ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 81.

An Act to authorize the raising of Money to defray the Expences of erecting a Prison and Public Offices in the Town of *Birmingham* in the County of *Warwick*. [20th *May* 1809.]

WHEREAS the Parish and Town of *Birmingham* in the County of *Warwick* is large and populous, and is distant Twenty-one Miles from the County Gaol, and there has been Time immemorial a Prison provided at the Expence of the Inhabitants of the said Town, for the safe Custody and temporary Confinement of all Persons apprehended in the said Parish and Town, and ordered to be detained in Custody under or by virtue of any Warrant of a Justice of the Peace for the said County; and the Expences of upholding such Prison have from Time to Time been defrayed out of the Poor's Rate for the said Parish: And whereas, for the better and more speedy Administration of Justice within the said Town, certain Justices of the Peace for the said County have for Years past holden and now hold Meetings or Petty Sessions in the said Town twice or thrice in every Week; and a commodious Office or Court House for the Administration of Justice, and for the Transaction of the Public Business and Affairs of the said Town, has been much wanted: And whereas at a Meeting of the principal Inhabitants of the said Town in the Year One thousand eight hundred and five, it being represented to the said Meeting that the then Prison was very much decayed and in a very dilapidated Condition, it was thought expedient that a larger and

more secure Prison, in a more convenient Part of the said Town, should be erected for the Use and Security of the said Town; and a secure and commodious Prison and suitable Public Offices for the Use of the said Town have been accordingly erected on certain Lands belonging to the Bailiffs and Governors of the Lands and Revenues of the Free Grammar School of King *Edward* the Sixth in *Birmingham* aforesaid, under an Agreement that the annual Rent of Twenty Pounds should be paid for the same by the Inhabitants of the said Town: And whereas an Act
23 G. 3. c. 54. passed in the Twenty-third Year of His present Majesty, intituled *An Act for providing a proper Workhouse within the Parish of* Birmingham *in the County of* Warwick, *and for better regulating the Poor within the said Parish*: And whereas the Money so expended in the Erection of the said Prison and Public Offices has from Time to Time been raised on the Security of individual Inhabitants of the said Town; and it is just and reasonable, and it is the Wish of the Inhabitants at large of the said Town, that the Monies so raised and advanced should be repaid, and that such individual Inhabitants should be released from all individual Responsibility, and that the Money which has been so expended, and any future Sums of Money which may hereafter be wanting to repair, uphold, support, and insure from Fire the said Prison and Public Offices, and to discharge the Ground Rent for the Land on which the same stand, should be secured on the Poor's Rates of the said Parish until such Sums of Money, with the Interest for the same, can be paid off and discharged out of the Rates to be made upon the Inhabitants of the said Parish as herein-after mentioned; but the several Purposes aforesaid cannot be effected without the Aid and Authority of Parliament: 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,

Trustees. That such of the Inhabitants of the said Town as shall from Time to Time be Guardians of the Poor, elected by virtue of the said Act of the Twenty-third Year of His present Majesty, herein-before mentioned or referred to, shall be and are hereby enacted and declared to be the Trustees for putting in execution this Act.

To take an Oath. II. And be it further enacted, That before such Guardians take upon themselves to act as Trustees in the Execution of any of the Powers and Authorities given to them by this Act (save and except the Power of administering to one another the Oath herein-after directed and prescribed), they shall severally take the following Oath; (that is to say,)

Oath. 'I *A. B.* do swear [*or*, being one of the People called *Quakers*, do solemnly affirm,] That I will faithfully, impartially, and honestly, according to the best of my Judgment and Ability, execute and perform the several Trusts, Powers, and Authorities reposed in me by an Act passed in the Forty-ninth Year of His present Majesty, intituled [*here set forth the Title of this Act*], without Favour or Affection to any Person or Persons whomsoever.

'So help me GOD.'

Which Oath any one of the said Guardians is hereby empowered to administer to each other.

III. And

Five or more Guardians to act as Trustees of this Act.

III. And be it further enacted, That it shall be lawful for any Five or more of the said Guardians, when assembled at any Meeting for executing the said Act of the Twenty-third Year of His present Majesty, or at any Meeting to be assembled for the Purposes of this Act, Notice having been given thereof in the same Manner as Notice is required to be given of Special General Meetings to be holden under the Authority of the said last-mentioned Act, to put in execution any of the Trusts reposed in them by this Act; and One of the Guardians present, who shall then be named by a Majority of the Guardians present, shall be the Chairman or President of such Meeting for putting this Act in execution; and in case of an Equality of Voices on any Transaction, including the Voice of the Chairman or President, such Chairman or President shall have another or casting Voice; and that all Matters that shall be disputed or come in question at any such Meetings shall be settled and determined by Ballot.

Chairman to be appointed at the Meetings.

Questions to be decided by Ballot.

Proceedings under the Act to be entered in a Book.

IV. And be it further enacted, That all Acts, Orders, and Proceedings relative to the Execution of this Act, and also the Names of the Trustees present at each Meeting, and the Sums received and paid or expended for the Purposes of this Act, shall be entered in a Book or Books to be kept for that Purpose; and all Entries in such Book or Books, being signed by the Chairman of each Meeting, shall be deemed Originals, and shall be allowed to be read in Evidence in all Cases, Suits, and Actions touching or concerning any thing done in pursuance of this Act; and that the said Trustees shall once at least in every Year, so long as any Money shall be raised, paid, or expended under the Authority of this Act, make or cause to be made a just and true Statement or Account of all Sums of Money by them received and expended in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by them laid before the Inhabitants of the said Parish assembled at one of the Quarterly Meetings usually held for inspecting the public Accounts of the said Parish, and shall afterwards be deposited with the Clerk to the said Trustees, and be for ever afterwards open at all seasonable Hours to the Inspection and Perusal of any Inhabitant paying Poor's Rates to the said Parish.

Trustees may appoint Officers, and allow them Salaries.

V. And be it further enacted, That the said Trustees may and are hereby empowered from Time to Time to appoint a fit and proper Person or Persons to be their Clerk and Treasurer, and such other Officer or Officers and such other Persons as they shall think proper for carrying this Act into execution, and to take Security from such Clerk or Treasurer for the faithful Discharge of his Office; and such Clerk, Treasurer, or other Officer and Person from Time to Time to remove and displace, and to appoint others in the Rooms or Places of such of them as shall be so removed or displaced; and out of the Monies to arise by virtue of this Act to allow and pay such Clerk, Treasurer, or other Officer such Salary, Wages, or Reward for his and their Attendance, Care, and Service as to the said Trustees shall seem reasonable.

Officers to account.

VI. And be it further enacted, That all Clerks, Treasurers, Collectors, and other Officers appointed under or by virtue of this Act shall from Time to Time, when thereunto required by the said Trustees or any Five or more of them, deliver to such Trustees, or to such Person or Persons as they

they or any Five or more of them shall for that Purpose appoint, a true and perfect Account in Writing under their respective Hands of all Monies which shall have been by them respectively had, collected, or received, and how and to whom and for what Purposes the same and every Part thereof hath been disposed of, together with proper Vouchers and Receipts for such Payments, and shall verify the Accounts upon Oath, if thereunto required by the said Trustees or any Five or more of them; and all such Officers and Persons shall and they are hereby respectively required to pay all such Monies as, upon the Balance of such Account or Accounts, shall appear to be in their Hands, to such Person or Persons as the said Trustees or any Five or more of them shall appoint to receive the same; and if any of the said Officers or Persons shall refuse or neglect to render and give such Accounts as aforesaid, or to produce and deliver up the Vouchers and Receipts relating to the same, or to verify the Articles thereof on Oath, or to pay the Balance remaining in their Hands when thereunto required in manner aforesaid; or if any such Officers or Persons, or any other Person, shall refuse or neglect to deliver up to the said Trustees or any Five or more of them, or to such Person or Persons as they or any Five or more of them shall appoint, within Ten Days after being thereunto required by the said Trustees or any Five or more of them, all Books, Accounts, Papers, and Writings in their respective Custody or Power anyways relating to the Execution of this Act, and Complaint shall be made of any such Neglect or Refusal to any Justice of the Peace for the County or Place where the Officer or Officers, Person or Persons so neglecting or refusing shall live and reside, such Justice may and is hereby authorized and required by a Warrant or Warrants to cause such Officer or Officers, Person or Persons, to be brought before him, and upon his or their appearing or not appearing to hear and determine the Matter of such Complaint in a summary Way, and to settle the said Account or Accounts, if produced, in such Manner as the said Trustees or any Five or more of them might have done; and if upon the Confession of the Officer or Officers, Person or Persons, against whom any such Complaint shall be made, or by the Oath or Oaths of any Witness or Witnesses, it shall appear to such Justice that any of the Monies which shall have been collected or received shall be in the Hands of such Officer or Officers, Person or Persons, such Justice may and he is hereby authorized and required upon Nonpayment, by a Warrant or Warrants under his Hand and Seal, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer or Officers, Person or Persons respectively; and if no Goods or Chattels can be found sufficient to answer and satisfy the said Money, and the Charges of distraining and selling the same, or if such Officer or Officers, Person or Persons shall not appear before the said Justice at the Time and Place by him appointed for that Purpose, or if appearing shall refuse or neglect to give and deliver to the said Justice an Account or Accounts of Receipts and Payments as aforesaid, or to verify the Truth of such Accounts and of the Articles thereof on Oath as aforesaid, or to produce and deliver up to the said Justice the several Vouchers and Receipts relating to such Accounts respectively, or the Books, Accounts, Papers, and Writings in their Custody or Power relating to the Execution of this Act, then and in either of the Cases aforesaid the said Justice may and is hereby authorized and required, by Warrant or Warrants under his Hand and Seal, to commit such Officer or Officers, Person or Persons, to the Common Gaol of the County or Place where he or they shall live and reside, there to remain without

Upon Refusal may be taken before a Justice.

Balance may be levied by Distress.

On Failure of Distress, &c. the Officer may be committed.

without Bail or Mainprize until he or they shall have delivered in and settled his or their Accounts, and have verified the same on Oath, and shall have delivered up the Vouchers and Receipts relating thereto, and shall have paid all the Money which shall appear to be in their respective Hands, and the reasonable Charges of such Distress and Sale as shall in that respect have been made, or until he or they shall have compounded with the said Trustees or any Five or more of them for the same, and paid the Composition Money to the said Trustees or any Five or more of them, or to such Person or Persons as they shall appoint to receive the same (and which Composition the said Trustees or any Five or more of them are hereby empowered to make), or until he or they shall deliver up such Books, Accounts, Papers, and Writings as aforesaid, or have given Satisfaction in respect thereof to the said Trustees or any Five or more of them: Provided always, that no such Officer shall for any such Offence be detained in Custody by virtue of this Act for any longer Space of Time than Six Calendar Months.

Power to borrow Money.

VII. And be it further enacted, That it shall be lawful for any Five or more of the said Trustees from Time to Time, at any of their said Meetings, to borrow and take up at Interest any Sum or Sums of Money, not exceeding in the whole the Sum of Eleven thousand Pounds, and to mortgage and assign over all or any Part of the Rates and Assessments to be collected by virtue of this Act to the Person or Persons advancing or lending the same, as a Security for the Repayment of the Principal Sum and Sums of Money so to be borrowed, with Interest for the same (the Charges of such Mortgages and Assignments to be paid out of the Money to be raised by virtue of this Act); and every such Security or Assignment may be in the Words or to the Effect following; (that is to say,)

Form of an Assignment.

'BY virtue of an Act of Parliament passed in the Forty-ninth Year of the Reign of His Majesty King *George* the Third, intituled [*insert the Title of this Act*], we, Five of the Trustees for executing the said Act, in consideration of the Sum of now advanced and paid to the Treasurer appointed by virtue of the said Act by *A. B.*, do hereby assign unto the said *A. B.*, his Executors, Administrators, and Assigns, all and every the Rates and Assessments to be made and collected by virtue of the said Act, with all Powers and Authorities for collecting and raising the same Rates and Assessments under the said Act [*as the Case may be*], to have, hold, and receive and take the same to and for his and their own Use and Benefit, from this Day of until the said Sum of with Interest at the Rate of for One hundred Pounds for a Year, shall be repaid. In witness whereof we have hereunto set our Hands and Seals the Day of .'

No Preference to Creditors on account of Priority.

And all and every Person and Persons to whom such Assignments and Transfers of the said Rates shall be made shall be, in proportion to the Sum or Sums therein mentioned, Creditors on the said Rates equally one with another, and shall have no Preference in respect to the Priority of advancing such Money.

Money may be raised by Annuities.

LVIII. And be it further enacted, That in case the said Trustees or any Five or more of them shall think it advisable or more advantageous to raise all or any Part of the Monies necessary for the Purposes of this Act by the granting of Annuities for Lives, that then it shall be lawful for the said Trustees or any Five or more of them, and they are hereby authorized and empowered, by Writing under their Hands and Seals, to grant Annuities, out of the Rates or Assessments to be raised as hereafter mentioned, to any Person or Persons who shall contribute, advance, and pay into the Hands of the Treasurer to be appointed by virtue of this Act any Sum or Sums of Money, for the absolute Purchase of any Annuity or Annuities to be paid and payable during the natural Life of every such Contributor, or of such Person as shall be nominated by or on behalf of such Contributor at the Time of the Payment of his or her Contribution or Purchase Money, so as that no such Annuity do exceed the Rate of Ten Pounds for every One hundred Pounds for a Year, and so that the whole Money to be raised by Assignment of the said Rates and by granting of Annuities as aforesaid do not exceed the said Sum of Eleven thousand Pounds; and the Grant of every such Annuity may be in the Words or to the Effect following; (that is to say,)

Form of the Grant.

'BY virtue of an Act of Parliament passed in the Forty-ninth Year of the Reign of His Majesty King *George* the Third, intituled [*insert the Title of this Act*], we, Five of the Trustees for executing the said Act, in consideration of the Sum of
now paid by to the Treasurer appointed in pursuance of the said Act, do hereby grant unto the said an Annuity or yearly Sum of out of the Rates or Assessments to be made by virtue of the said Act; which Annuity or yearly Sum of shall be paid to the said or his Assigns, at the Public Office in *Birmingham* aforesaid, by Two equal Payments, that is to say, on the Day of and the Day of during the natural Life of the said and the first Payment thereof shall be made upon the Day of next ensuing the Date of these Presents. In witness whereof we have hereunto set our Hands and Seals the Day of in the Year of our Lord.'

Annuities charged on the Rates to be made by virtue of this Act.

LIX. And be it further enacted, That every such Grant shall be good, valid, and effectual in the Law, and every Annuity so to be granted as aforesaid shall be and is hereby charged upon and shall be payable and paid from Time to Time out of the Rates and Assessments herein-after directed to be made, and the Money to arise and be paid by virtue thereof; and all and every the Contributor or Contributors, Purchaser or Purchasers of Annuities respectively as aforesaid upon the Credit of this Act, and duly paying the Consideration or Purchase Money for any such Annuities as aforesaid, or such Person or Persons as he, she, or they shall appoint, or his, her, or their respective Assigns, shall have, receive, and enjoy the said respective Annuity or Annuities during the Term of the natural Life of the Person to be nominated by each such Purchaser as before mentioned; and that all and every such Purchaser and Purchasers,

and their Assigns respectively, shall have good, sure, and absolute Personal Estates and Interests in the Annuities so by them respectively purchased, according to the Tenor and true Meaning of this Act, and that the said Annuities shall be payable and paid at such Place within the said Town of *Birmingham*, and on such Days in every Year as shall be mentioned in such Grant.

Mortgages and Grants of Annuities to be entered in a Book.

X. And be it further enacted, That Copies of all such Mortgages or Assignments and Grants of Annuities which shall be made in pursuance of this Act shall be entered in a Book or Books to be kept by the Clerk to the said Trustees; and all and every Person and Persons to whom any such Mortgage or Assignment and Grant of Annuities shall be made, or who shall be entitled to the Money thereby secured, is and are hereby empowered from Time to Time, by Writing under his, her, or their Hand and Seal or Hands and Seals, to be executed in the Presence of Two or more credible Witnesses, to transfer such Security or Securities, and his, her, and their Right to the Principal and Interest Money or Annuity thereby secured unto any Person or Persons whomsoever; and every such Assignee may in like Manner transfer again, and so *toties quoties*; and all such Transfers shall, within One Calendar Month from the Date thereof, be produced and notified to the said Clerk, who shall cause an Entry to be made thereof, containing the Dates, Names of the Parties, and Witnesses, and the Sums of Money or Annuity therein mentioned to be transferred, into the said Book or Books directed to be kept for entering the said original Assignments; for each of which Entries the said Clerk shall be paid the Sum of One Shilling and no more, and which Book or Books shall and may at all seasonable Times be perused and inspected by any Person or Persons without Fee or Reward; and after such Entry made every such Transfer shall entitle every Assignee, his or her Executors or Administrators, to the Benefit thereof and Payment thereon; and it shall not be in the Power of any Person who shall have made such Transfer to make void, release, or discharge the same, or any Monies due thereon; and such Transfers as shall be made of such Assignment may be in the Words or to the Effect following; (that is to say,)

Securities may be transferred.

Transfer to be registered.

Form of Transfer.

'TO all to whom these Presents shall come, I, of in the of send Greeting: Whereas by a certain 'Assignment [*or* Grant of an Annuity, *as the Case may be*,] bearing Date 'the Day of and made and duly 'executed by the Trustees therein named, in pursuance of an Act of 'Parliament passed in the Forty-ninth Year of the Reign of His Majesty 'King *George* the Third, intituled [*insert the Title of this Act*], all and 'every the Rates and Assessments to be collected by virtue of the said 'Act were assigned to me in manner therein mentioned, for securing the 'Sum of by me advanced and paid, and the 'Interest thereon [*or* an Annuity of was granted 'to me out of the Rates or Assessments by virtue of the said Act]; now 'I do, in consideration of the Sum of to 'me paid by of in the 'of transfer unto the said the 'said Assignment [*or* Grant of Annuity] with all my Right and Title to 'the

"the Principal and Interest Money [*or* Annuity] thereby secured, and "now due unto me [*or* to grow due thereon]. Witness my Hand and "Seal this Day of

Trustees to make Rates.

XI. And be it further enacted, That it shall be lawful to and for the said Trustees, and they are hereby required, as soon after the passing of this Act as they shall think proper, and afterwards from Time to Time, as often as they shall find it necessary, to rate or assess all Persons who are or shall for the Time being be Inhabitants or Occupiers of any Lands, Houses, or other Tenements or Hereditaments whatsoever within the said Parish of *Birmingham*, in respect whereof they are or shall be assessed or liable to be assessed to the Poor's Rates of the said Parish, in any Sum of Money not exceeding in any one Year the Sum of One Shilling in the Pound of the yearly Rent or yearly Value of such Lands, Houses, or other Tenements or Hereditaments, according to the Poor Rate of the said Parish for the Time being; and the Monies to arise from such Rates or Assessments shall be collected by the same Persons who from Time to Time may by virtue of the said Act of the Twenty-first Year of His present Majesty be appointed to collect the Poor's Rates of the said Parish, and they are hereby required to collect the same; and the Money so to be collected shall be paid to the said Trustees, or as they shall direct or appoint; and all such Rates shall be allowed and published and be recoverable as Rates for the Relief of the Poor are required to be allowed and published and may be recovered.

Application of the Monies to be raised.

XII. And be it further enacted, That with and out of the Monies to be raised by virtue of this Act the said Trustees shall and they are hereby required to pay and satisfy all Sum and Sums of Money which have been expended by any Person or Persons in the Erection, furnishing, and completing of the said Prison and public Offices, and all necessary Charges relating thereto, and also to pay and discharge all Monies which shall be still owing or due to the Artificers, Workmen, and others employed in and about erecting and completing the same, and also all Sums of Money which have been paid by any Person or Persons as Rent for the Lands on which the said Prison and public Offices are erected, and which may hereafter become due for the same, or which may from Time to Time be wanting for repairing, upholding, and properly supporting and furnishing the said Prison and public Offices, or for insuring the same from Loss or Damage by Fire, and all other necessary Expences attending the same, and also to pay and defray out of the first Monies to be raised by virtue of this Act all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and of carrying the same into execution.

Trustees empowered to accept a Lease of the Lands on which the Prison, &c. are erected.

XIII. And be it further enacted, That it shall be lawful for any Five or more of the Trustees for executing this Act to take and accept from Time to Time, as often as the said Bailiffs and Governors of the Lands and Revenues of the Free Grammar School of King *Edward* the Sixth in *Birmingham* aforesaid shall agree and be willing to grant the same, any Lease or Leases of the Land and Ground on which the said Prison and public Offices have been erected and built, for such Term or Number of Years as

as the said Bailiffs and Governors are empowered to grant Leases of the Lands and Estates belonging to the said School, upon such Rents and Conditions, under such Covenants and Restrictions, as may from Time to Time be agreed upon and settled between the said Bailiffs and Governors and the said Trustees, and every such Lease shall be good, valid, and effectual in the Law.

General Appeal.

XIV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Matter or Thing to be done in pursuance of this Act, it shall be lawful for such Person or Persons to appeal to the Justices of the Peace at any General Quarter Sessions of the Peace to be holden for the said County of *Warwick*, who are hereby authorized to summon and examine Witnesses upon Oath, and to hear and determine the Matter of every such Appeal in a summary Way, such Appeal being made within Six Calendar Months next after the Cause of Complaint shall have arisen, and the Person or Persons so appealing having first given or caused to be given Ten Days Notice at the least in Writing of his, her, or their Intention of appealing as aforesaid, and of the Matter or Cause thereof, to the said Trustees or to their Clerk or Treasurer, or having within Six Days after such Notice entered into a Recognizance before some Justice of the Peace for the said County of *Warwick*, with Two sufficient Sureties, conditioned to try such Appeal, and to abide the Order of and to pay such Costs as shall be awarded against him, her, or them by the Justices at such Sessions; and that such Justices, upon the Hearing and Determination of the Matter of such Appeal, shall and may make such Order therein as to them shall seem meet, and they are also hereby required to award such Costs to the Party or Parties appealing or appealed against as they shall think proper; and their Determination of the Premises shall be final and conclusive to all Intents and Purposes.

Distress not unlawful for Want of Form.

XV. And be it further enacted, That when any Distress shall be made for any Sum or Sums of Money to be levied by virtue of this Act, the Distress shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form in any Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any Irregularity which shall afterwards be done by the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity may recover full Satisfaction for the special Damage in an Action on the Case: Provided always, that no Plaintiff or Plaintiffs shall recover in any Action or Actions for any such Irregularity or other Proceedings, if Tender of sufficient Amends shall be made by or on the Behalf of the Party or Parties who shall have committed such Irregularity, Trespass, or other wrongful Proceedings before such Action brought; and in case no such Tender shall have been made, it shall be lawful for the Defendant or Defendants in any such Action, by Leave of the Court in which such Action shall be depending, at any Time before Issue joined, to pay into Court such Sum of Money as he or they shall see fit, whereupon such Proceedings, Order, and Judgments shall be made and given in and by such Courts as in other Actions where the Defendant is allowed to pay Money into Court.

Tender of Amends.

Money paid into Court.

Public Act.

XVI. 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.

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