ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 49.

An Act for erecting a new Gaol in or near the Burgh of *Cupar*, in the County of *Fife*, and for other Purpoſes relating thereto. [20th *April* 1812.]

WHEREAS the preſent Gaol of the Burgh of *Cupar*, which is the County Town of the Shire of *Fife*, is the Place of Confinement for the Priſoners of the ſaid County, as well as of the Burgh, and is extremely inſecure, and is neither ſufficiently large nor in other reſpects well adapted for the Reception, Confinement, and Separation of the Felons and other Perſons confined therein: And whereas it is requiſite that a new Gaol ſhould be built for the Uſe of the ſaid Burgh and County in a more commodious Situation: And whereas the Funds of the ſaid Burgh are inadequate to defray the whole expence of rebuilding the ſaid Gaol, and of purchaſing Ground for the Scite thereof: And whereas the Heritors of the ſaid County have agreed to contribute to the Expence of erecting the ſaid Gaol; which will be of great Benefit to the County of *Fife*, as well as to the Burgh of *Cupar*; but theſe Objects cannot be attained 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, That the Member of Parliament for the ſaid County of *Fife*, the Member of Parliament for the Diſtrict of Burghs of which *Cupar* is one, the Sheriff Depute and Sheriff Subſtitute of the ſaid County of *Fife*, the Convener of the Commiſſioners of Supply of the ſaid County, the Provoſt and Baillies of the Burgh of *Cupar*, all for the Time being; together

Commiſſioners appointed.

together with Sir *John Anſtruther* of *Anſtruther* Baronet, the Honourable Sir *John Hope* of *Craighall*, the Honourable *Robert Lindſay* of *Balcarras*, Sir *Charles Halkett* of *Pitfirrane* Baronet, Sir *William Erſkine* of *Torry* Baronet, Sir *Robert Preſton* of *Valleyfield* Baronet, General *William Wemyſs* of *Wemyſs*, *James Townſend Oſwald* of *Dunnikier*, Major *John Lumſdaine* of *Lathallan*, General *James Durham* of *Largo*, *James Cheape* of *Stratyrum*, *John Anſtruther* of *Airditt*, Colonel *James Spens* of *Craigſanquhar*, *Charles Maitland Chriſtie* of *Durie*, *James Home Rigg* of *Downfield* and *Morton*, Colonel *James Wemyſs* of *Wemyſshall*, *David Gilleſpie* of *Kirkton*, *John Dalyell* of *Lingo*, and *Thomas Bruce* of *Grangemuir*, ſhall be and are hereby nominated and appointed Commiſſioners, with full Power and Authority, for making, building, and erecting a Gaol or Priſon of and for the ſaid County of *Fife* and Burgh of *Cupar*, in ſuch Scite or Situation, and of ſuch Materials, as they ſhall think fit, with proper and ſufficient Yards, Courts, Out-offices, and Conveniences, Paſſages, and Avenues to and for the ſame, according to a Plan thereof, and Eſtimates of the Expence of completing the ſame, authenticated and ſigned by Appointment of the Heritors of the ſaid County, and by the Chief Magiſtrate of the ſaid Burgh, and depoſited with the Clerk of the Peace of the ſaid County; and for making all neceſſary Contracts and Agreements for and concerning the ſame, and for effecting and executing all the Purpoſes and Powers by this Act appointed to be done, and committed to the ſaid Commiſſioners.

Meetings of Commiſſioners appointed.

II. And be it further enacted, That the ſaid Commiſſioners ſhall meet within the Court Houſe, or County Room, at *Cupar*, on the Third *Monday* after the paſſing of this Act, between the Hours of Twelve and One of the Clock, and ſhall then and there proceed to carry this Act into Execution; of which Firſt Meeting the Sheriff Clerk of the ſaid County is hereby deſired and required to give Notice by Advertiſement in any Two Newſpapers uſually circulated in the ſaid County, at leaſt Ten Days before the Day of ſuch Meeting; and the ſaid Commiſſioners ſhall and may at ſuch Meeting, and their ſeveral ſubſequent Meetings, to be holden for the Purpoſe of carrying this Act into execution, from Time to Time adjourn themſelves, and appoint their next Meeting to be holden at ſuch Place and at ſuch Time as to them ſhall ſeem proper; and if it ſhall ſo happen that there ſhall not appear at any ſuch Meeting a ſufficient Number of Commiſſioners to act under the Authority of this Act, the Commiſſioners or Commiſſioner then preſent, or the Clerk to the ſaid Commiſſioners, ſhall from Time to Time, as often as ſuch Caſe ſhall happen, adjourn ſuch Meeting to ſome other Day within Ten Days from the Day on which ſuch Adjournment ſhall be made.

Quorum appointed.

III. And be it enacted, That no Act of the ſaid Commiſſioners ſhall be, or be deemed to be good, valid, or effectual, unleſs the ſame be done at ſome Meeting to be holden in purſuance of this Act; and that all the Powers and Authorities by this Act granted to the ſaid Commiſſioners, ſhall and may be exerciſed from Time to Time by the major Part of them, who ſhall attend at any Meeting to be holden in purſuance of this Act, the Number of ſuch Commiſſioners preſent at ſuch Meeting not being leſs than Five who are hereby declared to be a Quorum.

IV. And

Commissioners to appoint Clerk and Treasurer,

IV. And be it enacted, That the said Commissioners, at their First or any subsequent Meeting, shall, by a Plurality of Voices, elect a Preses, and appoint a Clerk and Treasurer to hold and exercise these Offices, at the Will and Pleasure of the said Commissioners, either separately or jointly, with reasonable Allowances for their Trouble, and such Clerk and Treasurer shall find Security for the due Execution of their Offices respectively; and shall at all Times obey the lawful Commands and Instructions of the said Commissioners.

who shall find Security.

Commissioners may sue and be sued in the Name of their Treasurer or Clerk.

V. And be it enacted, That the said Commissioners may sue and be sued, for any Matter or Thing to be done in execution of this Act, in the Name of their Clerk or Treasurer for the Time being; and that no Action or Suit, wherein the said Commissioners shall be concerned as Pursuers or Defenders, in the Name of their Clerk or Treasurer, by virtue of this Act, shall abate by the Death or Removal of any such Clerk or Treasurer; but that the Clerk or Treasurer to the said Commissioners for the Time being, shall be deemed to be the Pursuer or Defender in every such Action.

Commissioners may acquire Property, &c. in Name of their Clerk or Treasurer.

VI. And be it enacted, That the said Commissioners shall be entitled to acquire all Rights of Property and Servitude of and connected with the said Gaol or Prison, Offices, and Scite or Area thereof, and Avenues leading to the same; and that the Rights and Conveyances thereof to the said Commissioners, shall be taken in favour of their Clerk or Treasurer for the Time being, and his Successors in Office; which Right and Conveyance so taken, shall be sufficient for vesting the Subjects thereby conveyed in the said Commissioners, who upon the said Gaol being finished, are hereby authorised to convey over the same to the Magistrates and Town Council of the said Burgh, for the Use and Behoof of the said County and Burgh.

Commissioners may appoint a Committee to superintend the Buildings, &c.

VII. And be it enacted, That the said Commissioners may, if they shall think fit, appoint a Committee or Committees of their Number, to superintend the Progress of the Buildings to be erected, or to carry into effect any of the Purposes of this Act, to whom they may delegate such of the Powers hereby granted to the said Commissioners, as they shall think fit.

County to be assessed.

VIII. And be it enacted, That it shall and may be lawful to the said Commissioners, and they are hereby required at their First or any subsequent Meeting, to assess, or cause to be assessed, upon all Lands, Teinds, and Heritages, valued in the Valuation Books of the said County, a Sum not exceeding Four thousand Pounds Sterling, to be applied to the Purposes of this Act; which Assessment shall be levied, collected, and recovered in the same Manner and by the same Means, and at the same Time, as the Payment of the Land Tax is levied, recovered, and collected by the Collector of the Land Tax, who shall account for and pay over the said Assessment to the said Commissioners or their Treasurer for the Time being, at the same Time and in the same Manner, and under the same Conditions and Penalties, as the Collector of the Land Tax is or shall be obliged to account for and pay over the Land Tax to the Receiver General thereof, or Person appointed to receive the same on Behalf of His Majesty, his Heirs and Successors: Provided always, that it shall not be lawful for the

the ſaid Commiſſioners to levy, or cauſe to be levied in any one Year, a greater Proportion or Inſtalment of the ſaid Aſſeſſment upon the valued Rent of the ſaid County, than ſhall amount to One-half of the ſaid Sum of Four thouſand Pounds Sterling: And provided alſo, that the Heritors of the ſaid County ſhall in no Shape or under any Pretence be ſubject or liable for any Sum or Sums of Money, for the Purpoſes of this Act, farther than the ſaid Sum of Four thouſand Pounds, hereby authoriſed to be levied.

Magiſtrates to provide the Scite of the new Gaol.

IX. And be it enacted, That the Ground or Scite upon which the ſaid Gaol or Priſon is to be built, ſhall be an Area of One hundred and ſixty Feet Square, that is, One hundred and ſixty Feet in Length, and One hundred and ſixty Feet in Breadth, and ſhall be provided or purchaſed by the Magiſtrates and Town Council of the ſaid Burgh, within Three Months after they ſhall be required ſo to do by Notice in Writing given to them to that effect by the ſaid Commiſſioners; and failing their ſo doing within the Time ſpecified, it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authoriſed and empowered, to treat and agree with all Perſons intereſted, for the abſolute Purchaſe of Ground in or near the ſaid Burgh, for the Purpoſe of erecting thereupon the ſaid Gaol or Priſon, with all neceſſary Buildings, Apartments, and Conveniences, and with the Yards and Areas thereunto belonging, and the neceſſary Roads, Avenues, and Acceſſes thereto, and to demand, levy, and receive the Price given, or to be given for the ſame, from the ſaid Magiſtrates and Town Council, by whom it ſhall be payable out of the Funds of the Community of the ſaid Burgh, within Three Months after the ſame ſhall have been required from them in manner above directed.

Magiſtrates farther to contribute.

X. And be it enacted, That beſides providing a Scite for the ſaid Gaol, or paying, in the Event of failing to do ſo, the Price to be given therefor, in Manner herein-before directed, the Magiſtrates and Town Council of the ſaid Burgh ſhall farther contribute and pay towards the Expence of building the ſaid Gaol the Sum of Three hundred Pounds, which the ſaid Commiſſioners are hereby authoriſed to aſk, levy, demand, and make effectual, within the like Period of Three Months after the ſame ſhall have been demanded; which Sum of Three hundred Pounds ſo to be paid by the ſaid Magiſtrates and Town Council of the ſaid Burgh, with the Price of the Ground for the Scite of the ſaid Gaol, eventually to be paid by them as before directed; and alſo a further Sum of Three hundred Pounds which is to be contributed by them towards the Expence of paſſing this Act, in manner hereinafter ſet forth, ſhall be recoverable by the ſaid Commiſſioners by ſuch Suit, Action at Law, or Diligence, by and through which Debts due by Royal Burghs may be recovered or enforced in that Part of the United Kingdom called *Scotland*; and which ſeveral Sums ſhall be Debts upon and affecting the Property and Funds of the Community of the ſaid Burgh; and the Magiſtrates and Town Council of the ſaid Burgh are hereby authoriſed to cauſe their Treaſurer to charge the Property and Funds of the ſaid Burgh with the Amount thereof: Provided always, and it is hereby expreſsly provided and declared, that it ſhall not be lawful to, nor in the Power of, the ſaid Magiſtrates and Town Council to levy any Sum or Sums whatever to be paid out of the Funds of the ſaid Burgh for the Purpoſes of this Act, or any

Part

Part of such Sum or Sums, by Assessment or Assessments upon the Inhabitants of the said Burgh.

Materials of old Gaol vested in Commissioners.

XI. And be it enacted, That the Right to the Materials of the present Gaol of the said Burgh shall be, and is hereby vested in the said Commissioners, with full Power and Authority to them, to dispose of the same by public Sale or private Bargain, as to them shall seem most expedient, and to apply the Monies arising from the Sale of the said Materials, towards defraying in part the Expence of the said new Gaol: Provided always, That when the Old Gaol shall be so removed, the Scite or Area on which the same stood, shall form a Part of the public Street of the said Burgh, subject to the same Regulations to which the Streets of the said Burgh are subject.

Money to be lodged in Bank.

XII. And be it enacted, That the said Commissioners, or their Committee, shall lodge all and every Sum which they shall receive on account of the said Gaol in the Branch of the Bank of *Scotland* at *Cupar*, therein to remain till the same shall be required for the Purposes of this Act.

Commissioners authorized to borrow Money.

XIII. And be it enacted, That it shall be lawful for the said Commissioners 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, any Sum or Sums of Money not exceeding the Sum of Four thousand Pounds, that shall be requisite for defraying the Expence of building the said Gaol, and procuring Plans and Estimates for the same, together with every other Expence attending the applying for and passing this Act, and carrying the same into Execution; and it shall be lawful for the said Commissioners, and they are hereby empowered to assign or make over the whole or any Part of the Assessment hereby authorised to be imposed and levied, to any Person or Persons from whom the Money aforesaid, or any Part thereof, shall be borrowed, as a Security for Payment thereof, and Interest arising thereon, at a Rate not exceeding Five Pounds *per Centum per Annum*; and such Assignment and Security for Money to be borrowed as aforesaid, shall be entered in a Book or Books to be kept by the said Commissioners for that Purpose, which Book or Books may be seen and perused by any Person or Persons in any way interested therein, without Fee or Reward; and the Assignments in Security to be granted by the said Commissioners shall be transferable by Indorsement, duly subscribed by the Party transferring in the Presence of one or more subscribing Witness or Witnesses, which Assignment so to be granted by the said Commissioners, shall be made and executed by their Clerk in their Name, on their Behalf, he being specially authorised so to do by a General Meeting of Commissioners: Provided always, that the said Commissioners or their Clerk, or such Person or Persons as they may appoint to receive the Money so to be borrowed as aforesaid, shall not be personally subject to pay the same, by reason of their authorising the Signature of, or signing such Bonds, as before directed.

Magistrates to be answerable for the Custody of

XIV. And be it further enacted, That when the said Gaol shall be finished, the same shall be taken to be and made use of as the Gaol for Criminals and Debtors and Vagrants for the said County and Burgh, and

the Priſoners, as formerly.

and it ſhall and may be lawful for all and any of the Juſtices of the Peace for the ſaid County, to iſſue his or their Warrant or Warrants for tranſmitting to, and confining in the ſaid Gaol, as a County Gaol, all Vagrants and Criminals of every Deſcription, ſubject by law to be apprehended and confined within the ſaid County; and the Magiſtrates and Town Council of the ſaid Burgh, and the Gaoler or Keeper, or Gaolers or Keepers of the ſaid Gaol, ſhall reſpectively be anſwerable to all Intents and Purpoſes whatſoever, for the ſafe Cuſtody of all ſuch Perſons as may from Time to Time be committed to his or their Cuſtody in the ſaid new Gaol; in the like Manner as the Magiſtrates and Town Council of the ſaid Burgh, and Keeper or Gaoler of the preſent Gaol of the ſaid Burgh, now are and is liable by Law; and that the Magiſtrates of the ſaid Burgh ſhall have the like Power over the ſaid new Gaol, as they have or might have over the preſent Gaol by any Law now in force; and ſhall be bound to defray the Expences neceſſary for keeping in Repair and maintaining the ſaid Gaol in all Time coming, and for keeping up the neceſſary Eſtabliſhment, and other Charges, in the ſame Manner and to the ſame Extent as they are bound with regard to the preſent Gaol, and as all Magiſtrates of Royal Burghs in *Scotland* are bound with regard to the Gaols within their Burghs; and that the Warrant of the ſaid Magiſtrates ſhall be deemed equally effectual and ſufficient to commit Priſoners to the ſaid Gaol, notwithſtanding the ſame may not be within the Royalty of the ſaid Burgh of *Cupar*, as if the ſaid Gaol were ſituated within the Royalty thereof.

For enſuring future Maintenance of Gaol.

XV. And in order more effectually to enſure the proper Maintenance and Support of the ſaid Gaol by the Magiſtrates and Town Council of the ſaid Burgh, when the ſame ſhall be finiſhed in manner by this Act appointed; be it enacted, That it ſhall and may be lawful for the Juſtices of the Peace for the ſaid County in their Quarter Seſſions aſſembled, from Time to Time, to cauſe proper and ſkilful Perſons to inſpect the ſaid Gaol, and in Caſe of any Deficiency or Diſrepair in any Part of the ſame, to report ſpecially thereon, and on the Amount of the Sum neceſſary for the Repair thereof; which Report the ſaid Juſtices ſhall, if neceſſary, intimate or cauſe to be intimated to the ſaid Magiſtrates and Town Council, who ſhall be bound within Six Months of ſuch Intimation to execute the Repairs; and failing their ſo doing within ſuch Time, it ſhall and may be lawful for the ſaid Juſtices forthwith to direct ſuch Repairs to be made, and to demand and recover the Expence incurred in making ſuch Repairs from the Magiſtrates and Town Council of the ſaid Burgh, and to iſſue their Warrant againſt the Treaſurer or Collector of the Funds of the ſaid Burgh therefor, or otherwiſe to proceed for the Recovery thereof, as Law directs.

Priſoners may be removed to new Gaol.

XVI. And be it further enacted, That when the ſaid new Gaol ſhall be made fit for the Reception of Priſoners, the ſaid Commiſſioners or any Two or more of them ſhall cauſe Notice thereof in Writing to be given to the Magiſtrates and Town Council of the ſaid Burgh for the Time, and to the Keeper or Keepers of the preſent Gaol thereof, who ſhall reſpectively remove to ſuch new Gaol, all ſuch Debtors, Felons, and other Priſoners as ſhall be then in Cuſtody; and ſuch Removal or Removals ſhall not be deemed or taken to be an Eſcape or Eſcapes.

XVII. And

XVII. And be it further enacted, That no Wine or Liquors of any Sort shall be sold within the said Gaol or Prison, and that no Spirituous Liquors shall be admitted there, or given to the Prisoners, unless by Order of a Surgeon, or other medical Person, by way of Medicine to the said Prisoners. Wine or Spirits not to be sold in Gaol.

XVIII. And be it further enacted, That nothing herein contained shall be deemed or construed to relieve the Magistrates, Town Council, and Community of the said Burgh of *Cupar*, or any other Persons, of any Obligation existing by Law on them to build, maintain, and keep in Repair a Gaol or Prison for the said Burgh. Burgh of Cupar not relieved from any Obligation at Law to maintain a Gaol.

XIX. And be it further enacted, That when the said Gaol shall be finished, according to the Authority contained in this Act, an accurate Account of the whole Expence laid out shall be made up, and attested by Five of the said Commissioners or their Committee; which Account, with the Books, Papers, Receipts, and all other Writings and Vouchers, Plans, Drawings, and Designs, relative to the Execution of the Building, shall be deposited with the Town-Clerk of the Burgh of *Cupar*, for which a Receipt shall be given by him to the said Commissioners or their Committee; and a Copy of which Account after its being authenticated, previous to its being transmitted to the Town Clerk as before mentioned, shall be sent to the Clerk of the Peace of the County of *Fife*, to remain in his Hands for the Information of all concerned. Plans, Books, and Papers, where to be deposited,

XX. And be it enacted, That the Sum of Three hundred Pounds to be applied towards the Expence of procuring and passing this Act, shall be paid by the said Magistrates and Town-Council, of the said Burgh, out of the Funds of the same, and that over and above any Sums or Obligations which they are herein before bound to pay or perform; and the Remainder of the said Expence (if any) shall be defrayed out of the first and readiest of the other Monies leviable by virtue of this Act. Expences of this Act.

XXI. 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 next after the Fact committed, or Cause of Action occurred, for which such Action or Suit shall be so brought, and the Defender or Defenders in any such Action or Suit may plead the General Issue, and give this Act and the Special Matter in Evidence, at any Trial to be had thereupon. Limitation of Actions.

XXII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of by all Judges, Justices, and others, without being especially pleaded. Public Act.

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