

ANNO QUINQUAGESIMO NONO

GEORGII III. REGIS.

CAP LXI.

An Act to enable Counties and Stewartries in *Scotland* to give Aid to Royal Burghs situated therein, for the Purpose of improving, enlarging, or rebuilding their Gaols; or to improve, enlarge, or rebuild Common Gaols of Counties and Stewartries which are not the Gaols of Royal Burghs.

[2d *July* 1819.]

WHEREAS the Gaols in the different Royal Burghs in *Scotland* are in general insecure and incommodious: And whereas although by the Law of *Scotland* Burghs are bound to provide and maintain proper Gaols, yet the Means of many of such Burghs are insufficient for the necessary Improvement thereof; wherefore it is expedient that Counties and Stewartries in *Scotland* should be enabled to contribute towards the Expence that may be required for improving, enlarging, or rebuilding the Gaols of the Royal Burghs of *Scotland*, within the same: And whereas it is expedient that when Common Gaols of Counties and Stewartries in *Scotland*, are not the Gaols of Royal Burghs, such Counties and Stewartries should be enabled to improve, enlarge, or rebuild such Common Gaols: 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 Com-

mons, in this present Parliament assembled, and by the Authority of the same, That if the Magistrates and Council of any Royal Burgh shall deem it expedient to solicit Aid and Assistance from the County or Stewartry in which the same shall be situated, towards improving, enlarging, or rebuilding the Gaol of any such Royal Burgh, they shall transmit to the Clerk of Supply of such County or Stewartry, a Proposal in Writing for the Consideration of the Commissioners of Supply of such County or Stewartry.

Burghs may solicit Aid from County for Gaols.

II. And be it enacted, That the said Clerk of Supply, upon receiving such Proposal, shall transmit it without Delay to the Convener, who shall call a Meeting of the Commissioners of Supply of such County or Stewartry, for the Consideration of the said Proposal, by public Advertisement in one or more Newspapers published in said County or Stewartry, or if no Newspaper is published therein, by Advertisement in such Newspaper or Newspapers as the Convener usually intimates public County Meetings in for the said County or Stewartry, of which Meeting Six Weeks previous Notice at the least shall be given.

Proposal of Magistrates to be submitted to Commissioners of Supply.

III. And be it further enacted, That no Person shall be entitled to vote at any Meeting to be held under this Act, who shall not be a Commissioner of Supply, possessed of the *Dominium utile* of Lands valued at One hundred Pounds *Scots*, or the Factor of an absent Commissioner of Supply so qualified, duly authorized to attend and vote for his Constituent at such Meeting.

Qualification of Voters.

IV. And be it enacted, That it shall and may be lawful for such Commissioners of Supply, or a Majority of them at any such Meeting, if they shall think fit, before coming to a final Resolution upon any such Proposal, to appoint a Committee of their Number to confer with the Magistrates and Town Council making such Proposals, and for the Purpose of arranging with them all the Details that may be necessary to enable the Commissioners of Supply to satisfy themselves as to the Propriety of affording Aid towards the Purpose solicited, and for settling the Plan or Plans necessary for the Execution of the Work, and for ascertaining the Expence thereof.

Commissioners of Supply may appoint a Committee of their Number to confer with Magistrates.

V. And be it enacted, That after being satisfied as to the Propriety of affording such Aid, and also as to all such Details as may be necessary for settling the Plan of the Work, and the Expence thereof, it shall and may be lawful for the said Commissioners of Supply, at any Meeting specially called for that Purpose, or a Majority of them then assembled, to resolve to give such Aid as they may think fit, towards improving, enlarging, or rebuilding any such Gaol.

Commissioners of Supply may resolve to give Aid.

VI. And be it enacted, That a Copy of the Resolutions of such Meeting, signed by the Clerk of Supply of such County or Stewartry, shall thereupon be transmitted to the Magistrates and Town Council of the Burgh by whom such Proposal shall have been made; and if within Fourteen Days after such Resolutions shall have been received by such Magistrates and Town Council, they shall signify their Willingness to such Clerk of Supply to proceed to improve, enlarge, or rebuild

Resolution of Commissioners of Supply to be transmitted to Magistrates, and upon being finally settled, As-

rebuild their Gaol, in the Manner that shall have been expressed in such Resolutions, then the Commissioners of Supply of such County or Stewartry shall be and become bound to raise the Money they shall have agreed to contribute for the Purpose specified in such Resolutions so transmitted as aforesaid, by an Assessment, which they are hereby authorized to make in the Manner directed by this Act. Assessment to be made.

VII. And be it enacted, That such Assessment shall be made as follows; namely, upon all Lands and Heritages contained in the Valuation Books of such County or Stewartry, according to the valued Rent of such Lands and Heritages, and upon all inhabited Houses within such County or Stewartry, of the Annual Value of Five Pounds Sterling or upwards, according to such Annual Value; that is to say, for every Five Pounds *Scots* that shall be assessed on every One hundred Pounds *Scots* of the valued Rent of Lands and Heritages, there shall be assessed the Sum of One Penny Sterling on every Pound Sterling of the Annual Value according to which such inhabited Houses shall be assessed for the House Tax; but it is hereby expressly provided and declared, that inhabited Houses, though of the annual Value of Five Pounds Sterling or upwards, erected or to be erected on Lands valued in the Valuation Books of the said County or Stewartry, and chargeable with Assessment imposed by this Act on Lands and Heritages so valued to a greater Amount than the Sum for which the said inhabited Houses would be chargeable under this Act, shall not also be liable to the Assessment hereby imposed on inhabited Houses of the aforesaid Value. Relative Amount of Assessment on Lands and Houses.

VIII. And be it further enacted, That such Assessment shall be made in the Proportions aforesaid, by such Commissioners of Supply, at a Meeting to be held for that Purpose, and shall be directed to be levied at such Times as shall be specified in the Order making the Assessment, so that the Sums resolved to be levied may be collected within the Period requisite for accomplishing the Purposes for which such Aid or Assistance shall have been resolved to be given. When such Assessment shall be made.

IX. And be it enacted, That such Assessment upon Lands and Heritages shall be collected by the Collector of the Cess in such County or Stewartry, and such Assessment upon inhabited Houses shall be collected by the Collector of the Assessed Taxes levied upon such Houses; and all the Powers and Authorities granted by any Act or Acts of Parliament to such Collector of the Land Tax, and to such Collector of the Assesed Taxes, for the levying and recovering thereof respectively, are hereby given and granted for the levying and recovering of such Assessment. Assessment, how to be collected.

X. And be it enacted, That all Sums of Money levied by any such Collector of the Land Tax, or Collector of the Assessed Taxes respectively, for or in respect of such Assessment, shall, after retaining an Allowance for their Trouble, not exceeding the Allowance made to them for collecting the Land Tax and Assessed Taxes respectively, be paid over and accounted for by every such Collector, to such Person or Persons, and at such Time or Times, as shall be directed by the said Assessment to be accounted for by Collectors.

said Commissioners of Supply; and if any such Collector shall not so pay and account for the same accordingly, every such Collector so making Default shall forfeit Double the Sum so neglected to be paid, to be recovered with Interest thereon by the Clerk of the Commissioners of Supply, who shall sue for the same before the Judge Ordinary of the Bounds, with Costs or Expences of Process; and such Forfeiture shall be applied to the Purposes for which such Assessment was imposed and levied.

Assessment to be paid by Landlords, but Tenants to pay in the first Instance.

XI. And be it enacted, That the Amount of every such Assessment shall be wholly paid by the Owners of Lands as well as Houses: Provided nevertheless, that the whole of such Assessment upon Houses shall be paid by the Occupiers thereof in the first instance, but they shall be entitled, and they are hereby authorized, to retain from their Landlords, out of the first Year's Rent, the whole Amount of such Assessment, which such Landlords are hereby required and obliged to allow as Part of the Rent due for such inhabited Houses, on Production and Delivery of the Collector's Receipt for the same.

Power to grant Aid to County Gaols in Burghs, not being Royal Burghs.

XII. And be it enacted, That in all Cases where any Common Gaol of any County or Stewartry in *Scotland* is not the Gaol of a Royal Burgh, it shall and may be lawful from Time to Time for any Five or more of the Commissioners of Supply of any such County or Stewartry, by a Writing under their Hands addressed to the Convener of such County, to require him within Six Weeks from the Date of such Requisition being made, to call a Meeting of the Commissioners of Supply of such County or Stewartry, to take into Consideration the State of such Common Gaol; and such Convener shall thereupon call such Meeting of the Commissioners of Supply of such County or Stewartry, to be held within Six Weeks from the Date of the Receipt of such Requisition, by Public Advertisement in One or more Newspapers published in such County or Stewartry; or if no Newspaper is published therein, by Advertisement in such Newspaper or Newspapers as the Convener usually intimates Public County Meetings in for such County or Stewartry.

Commissioners of Supply to settle whether any Enlargement of Gaol is necessary.

XIII. And be it enacted, That at such Meeting, or at some Adjournment thereof, such Commissioners of Supply shall settle and determine whether any and what Improvement or Enlargement of such Common Gaol is necessary, or if it is necessary to rebuild the same; and before coming to a final Resolution as to the Plan proper to be adopted, shall and may, if they think fit, appoint a Committee of their Number to procure Plans and Estimates, and to arrange all necessary Details to enable the said Commissioners to come to a final Determination as to the Mode of Proceeding to be adopted: Provided always, that nothing herein contained shall empower or authorize the rebuilding of such Common Gaol of any County or Stewartry in any Burgh or Town, other than the Burgh or Town in which such common Gaol is at present situated.

Gaols to be rebuilt in Burghs where they are now situated.

How to levy and collect Assessments.

XIV. And be it enacted, That at such first Meeting, or at some Adjournment thereof, it shall and may be lawful for the said Commissioners of Supply, or a Majority of them, to resolve and determine to what

what Amount such County or Stewartry shall be assessed for the Improvement, Enlargement, or Rebuilding of any Common Gaol therein, and shall then or at some subsequent Meeting to be held for that Purpose, make such Assessment, and direct the same to be levied at such Times as shall be specified in the Order making the Assessment, so that the Sums resolved and determined to be levied, may be collected within the Period requisite for accomplishing the Purposes for which the same is to be levied; which Assessment shall to such Amount be made and collected in the Manner herein-before directed with regard to Assessments on Counties and Stewartries, for Aid to Royal Burghs towards improving, enlarging, and rebuilding their Gaols.

Heirs of Entail may charge Estates with Three-fourths Assessments.

XV. And be it enacted, That every Proprietor of an Entailed Estate, who shall pay Assessments under this Act, shall be a Creditor to the succeeding Heirs of Entail in the Manner after mentioned, for Three-fourth Parts of the Money so to be paid.

Mode of Recovery of Three-fourths Assessment, in Cases of Entailed Estates.

XVI. And be it enacted, That the Person or Persons having Right to the Claim arising from Money so to be paid as aforesaid, by the Proprietor of an Entailed Estate, in Discharge of Assessments under this Act, may after the Expiration of One Year from the Death of such Proprietor, require the Heirs succeeding to such Estate to repay the said Three-fourth Parts of the said Money so paid, with the legal Interest thereof, from the Term at which the said succeeding Heir's Right to the Rents of the Estate shall commence, upon receiving a proper Assignment and Conveyance of the said Claim; and if the Money so due be not paid within Three Months after such Requisition, it shall be lawful for the Person or Persons having Right thereto, to sue the said Heirs in the Manner directed for the Recovery of Money expended in the Improvements of Entailed Estates, by an Act passed the Tenth Year of the Reign of His present Majesty, intituled *An Act to encourage the Improvement of Lands, Tenements, and Hereditaments, in that Part of* Great Britain *called* Scotland, *held under the Settlements of strict Entail.* 10 G. 3. c. 51.

Rules of Relief among Heirs of Entail.

XVII. And be it enacted, That the same Rules of Relief among succeeding Heirs of Entail, and their Heirs and their Successors, of the Claims for Debt, and of Preference in Competition of Rents, and in subjecting Defenders to the Payment of Costs, shall take place with regard to Monies expended by the Proprietors of Entailed Estates in Payment of Assessments under this Act, as are enacted by the said Act, passed in the Tenth Year of the Reign of His present Majesty, with respect to Monies expended by Proprietors of Entailed Estates, in making Improvements upon their Estates, for increasing the Rents and Value thereof.

Commissioners of Supply may borrow Money.

XVIII. And be it enacted, That such Commissioners of Supply shall have Power, and they are hereby authorized and empowered, to borrow and take up at Interest, on the Security of the Assessment hereby authorized to be levied, such Sum or Sums of Money as they shall judge requisite for defraying the Share or Proportion of the Expence of improving, enlarging, or rebuilding any Gaol, towards the

Expence of which they may think fit to contribute; or for improving, enlarging, or rebuilding such common Gaol of the County or Stewartry, as the Case may be; provided that the whole Amount of the Money so borrowed shall not exceed such Sum as they shall have so resolved to contribute; and it shall be lawful for such Commissioners of Supply, and they are hereby empowered, to assign or make over the Whole or any Part of the Assessment hereby authorized to be made, to any Person or Persons willing to lend Money on the Security thereof, at a Rate not exeeeding Five Pounds Sterling *per Centum per Annum;* and every such Assignment shall be made and executed by the Clerk of Supply, being specially authorized to do so at a General Meeting of the Commissioners of Supply, and shall be entered in a Book or Books to be kept by him for that Purpose, which Book or Books may be seen and perused by any Person or Persons interested therein without Fee or Reward; and all such Assignments so executed shall be transferrable by Indorsement, duly subscribed by the Party transferring, in the Presence of One or more subscribing Witness or Witnesses.

Committee of Superintendance may be appointed.

XIX. And be it enacted, That it shall and may be lawful for such Commissioners of Supply to appoint a Committee of their Number to superintend the Execution of any Work to which they may so contribute, or which they may so resolve to execute (as the Case may be), and the proper Application of the Money contributed for that Purpose.

Power and Responsibility of Magistrates to continue as before.

XX. And be it enacted, That when the Gaol of any Royal Burgh, to the improving, enlarging, or rebuilding of which, Aid shall have been afforded under this Act, shall have been completed, and with any Yards, Courts, Out-offices, or Conveniencies therein, shall be used for confining Debtors, Felons, Vagrants, and other Delinquents, the Magistrates and Town Council of the Burgh wherein the same shall be situated, and the Gaoler or Keeper, Gaolers or Keepers of such Gaol shall be respectively answerable, to all Intents and Purposes whatsoever, for the Safe Custody of all such Persons as shall from Time to Time be committed to his or their Custody in such Gaol, in the like Manner as any Magistrates and Town Council and the Gaolers employed by them now are by Law liable; and such Magistrates and Council shall have the same Power over such Gaol and the Gaolers and Keepers thereof, and the Debtors, Felons, Vagrants, and other Delinquents who shall be confined therein, as they had in the Gaol before the same shall have been improved, enlarged, or rebuilt; and such Magistrates and Town Council, so soon as any such Gaol, so improved, enlarged, or rebuilt shall be delivered over to them, shall be bound and obliged to keep and maintain the same in good and sufficient Repair, from the Funds of the Burgh, in all Time coming.

Prisoners may be removed while Gaol is repairing.

XXI. And be it further enacted, That if it shall be found necessary, for the Purpose of improving, enlarging, or rebuilding any Gaol of any Royal Burgh now existing, that the Prisoners therein should be removed during the Period of such Improvement, Enlargement, or Rebuilding, it shall be lawful for the Magistrates of the Burgh within which such Gaol is situated, to remove such

Prisoner or Prisoners to any secure Place of Confinement within the said Burgh, or to any other Gaol within the said County or Stewartry, until such Improvement, Enlargement, or Rebuilding shall be completed; and it shall be lawful for all Persons, legally authorized to commit other Debtors, Felons, and Delinquents, to commit them to the same; and when any such improved, enlarged, or new Gaol shall be fit for the Reception of Prisoners, it shall be lawful for the Magistrates and Town Council of the Burgh in which such improved, enlarged, or new Gaol shall be situated, and the Keeper or Keepers of such Gaol, to remove thereto all such Debtors, Felons, and other Prisoners as shall then be confined in such other secure Place of Confinement; and such Removal or Removals, and the Airings or Exercising of the Prisoners who shall be confined in the improved, enlarged, or new Gaol, in any Yards, Courts, Out Offices, or Conveniences thereunto belonging, shall not be deemed or taken to be an Escape or Escapes: Provided always, that the Magistrates of such Burghs shall continue to be responsible for the safe Custody of all such Debtors, Felons, and other Prisoners, during their Removal to or Confinement in such other secure Place of Confinement.

Prisoners may be removed while Gaols are repairing, in Cases where the same are not in Royal Burghs.

XXII. And be it enacted, That if it shall be found necessary for the improving, enlarging, or rebuilding any Common Gaol, within any County or Stewartry, not being the Gaol of a Royal Burgh, that the Prisoners therein should be removed during the Period of such Improvement, Enlargement, or Rebuilding, it shall be lawful for the Justices of the Peace for such County or Stewartry in General Sessions assembled, to direct the Removal of such Prisoners, and for all Persons legally authorized to commit other Debtors, Felons and Delinquents, to any secure Place of Confinement within such County or Stewartry, until such Improvement, Enlargement, or Rebuilding shall be completed; and when any such improved, enlarged, or new Gaol shall be fit for the Reception of Prisoners, it shall be lawful for such Justices, so assembled as aforesaid, to direct the Removal thereto of all such Debtors, Felons, or other Prisoners, as shall then be confined in such secure Place of Confinement, and should by Law be confined in such Common Gaol of the County or Stewartry; and such Removal and Removals, and the Airings and Exercisings of the Prisoners who shall be confined in such improved, enlarged, or new Gaol, in any Yards, Courts, Out Offices, or Conveniences thereto belonging, shall not be deemed or taken to be an Escape or Escapes; and the legal Responsibility for the Safe Custody of all Persons committed to such Gaol, and the Burden and Obligation to keep and maintain the same in good Condition, shall, after such Improvement, Enlargement, or Rebuilding, be no ways altered thereby, or by any Thing in this Act contained.

Appeal against Assessment.

XXIII. And be it enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Assessment imposed by virtue of this Act, it shall and may be lawful for such Person or Persons, within Three Months after any such Assessment shall have been demanded, but not afterwards, to appeal against the same to the Justices of the Peace at the Quarter Sessions of the County or Stewartry wherein the subject Matter of the Complaint shall have arisen;

arisen; giving Fourteen Days Notice of such Appeal to the Collector of the Assessment, and lodging with such Appeal a Bond, with sufficient Surety or Caution for fulfilling and implementing the Sentence to be pronounced, and for paying such Expences as shall be awarded by the said Justices of the Peace, who are hereby authorized to determine the Matter in Dispute, and their Judgment shall be exclusive of all other Jurisdiction, and shall be final and conclusive without being subject to Review in any Court whatsoever.

Limitation of Actions.

XXIV. And be it further enacted, That no Action or Suit shall be commenced against any Person or Persons, for any Thing done in pursuance or by virtue of this Act, after Six Calendar Months from the Time the Fact was committed or the Cause of Action had occurred for which such Action or Suit shall be brought; and the Defender or Defenders in any such Action or Suit may produce this Act, and plead that the same was done by Authority and in virtue thereof; and if it shall appear so to be done, or if any such Action or Suit shall be brought after the Time hereby limited for bringing the same, then and in such Case the Defender or Defenders shall be assoilzied from such Action or Suit, and the Pursuer or Pursuers therein shall be found liable to pay the whole Expence of Process incurred by the Defender or Defenders.

Public Act.

XXV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices and others, without being specially pleaded.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1819.