that in caſe the making of ſuch Award ſhall be delayed beyond Twelve Months after the paſſing of this Act, owing to any Neglect or Default on the Part of the ſaid *Jeremy Bentham*, no further Payment ſhall be made to the ſaid *Jeremy Bentham* until ſuch Award ſhall be made.

Superviſors to ſuperintend the Erection of a Penitentiary Houſe.

V. And be it further enacted, That the ſaid Superviſors, or any Two of them, ſhall contract with proper Perſons for erecting ſuch Penitentiary Houſe, together with the ſeveral Buildings and Incloſures thereto belonging, and ſhall ſuperintend the Erection of ſuch Houſe and Buildings, and the due Performance of ſuch Contracts as ſhall be entered into touching the ſame; and the ſaid Penitentiary Houſe ſhall be made ſufficiently large to contain ſuch Number of Convicts as the Principal Secretary of State

for the Home Department shall approve, not exceeding Three hundred Male Convicts, and the like Number of Female Convicts; and such House, or the Buildings and Inclosure thereunto belonging, shall contain proper Storehouses, Warehouses, Work Rooms, and Lodging Rooms, an Infirmary, a Chapel and Burying Ground, a Prison divided into airy Apartments, a Kitchen Garden, and also proper Airing Grounds, Yards, Offices, and other necessary Apartments for the several Officers and Servants herein-after directed to be appointed: Provided always, that before any such Contracts shall be made or entered into by the said Supervisors, the Plan of such Houses and Buildings, with the Estimates of the Expence of erecting the same, shall be laid before and approved of by the Principal Secretary of State for the Home Department.

For Appointment of Committee of Management.

VI. And be it further enacted, That when the said Penitentiary House shall be ready, or partly ready for the Reception of Offenders, it shall and may be lawful for His Majesty, in His Privy Council, to nominate and appoint any fit and discreet Persons, not being less than Ten nor more than Twenty in Number, as and for a Committee to superintend the said House for the Term of One Year then next ensuing, or until a fresh Nomination or Appointment shall take place; and from Time to Time to remove all or any of the Persons composing the said Committee, and appoint others in their Stead, or in the Stead of such as shall die or resign.

Committee to make Bye Laws, Rules, &c.

VII. And be it further enacted, That it shall and may be lawful for such Committee, or any Three of them, to hold Meetings, and to make Bye Laws, Rules, Orders, and Regulations, for the assembling of the said Committee, and for all Matters relating to the Meetings of the same, as well as for the Government of the said Penitentiary House, and for receiving, separating, classing, dieting, clothing, maintaining, employing, reforming, managing, treating, and watching all Offenders during their respective Confinement therein, as to the said Committee shall seem just and proper: Provided however, that such Bye Laws, Rules, and Orders shall not begin to have Force until they have been submitted to the Justices of the Court of King's Bench, and such Justices shall have subscribed a Declaration that they do not see any Thing contrary to Law in the said Bye Laws, Rules and Orders so to be made as aforesaid; and all such Bye Laws, Rules and Orders so to be made, shall be afterwards added to or altered from Time to Time as often as the said Committee shall think necessary, and such Additions and Alterations shall also in like Manner be submitted to the Justices of the Court of King's Bench, and confirmed in Manner aforesaid.

Appointment of a Visitor.

VIII. And be it further enacted, That it shall and may be lawful for such Committee, or any Three of them, at any of their said Meetings, to appoint any one or more of their said Members to visit the said House during the Intervals between the Meetings of the said Committee, and to delegate, if they shall think fit, Power to such Visitors or any of them to make any Order or give any Directions in Cases of pressing Emergency within the said House, which might be made or given by the said Committee if they were sitting; provided that every such Order or Direction, together with the Circumstances by which the same was occasioned, shall be reported to the said Committee at their next Meeting.

IX. And

IX. And be it further enacted, That for the Regulation and Management of such Penitentiary House, and previously to the opening thereof for the Reception of Offenders, there shall be elected and appointed by the said Committee, a Governor, a Chaplain, a Surgeon or Apothecary, a Storekeeper, and also for that Portion of the House set apart for Female Convicts, a Matron, together with such Taskmasters and other Officers, Assistants, and Servants, as the said Committee, with the Approbation of the said Principal Secretary of State for the Home Department, shall judge necessary; and such Taskmasters, Officers, Servants, and Assistants shall from Time to Time be removeable by any Order of the said Committee; and when any Vacancy shall happen, new Taskmasters, Officers, Servants, or Assistants shall be elected by the same Authority; and such Salaries and other Allowances shall be made to the said Taskmasters, Officers, Servants, and Assistants as the said Committee shall think proper, subject nevertheless to such Approbation as aforesaid; and also such of them from whom the said Committee may deem it proper to require Security for the due and faithful Execution of their Offices, shall give such Security accordingly as the said Committee from Time to Time shall direct. Appointment of Officers, &c.

X. Provided nevertheless, and be it further enacted, That it shall be lawful for the said Committee from Time to Time, with such Approbation as aforesaid, to increase, diminish, discontinue, or vary the Number of Officers to be appointed for the said House in pursuance of the Directions aforesaid, except by taking away or discontinuing any of the Offices of Governor, Matron, Chaplain, and Surgeon or Apothecary, to the same. Committee may vary the Number of Officers.

XI. And be it further enacted, That the Governor of such Penitentiary House shall be a Body Corporate, and shall sue and be sued by the Name of "The Governor of the Penitentiary House for *London* and *Middlesex*." Governor to be a Body Corporate.

XII. And be it further enacted, That the said Governor shall also have Power to make Contracts with any Persons whomsoever, for the Clothing, Diet, and all other Necessaries for the Maintenance and Support of the Offenders confined in such House, for Implements or Materials of any Kind of Manufacture, Trade or Mystery in which Offenders confined in such House shall be employed, such Contracts being previously approved by the Committee; and also to carry on such Manufacture and Mystery in such House, and to sell such Goods, Wares, and Merchandize, as shall be there wrought and manufactured; and the Governor of every such Penitentiary House shall cause all Accounts touching the Maintenance of such House and the Offenders therein, to be entered regularly in a Book or Books to be kept for that Purpose; and also the Governor and Storekeeper shall each keep separate Accounts of all such Stock and Materials as shall be brought into such House for employing such Offenders, and such Stock and Materials shall from Time to Time be delivered out by the said Storekeeper as Occasion shall require to the several Taskmasters, who shall respectively give Receipts to such Storekeeper for the same, and shall distribute the same amongst the several Offenders, to be employed in working thereon; and such Taskmasters or their Assistants shall constantly superintend the Work of the said Offenders, and take an Account of every Neglect of Work or other Misbehaviour, and likewise of any extraordinary Diligence or good Behaviour Governor empowered to contract for Clothing, Diet, &c. necessary for the Offenders, with the Approbation of the Committee. Accounts to be entered in a Book. Duty of Storekeeper and Taskmaster.

in any of such Offenders, and from Time to Time shall report the same to the Governor, who shall cause the same to be entered in a Book to be kept for that Purpose; and such Taskmaster shall also keep Accounts of the Quantities daily worked by the several Offenders, and shall return the Materials, when wrought and manufactured, to the Storekeeper, who shall give Receipts to the Taskmaster for the same, and shall from Time to Time, with the Privity and Approbation of the Governor, sell and dispose thereof, and pay the Money arising from such Sales to the Governor, who shall be accountable for the same to the Committee, in Manner herein-after mentioned; and the said Governor and Storekeeper shall keep separate Accounts of the Materials so wrought, manufactured, sold and disposed of, and the several Sums of Money for which the same shall be so sold, and when sold, and to whom, in Books to be provided for those Purposes.

For examining Books.

XIII. And be it further enacted, That the said several Books so to be kept by the said Governor and Storekeeper, and the several Entries therein, shall be examined by the said Committee, and shall be by them compared with the several Receipts and other Vouchers, and shall be verified by such Governor and Storekeeper upon Oath, if required, before such Committee, and shall, if approved of by such Committee, be allowed and signed by any Three of them; and if such Committee shall disapprove of any Articles in such Accounts, they shall disallow the same.

Committee may examine upon Oath, and may dismiss any Offender for Fraud or Collusion.

XIV. And be it further enacted, That if the said Committee shall suspect any fraudulent or improper Charges in any of such Accounts of the said Governor or Storekeeper, or any Omission thereout, they may examine, upon Oath, the said Governor, Storekeeper, or any of the Officers or Servants belonging to such House, or any of the Persons employed about the same, or any Persons of whom any Necessaries, Stock, Materials, or other Things have been purchased for the Use of such House, or any Persons to whom any Stock or Materials wrought or manufactured therein, have been sold, or any of the Offenders confined in such Penitentiary House, or any other Persons, touching any of the Articles contained in such Accounts, or any Omission thereout, or any Thing relative thereto; and in case there shall appear in any such Accounts any false Entry, knowingly or wilfully made, or any fraudulent Omission thereout, or any other Fraud whatsoever, or any Collusion between any Officer or Officers, or Servants belonging to such House, or between any such Officer or Officers, Servant or Servants, and any other Person or Persons, in any Matter relative thereto, then, besides the private Satisfaction in Damages which the Parties or Party injured may be entitled to recover by Law, the said Committee may dismiss any such Officer or Officers who shall to them appear to have been guilty of any such false Entry, Omission, Fraud, or Collusion, and appoint another or others in his, her, or their Stead; and if the said Committee shall see fit, they shall cause an Indictment or Indictments to be preferred against the Officer or Officers, Servant or Servants so offending, at the next Quarter or other General Session of the Peace to be holden for the County, Riding, Liberty, Division, City, Corporation, or Place wherein such Penitentiary House shall be situated, or for any other adjoining County; and in case such Person or Persons so indicted shall be found guilty of such Offence or Offences, he, she, or they

shall

shall be punished by Fine and Imprisonment, or either of them, at the Discretion of the Court.

Committee to certify to the Principal Secretary of State for the Home Department, when such House shall be fit for the Reception of Offenders.

XV. And be it further enacted, That when the Penitentiary House herein-before directed to be built, or a sufficient Part thereof, shall be fitted and completed for the Reception of Offenders, and proper Officers shall be appointed for the Care and Management thereof, the said Committee shall certify, under their Hands and Seals, to His Majesty, through the said Principal Secretary of State for the Home Department, that such Houses are so fitted and completed, and that such Officers have been appointed; and after the making of such Certificate it shall and may be lawful for His Majesty, with the Advice of His Privy Council, to order that any Person who shall be in His Majesty's Gaol of *Newgate*, sentenced to Transportation for any Offence committed within the City of *London* or the County of *Middlesex*, or capitally convicted for any Crime committed within the said City or County, and pardoned by His Majesty upon the Condition of being confined under this Act, to be removed to and imprisoned within the said Penitentiary House for and during any Term not exceeding Five Years, in case such Offender shall have been sentenced to be transported for Seven Years only; for any Term not exceeding Seven Years, in case he or she shall have been so sentenced for Fourteen Years; and for a Term not exceeding Ten Years, in case such Offender shall have received Sentence of Transportation for Life, or shall have been capitally convicted.

Gaoler's Fees and Expences of Removal to be paid by the City or County.

XVI. And be it further enacted, That all Fees on the delivering out of Custody of any such Offender so ordered to be removed, as have usually been paid and would have been due to the Keeper of the said Gaol of *Newgate* in case such Offender had been removed in order to have been transported, and all reasonable Expences which the said Keeper shall incur in every such Removal, shall be paid by the said City of *London* or County of *Middlesex*, for which the Court in which the Offender was convicted shall have been held; and the Keeper shall receive the Money due for such Fees and Expences from the Treasurer of the said City or County, such Fees and Expences being first allowed by the Order of the Justices of the Peace at their Quarter or other General Sessions of the Peace, who are hereby required to make such Order as shall be just in that Behalf.

Governor to have the same Power over Offenders in his Custody as a Sheriff or Gaoler.

XVII. And be it further enacted, That after Delivery of any such Offender as aforesaid into the Custody to which he or she shall be so ordered as aforesaid, such Governor or other Person having the Custody of Offenders under his Direction shall, during the Term for which such Offender shall be ordered to remain in his Custody, have the same Powers over such Offender as are incident to the Office of a Sheriff or Gaoler; and in case of any Abuse of such Custody, or other Misbehaviour or Negligence in the Discharge of his Office, shall be liable to the same Punishment as a Gaoler is now liable to by Law.

Offenders, when brought, to be separately lodged and washed, and

XVIII. And be it further enacted, That when any Offender who shall be ordered to be confined in such Penitentiary House shall be brought thither in pursuance of the Powers contained in this Act, he or she shall be separately lodged and washed, cleansed and purified, and shall then be examined

examined by the Surgeon.

mined by the Surgeon or Apothecary, and ſhall continue in ſuch ſeparate Lodging until it be certified by ſuch Surgeon or Apothecary that he or ſhe is fit to be received among the other Convicts; and the Clothes in which he or ſhe ſhall then be clothed ſhall be burnt if neceſſary, or otherwiſe ſhall be ſold and diſpoſed of at the Diſcretion of the Governor, and the Produce thereof ſhall be accounted for to the Committee aforeſaid; and ſuch Offender ſhall not be diſmiſſed at the End or other Determination of his Term, unleſs at his own Requeſt, if he ſhall then labour under any acute or dangerous Diſtemper, nor until he can be ſafely diſcharged; and when ſuch Offender ſhall be finally diſcharged, ſuch other decent Clothing as ſhall be judged neceſſary and proper by the Committee aforeſaid, ſhall be delivered to ſuch Offender, and alſo ſuch Sum of Money for his or her immediate Subſiſtence, as the ſaid Committee ſhall think proper, ſo as ſuch Sum ſhall not exceed Three Pounds; and if ſuch Offender at the End or other Determination of his or her Term, ſhall procure any reputable Maſter of a Ship, or Tradeſman, or other ſubſtantial Houſekeeper, to take him or her into Service, or provide him or her with proper Employment, for One Year then next enſuing, the ſame to be approved by the Committee aforeſaid, he or ſhe, having ſerved accordingly, ſhall be entitled at the End of the Year to ſuch other Sum of Money, not exceeding the like Sum of Three Pounds, as the ſaid Committee ſhall think fit.

When diſcharged to be furniſhed with decent Clothing.

Allowances.

Keeping Offenders to Labour.

XIX. And be it further enacted, That every ſuch Governor of the ſaid Penitentiary Houſe ſhall, during the Term for which ſuch Offender ſhall remain in ſuch Cuſtody, keep him or her to Labour, of ſuch Kind as the Committee before mentioned ſhall direct and appoint; and if the Work to be performed by any ſuch Offenders ſhall be of ſuch a Nature as may require previous Inſtruction, proper Perſons ſhall be provided to give the ſame by Order of the ſaid Committee, to whom a ſuitable Allowance ſhall be made.

Offenders, how to be lodged.

XX. And be it further enacted, That ſuch Offenders as ſhall be ſent to the ſaid Penitentiary Houſe ſhall, during the Hours of Labour, be ſeparated from each other, or ſhall work together in Companies compoſed of more or fewer Perſons in Number, in ſuch Manner as the Bye Laws eſtabliſhed as aforeſaid by the Committee ſhall preſcribe; and that all Offenders not confined in the Infirmary ſhall, during their Hours of Reſt, be kept entirely ſeparate and apart from each other, and be lodged in ſeparate Rooms or Cells.

Hours of Work.

XXI. And be it further enacted, That ſuch Offenders ſhall be employed in Work at the ſaid Penitentiary Houſe every Day in the Year, except *Sundays*, *Chriſtmas Day*, and *Good Friday*, and alſo except ſuch Days when ill Health will not allow of their working; and the Hours of Work in each Day ſhall be as many as the Seaſon of the Year, with an Interval of Half an Hour for Breakfaſt and an Hour for Dinner, will permit, but not exceeding Eight Hours in the Months of *November*, *December*, and *January*; Nine Hours in the Months of *February* and *October*, and Ten Hours in the reſt of the Year: Provided always, that it ſhall and may be lawful for the ſaid Committee, by a written Order, to permit any Priſoner to labour voluntarily for a longer Time than is herein mentioned, upon ſuch Conditions as ſhall in the ſaid Order be expreſſed.

XXII. And be it further enacted, That it shall be lawful for the said Committee to allow to any of the Offenders confined in the said Penitentiary House, as a Reward and Encouragement, any Part or Portion of the Profits arising from their Labour, not exceeding such Proportion thereof as shall be approved of and allowed by the said Principal Secretary of State for the Home Department; to be expended in such Manner, and subject to such Regulations as the said Committee shall direct and appoint. Granting Rewards.

XXIII. Provided always, and be it further enacted, That the several Offenders to be sent to the said Penitentiary House shall be divided into Two Classes, which shall be called the First and Second Classes; for which Purpose the Time for which such Offenders shall be severally ordered to be confined shall be divided into Two equal Parts, and during the First Part of the Time of the Imprisonment, he or she shall be ranked in the First Class; and during the Second Part of such Time, he or she shall be ranked in the Second Class; and the Confinement of such Offenders as shall from Time to Time be ranked in the First Class shall be more strict, and the Confinement of the Offenders in the Second Class shall be more moderate; which several Degrees of Confinement so to be affixed to each Class shall be settled by the said Committee, by Orders of Regulation to be approved of in Manner aforesaid, but not so as to defeat or elude the special Rules or Provisions made and appointed by this Act: Provided always, that if the said Committee shall at any Time observe or be satisfactorily informed of any extraordinary Diligence or Merit in any of the said Offenders who are ranked in the said First Class, it shall be lawful for the said Committee to order such Offender to be transferred to the Second Class, although such Offender may not have completed the Period of his or her Imprisonment in the said First Class. Dividing Offenders into Classes.

XXIV. And be it further enacted, That if the said Committee shall at any Time observe or be satisfactorily informed of any extraordinary Diligence or Merit in any of the Offenders under their Inspection, who shall be ranked in the said Second Class of Offenders, the Committee shall report the same in Writing to the Principal Secretary of State for the Home Department, in order that he may recommend such Offender to His Majesty as an Object of the Royal Mercy, in such Degree and on such Conditions as to Him shall seem meet. Committee to report Offenders who shall manifest extraordinary Diligence.

XXV. And be it further enacted, That every Offender who shall be ordered to such Penitentiary House shall, during the Time of his or her Confinement therein, be fed and sustained with a sufficient Quantity of coarse but wholesome Food; and also be clothed with a coarse and uniform Apparel, with any distinguishing Marks which may be deemed useful to facilitate Discovery in case of Escapes; the Whole to be ordered in such Manner as the Committee aforesaid shall from Time to Time appoint for those Purposes: And no such Offender shall, during the Time of his or her Confinement, be permitted to have any other Food, Drink, or Clothing, than such as shall be so appointed; and if any Person or Persons shall wilfully supply any such Offender, at any Time during the Term of his or her Confinement, with any Food, Drink, or Clothing, other than such as shall be so appointed, or with any Money, he or she so supplying How the Offenders shall be fed and clothed. Punishing Persons supplying them with other Food or Clothing.

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such Offender, shall for every such Offence forfeit a Sum not exceeding Ten Pounds, nor less than Forty Shillings.

None but Officers to enter any of the Apartments.

XXVI. And be it further enacted, That no Person, except the Officers, Assistants, or Servants of the House, or such Person or Persons as shall be authorized according to the Regulations established by the said Committee, shall be permitted any Time to enter any of the Apartments or Court Yards allotted to the Prisoners, or to hold Conversation or Communication with any such Offenders.

Governor may employ Offenders as Servants.

XXVII. Provided also, and be it enacted, That it shall and may be lawful to and for the Governor of the said House to employ, with the Consent of the said Committee, any of the Offenders aforesaid, who shall be ranked in the Second Class as Servants, Overseers, or Assistants, in the Management of the Works and the Care of their Fellow Prisoners, instead of being confined to such their Daily Labour as aforesaid.

Punishing Officers or Servants supplying any Offender with Money, Provisions, or Liquor, contrary to this Act.

XXVIII. And be it further enacted, That no Officer or Servant of such Penitentiary House shall supply any of the Offenders therein with any Money, Clothing, Provisions or Diet, or with any Spirituous or other Liquors whatsoever, except such Money, Clothing, Provisions or Diet, or such Water and Milk, as the Governor of the House shall from Time to Time permit or direct, and except such Diet and Liquors as the Surgeon or Apothecary attending such House shall think proper to order for any such Offenders in case of Illness; and in case any such Officer or Servant shall be found guilty of carrying to any such Offender, or of knowingly permitting to be carried to any such Offender, any Money, Clothing, Provisions or Diet, or Liquors whatsoever, contrary to the Intent of this Act, such Officer or Servant shall immediately be suspended by the said Governor, who shall report the same to the Committee at their next Meeting; and such Committee shall inquire thereof upon Oath, and shall punish such Officer or Servant by Forfeiture of Office, by any Fine not exceeding Ten Pounds, and by Imprisonment for any Term not exceeding Six Months, or by any one or more of such Punishments, as the said Committee shall in their Discretion think proper.

Chaplain to read Morning and Evening Prayers, and preach Two Sermons on Sundays.

XXIX. And be it further enacted, That the Chaplain shall read Morning and Evening Prayers in the Chapel of such Penitentiary House, and preach a Sermon both Morning and Evening, on every *Sunday* in the Year, and also on every *Christmas Day* and *Good Friday*; and all the Offenders confined in such House, who shall not be disabled by Illness, shall attend the said Prayers and Sermons, which shall also be attended by the Resident Officers and by the Servants of such House, or such of them as can be spared from their several Employments, and shall not be prevented by Illness; and the said Chaplain shall visit such Offenders, under such Regulations as may hereafter be prescribed by the said Committee, for their moral and religious Education, as well as for their Instruction in Reading and Writing.

Offenders to walk and air themselves.

XXX. And be it further enacted, That the Offenders ordered to be confined in such Penitentiary House shall be permitted to walk and air themselves in the Airing Yards or Grounds belonging thereto, for such stated

Time

Time as their Health may require, and the Governor, under the Direction of the Committee, ſhall permit.

Offenders when ſick, to be viſited by the Surgeon; and if neceſſary, be ſent to the Infirmary.

XXXI. And be it further enacted, That in caſe any ſuch Offender ſhall appear to be ſick, he or ſhe ſhall be viſited by the Surgeon or Apothecary attending ſuch Houſe, and if the Sickneſs be found to be real, the ſaid Surgeon or Apothecary ſhall report the ſame to the Governor, who ſhall, if the Sickneſs be of ſuch a Nature as to require it, order ſuch Offender to be ſent to the Infirmary belonging to ſuch Houſe, and to be entered in a Book to be kept for that Purpoſe as ſick; and when ſuch Offender ſhall have ſo far recovered his or her Health, as that the ſaid Surgeon or Apothecary ſhall judge him or her in a proper Condition to quit the Infirmary, and to return to his or her Employment, and the ſaid Apothecary ſhall ſo report, the ſaid Governor ſhall order ſuch Offender to be brought back to his or her Lodging Room, and to be again employed in Labour, ſo far as ſhall be conſiſtent with the Health of ſuch Offender.

Committee to examine into the State of the Houſe, and inſpect the Accounts.

XXXII. And be it further enacted, That the ſaid Committee, at every Meeting, at which Three of them at the leaſt ſhall be preſent, ſhall inquire into the State of ſuch Houſe, and ſhall, once at leaſt in every Month, ſee every Offender confined there and not diſabled by Sickneſs; and ſhall inſpect the Accounts of the Governor and Storekeepers, and alſo examine the Conduct and Management of ſuch Houſe, and the Behaviour of the Officers thereof, and of the Offenders confined therein.

Governor empowered to hear Complaints.

XXXIII. And be it further enacted, That the Governor of ſuch Penitentiary Houſe ſhall have Power to hear all Complaints touching any of the following Offences; that is to ſay, Diſobedience of any of the Orders of the Houſe; Aſſaults by one Perſon confined in ſuch Houſe upon another, when no dangerous Wound or Bruiſe is given; profane Curſing and Swearing, or indecent Behaviour; Abſence from Chapel, or irreverent Behaviour there; and Idleneſs or Negligence in Work, or wilful Miſmanagement of it; all which are declared to be Offences by this Act; and the ſaid Governor may examine any Perſons touching ſuch Offences, and may determine thereupon, and may puniſh ſuch Offences by ordering the Offenders to cloſe Confinement in a dark Cell, or by keeping them upon Bread and Water only, for any Term not exceeding Three Days.

Enormous Offenders to be confined by the Governor, and reported to the Committee.

XXXIV. And be it further enacted, That if any Offender who ſhall be confined in any ſuch Penitentiary Houſe, ſhall, during the Term for which he ſhall be ſo confined, be guilty of any Offence which the Governor of ſuch Houſe is not hereby authorized to puniſh, or for which the Puniſhment which ſuch Governor is hereby authorized to inflict, ſhall by ſuch Governor be deemed not ſufficient, by reaſon of the Enormity of the Offence or the Repetition thereof, ſuch Governor may and he is hereby required to confine ſuch Offender either in his or her own Lodging Room, or in a dark Cell belonging to ſuch Houſe, till the next Meeting of the ſaid Committee, and ſhall then report ſuch Offence, with the Time and particular Circumſtances thereof, and the Name of the Offender, to the ſaid Committee; and ſuch Committee ſhall have Power to enquire of, upon Oath, and determine concerning all ſuch Offences ſo reported to them as aforeſaid, and ſhall order ſuch Offenders to be puniſhed by cloſe Con-

finement in a dark Cell with Bread and Water only for Sustenance, for any Term not exceeding One Month, or by removing such Offenders, if ranked in the Second Class into the First Class, or by any or all of such Punishments; and in case of Removal into the First Class, the Offender shall from the Time of making such Order of Removal, go through such First Class, unless he or she be restored to the Second Class by Order of the Committee, or unless the Term of his or her Confinement shall be previously completed.

Committee may administer Oaths.

XXXV. And be it further enacted, That whenever by this Act the said Committee or any Three of them, are empowered or directed to make any Enquiry or receive any Proof upon Oath, any One of the said Committee is hereby authorized to tender and administer such Oath; and any Three of the said Committee may summon or cause to be summoned such Witnesses as they shall think meet to appear and give Evidence before them; and if any Person, being duly summoned, shall refuse or neglect to appear, or being present and competent to be a Witness, shall refuse to be sworn, or being sworn, shall refuse to give Evidence, such Person shall forfeit any Sum not less than Twenty Shillings nor more than Ten Pounds, at the Discretion of the said Committee.

Governor to keep regular Books, and Returns to be made therefrom.

XXXVI. And be it further enacted, That the Governor of the said Penitentiary House shall keep a regular Book or Books, in which shall be entered the Names of all and every the Person or Persons who shall be in their Custody, the Offences of which they shall have been guilty, the Court before which each Person was convicted, the Sentence of the Court, the Age, bodily Estate, and Behaviour of every such Convict while in Custody; and also the Names of all and every the Person or Persons who shall have died under such Custody, or shall have escaped from such Place of Confinement, or shall have been discharged from thence by Order from One of His Majesty's Principal Secretaries of State or otherwise; from which Books Returns shall be made of the Particulars mentioned above, on the First Day of every Term, to His Majesty's Court of King's Bench, and shall be verified on the Oath of the Person making the same.

Reports to be laid before the King in Council and to both Houses of Parliament.

XXXVII. And be it further enacted, That the said Committee shall, at the Beginning of every Session, make a faithful Report to the King in Council, and to both Houses of Parliament, specifying the State of the Buildings, the Behaviour and Conduct of the respective Officers, the Treatment and Condition of the Prisoners, the Amount of the several Earnings, and the Expences attending every such Place of Confinement; and also in Matters of extreme or pressing Necessity, shall and may make a special Report thereof to the Justices of His Majesty's Court of King's Bench, who shall immediately take Order therein, and regulate or redress the same.

Bye Laws, Rules, &c. to be reported to the King in Council and to both Houses of Parliament.

XXXVIII. And be it further enacted, That the said Committee shall report to His Majesty in Council, and to both Houses of Parliament, all Bye Laws, Rules, or Regulations made under the Authority of this Act, and all Alterations therein or Additions thereto, within Thirty-one Days after the Commencement of the next Session of Parliament, after such Bye Laws, Rules, and Regulations, or Alterations or Additions, shall have been

been confirmed by the Juſtices of the Court of King's Bench, as herein-before is directed.

Expences of executing the Act to be laid before the Houſe of Commons.

XXXIX. And be it further enacted, That an Account of the Expences of carrying this Act into Execution, not herein-before ſpecially provided for, ſhall be annually laid before the Houſe of Commons, and after deducting thereout the net Profits, if any, ariſing from the Earnings of the Offenders who ſhall be confined in the ſaid Houſe, the Remainder of ſuch Expences ſhall be provided for in the next Supplies to be granted to His Majeſty by Parliament.

Puniſhment of Perſons breaking Priſon or eſcaping.

XL. And be it further enacted, That if any Perſon who ſhall be ordered to be confined in the ſaid Penitentiary Houſe, ſhall at any Time during the Term of ſuch Confinement, break Priſon, or eſcape from the Place of his or her Confinement, or in his or her Conveyance to ſuch Place of Confinement, or from the Perſon or Perſons having the lawful Cuſtody of ſuch Offender, he or ſhe ſo breaking Priſon or eſcaping, ſhall be puniſhed by an Addition of Three Years to the Term for which he or ſhe at the Time of his or her Breach of Priſon or Eſcape was ſubject to be confined; and if ſuch Perſon ſo puniſhed by ſuch Addition to the Term of Confinement, ſhall afterwards be convicted of a Second Eſcape or Breach of Priſon, he or ſhe ſhall be adjudged Guilty of Felony, without Benefit of Clergy.

Puniſhing Perſons reſcuing or attempting to reſcue Offenders.

XLI. And be it further enacted, That if any Perſon ſhall reſcue any Offender who ſhall be ordered to be confined within the ſaid Penitentiary Houſe, either during the Time of his or her Conveyance to the ſaid Penitentiary Houſe, or whilſt ſuch Offender ſhall be in the Cuſtody of the Perſon or Perſons under whoſe Care and Charge he or ſhe ſhall be ſo confined; or if any Perſon ſhall be aiding or aſſiſting in any ſuch Reſcue, every ſuch Perſon ſo reſcuing, aiding, or aſſiſting, ſhall be guilty of Felony, and may be ordered to be confined to the ſaid Houſe for any Term not leſs than One Year, nor exceeding Five Years; and if any Perſon, having the Cuſtody of any ſuch Offender as aforeſaid, or being employed by the Perſon having ſuch Cuſtody, as a Keeper, Underkeeper, Turnkey, Aſſiſtant, or Guard, ſhall voluntarily permit ſuch Offender to eſcape, or if any Perſon whatſoever ſhall, by ſupplying Arms, Tools, or Inſtruments of Diſguiſe, or otherwiſe be in any Manner aiding and aſſiſting to any ſuch Offender in any Eſcape, or in any Attempt to make an Eſcape, though no Eſcape be actually made, or ſhall attempt to reſcue any ſuch Offender, or be aiding and aſſiſting in any ſuch Attempt, though no Reſcue be actually made, every ſuch Perſon ſo permitting, attempting, aiding, or aſſiſting, ſhall be guilty of Felony; and if any Perſon having ſuch Cuſtody, or being ſo employed by the Perſon having ſuch Cuſtody as aforeſaid, ſhall negligently permit any ſuch Offender to eſcape, ſuch Perſon ſo permitting ſhall be guilty of a Miſdemeanor, and being lawfully convicted of the ſame, ſhall be liable to Fine or Impriſonment, or to both, at the Diſcretion of the Court.

Mode of Trial and Conviction.

XLII. And, to the Intent that the Proſecutions for Eſcapes, Breaches of Priſon and Reſcues, may be carried on with as little Trouble and Expence as is poſſible; be it further enacted, That any Offender eſcaping, breaking

ing Priſon, or being reſcued in Manner aforeſaid, may and ſhall be tried before the Juſtices of Oyer and Terminer or Gaol Delivery, or at the Great Seſſions either for the County where he or ſhe ſhall be apprehended and retaken, or for the County in which the ſaid Offence ſhall have been committed; and in caſe of any Proſecution for any ſuch Eſcape, Attempt to Eſcape, Breach of Priſon, or Reſcue, either againſt the Offender eſcaping or attempting to eſcape, or having broke Priſon, or being reſcued, or againſt any other Perſon or Perſons concerned therein, or aiding, abetting, or aſſiſting the ſame, a Copy, properly atteſted of the Order of Commitment to ſuch Penitentiary Houſe, ſhall, after Proof made that the Perſon then in queſtion before the Court is the ſame that was delivered with ſuch Order, be ſufficient Evidence to the Court and Jury that the Perſon then in queſtion was ſo ordered to ſuch Confinement.

Recovery of Penalties.

XLIII. And be it further enacted, That any pecuniary Penalties created by this Act, for the Recovery of which no Mode is herein-before preſcribed, ſhall be recoverable before Two or more Juſtices of the Peace in the County, Riding, Diviſion, City, Liberty, Borough, Town, or Place in which the Offence ſhall be committed, on Proof of the Offence by the Oath or Oaths of one or more credible Witneſs or Witneſſes, or on Confeſſion of the Offender; and One Moiety thereof ſhall be paid to the Uſe of the Penitentiary Houſe, and the other Moiety to the Informer or Informers proſecuting for the ſame; and in caſe of Non-payment, ſhall be levied by Diſtreſs and Sale of the Offender's Goods and Chattels, by Warrant under the Hands and Seals of ſuch Juſtices; and the Overplus of the Money raiſed, after deducting the Penalty and the Expences of the Diſtreſs and Sale, ſhall be rendered to the Owner; and for want of ſufficient Diſtreſs, the Offender ſhall be ſent by ſuch Juſtices to the Priſon of ſuch County, Riding, Diviſion, City, Borough, Town, or Place, for ſuch Term not exceeding Six Months, nor leſs than One Month, as ſuch Juſtices ſhall think moſt proper.

General Iſſue to be pleaded.

XLIV. And be it further enacted, That if any Suit or Action ſhall be proſecuted againſt any Perſon or Perſons for any Thing done in purſuance of this Act, ſuch Perſon or Perſons may plead the General Iſſue, and give this Act or the Special Matter in Evidence, at any Trial to be had thereupon, and that the ſame was done by the Authority of this Act; and if a Verdict ſhall paſs for the Defendant or Defendants, or the Plaintiff or Plaintiffs ſhall become nonſuit, or diſcontinue his, her, or their Action or Actions after Iſſue joined, or if on Demurrer or otherwiſe Judgment ſhall be given againſt the Plaintiff or Plaintiffs, the Defendant or Defendants ſhall recover Treble Coſts, and have the like Remedy for the ſame as any Defendants have by Law in other Caſes; and though a Verdict ſhall be given for any Plaintiff in any ſuch Action or Suit as aforeſaid, ſuch Plaintiff ſhall not have Coſts againſt the Defendant, unleſs the Judge before whom the Trial ſhall be, ſhall certify his Approbation of the Verdict.

Treble Coſts.

Limitation of Actions.

XLV. And be it further enacted, That all Actions, Suits, and Proſecutions, to be commenced againſt any Perſon or Perſons for any Thing done in purſuance of this Act, ſhall be laid and tried in the County or Place where the Fact was committed, and ſhall be commenced within Six Months after the Fact committed, and not otherwiſe.

XLVI. Pro-

XLVI. Provided always, and be it further enacted, That until Provision shall be made for the Confinement in Penitentiary Houses, of Offenders convicted in other Parts of *England* and *Wales* than the City of *London* and County of *Middlesex*, and sentenced to Transportation, or pardoned upon Condition of being confined in a Penitentiary House, it shall and may be lawful for His Majesty, with the Advice of His Privy Council, to order any such Offender to be removed from any Gaol or Prison in which he or she shall be confined, and to be imprisoned under the Provisions of this Act, within the Penitentiary House now to be erected; and any Fees which would have been due to the Gaoler or Keeper of such Gaol or Prison, if such Offender had been removed in order to be transported, and all reasonable Expences which shall be incurred in every such Removal, shall be paid by the City or County for which the Court in which the Offender was convicted shall have been held, in the Manner in which such Fees and Expences are herein-before directed to be paid, in the Case of the Removal of Offenders from His Majesty's Gaol of *Newgate*. Offenders may be removed.

XLVII. And be it further enacted, That in all Cases where any Court or Courts shall think fit to sentence any Person or Persons convicted before such Court or Courts of Felony without Benefit of Clergy, to Imprisonment as or for the Punishment, or Part of the Punishment for such Offence, such Court or Courts may, if they shall think fit so to do, moreover direct that the Person or Persons so convicted shall during such Imprisonment be kept to hard Labour. Courts may sentence Offenders to hard Labour.

XLVIII. And be it further enacted, That this Act may be altered or amended by any Act or Acts to be passed in the present Session of Parliament. Act may be altered this Session.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1812.