ANNO QUADRAGESIMO QUINTO

GEORGII III. REGIS.

Cap. 32.

An Act for raiſing a further Sum of Money for the Improvement of the Harbour of *Leith*.

[17th *May* 1805.]

WHEREAS by an Act paſſed in the Twenty-eighth Year of the Reign of His preſent Majeſty, for enlarging and improving the Harbour of *Leith*; for making a new Baſon, Quays, Wharfs, or Docks; for building Warehouſes; for making new Roads, and widening others, leading to and from the ſaid Harbour, Power was given to the Lord Provoſt, Magiſtrates, and Council of the City of *Edinburgh* to levy and collect the ſeveral Rates and Duties therein mentioned on all Ships and Veſſels brought into or uſing the ſaid Baſon and Docks; and Power was alſo given to borrow a Sum of Money not exceeding Thirty thouſand Pounds Sterling: And whereas by an Act paſſed in the Thirty-eighth Year of the Reign of His preſent Majeſty to amend the ſaid Act, the Lord Provoſt, Magiſtrates, and Council of the ſaid City of *Edinburgh* were authorized and empowered, as ſoon as the Wet Dock ſhould be completed, to levy certain Rates and Duties therein mentioned; and Power was alſo given to borrow any Sum of Money not exceeding Forty thouſand Pounds Sterling in the Whole: And whereas by an Act paſſed in the Thirty-ninth Year of the Reign of His preſent Majeſty, to amend the ſaid Acts, the ſaid Lord Provoſt, Magiſtrates, and Council of the ſaid City of *Edinburgh*, in order to complete and execute the Docks, and other Works thereby directed to be made, were empowered to borrow any Sum of Money, not exceeding Eighty thouſand Pounds Sterling in the Whole: And whereas the Lord Provoſt, Magiſtrates, and Council of the ſaid City of *Edinburgh*, have made great Progreſs in carrying on the ſaid Improvements of the ſaid Harbour of *Leith*, and other Works by the ſaid recited Acts directed to be made; but the ſaid Sum of Eighty thouſand Pounds, being far ſhort of what is neceſſary for thoſe Purpoſes, it is neceſſary that the ſaid Lord Provoſt, Magiſtrates, and Council ſhould be empowered to borrow, in addition to the Sums by the ſaid recited Act allowed to be borrowed, a further Sum of Money; 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 to and for the ſaid Lord Provoſt, Magiſtrates, and Council of the ſaid City of *Edinburgh*,

Act 28 *Geo.* 3.

38 *Geo.* 3.

39 *Geo.* 3.

Power to borrow Money.

burgh, and their Succeſſors in Office, and they are hereby authorized and empowered (in addition to the Sum of Eighty thouſand Pounds by the ſaid laſt recited Act authorized to be borrowed) to borrow a further Sum of Money not exceeding Eighty thouſand Pounds Sterling, to be applied to the Purpoſes mentioned in the ſaid laſt-recited Act of the Thirty-ninth Year of the Reign of His preſent Majeſty.

Powers of Act 39 *Geo.* 3. extended to this Act.

II. And be it enacted, That all and every the Powers, Authorities, Rules, Regulations, Matters, and Things in the ſaid recited Act of the Thirty-ninth Year of the Reign of His preſent Majeſty contained, in regard to the Sum of Eighty thouſand Pounds, thereby authorized to be borrowed, ſhall be and the ſame are hereby re-enacted and continued in regard to the ſaid further Sum of Eighty thouſand Pounds by this preſent Act directed to be borrowed, in ſo far as the ſame are ſubſiſting and capable of taking Effect.

Application of Compenſation where exceeding 200 l.

III. And be it further enacted, That if any Money ſhall be agreed or awarded to be paid for any Lands, Tenements, or Heritages, purchaſed, taken, or uſed by virtue of the Powers of the ſaid recited Acts, and this Act, for the Purpoſes thereof, which are held under Entail, or are ſubject to Life-Rents, Annuities, or other Incumbrances, or ſhall belong to any Incorporation, married Woman, Infant, Lunatic, or Perſon or Perſons under any Diſability or Incapacity, ſuch Money ſhall, in caſe the ſame ſhall amount to the Sum of Two hundred Pounds, under the Direction and by the Authority of the Court of Seſſion, be, with all convenient Speed, paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Intent that ſuch Money ſhall be applied, under the Direction, and with the Approbation of the ſaid Court, to be ſignified by an Order made upon a Petition, to be preferred in a ſummary Way, by the Perſon or Perſons who would have been entitled to the Rents and Profits of the ſaid Lands, Tenements, or Heritages, in the Purchaſe of the Land Tax, or Diſcharge of any Debt or Debts, or ſuch other Incumbrance, or Part thereof, as the ſaid Court ſhall authorize to be paid, affecting the ſame Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages, ſtanding ſettled therewith to the ſame or the like Uſes, Intents, or Purpoſes; or where ſuch Money ſhall not be ſo applied, then the ſame ſhall be laid out and inveſted, under the like Direction and Approbation of the ſaid Court, in the Purchaſe of other Lands, Tenements, or Heritages, which ſhall be conveyed and ſettled to, for, and upon ſuch and the like Uſes, Truſts, Intents, and Purpoſes, and in the ſame Manner as the Lands, Tenements, and Heritages which ſhall be ſo purchaſed, taken, or uſed, as aforeſaid, ſtood ſettled or limited, or ſuch of them as, at the Time of making ſuch Conveyance and Settlement, ſhall be exiſting undetermined and capable of taking Effect; and, in the mean Time, and until ſuch Purchaſe ſhall be made, the Intereſt or Annual Produce of ſuch Money ſhall, from Time to Time, be paid by Order of the ſaid Court, to the Perſon or Perſons who would, for the Time being, have been entitled to the Rents and Profits of the Lands, Tenements, and Heritages ſo hereby directed to be purchaſed, in caſe ſuch Purchaſe or Settlement were made.

Application where the Compenſation does not exceed 200 l. nor leſs than 20 l.

IV. Provided always, and be it further enacted, That if any Money ſo agreed or awarded to be paid for any Lands, Tenements, or Heritages, purchaſed, taken, or uſed, for the Purpoſes aforeſaid, and belonging to any Corporation, or to any Perſon or Perſons under Diſability or Incapacity

Incapacity as aforeſaid, ſhall be leſs than the Sum of Two hundred Pounds, and ſhall exceed the Sum of Twenty Pounds, then, and in all ſuch Caſes, the ſame ſhall, at the Option of the Perſon or Perſons for the Time being, entitled to the Rents and Profits of the Lands, Tenements, or Heritages ſo purchaſed, taken, or uſed, or of his, her, or their Tutors or Curators, in caſe of Infancy or Lunacy, to be ſignified in Writing under their reſpective Hands, under the like Direction and Authority, be paid into either of the ſaid Banks, and be placed to his or their Account as aforeſaid, in order to be applied in Manner hereinbefore directed, or otherwiſe, the ſame ſhall be paid at the like Option to Two Truſtees, to be nominated by the Perſon or Perſons making ſuch Option, and approved of by the Lord Provoſt, Magiſtrates, and Council of the City of *Edinburgh*, (ſuch Nomination and Approbation to be ſignified in Writing, under the Hands of the nominating and approving Parties,) in order that ſuch Principal Money, and the Intereſt ariſing thereon, may be applied in Manner hereinbefore directed, ſo far as the Caſe be applicable.

Application where the Money is leſs than 20l.

V. Provided alſo, and be it further enacted, That where ſuch Money ſo agreed or awarded to be paid as next before-mentioned, ſhall be leſs than Twenty Pounds, then, and in all ſuch Caſes, the ſame ſhall be applied to the Uſe of the Perſon or Perſons who would, for the Time being, have been entitled to the Rents and Profits of the Lands, Tenements, and Heritages ſo purchaſed, taken, or uſed for the Purpoſes of the ſaid recited Acts and this Act, in ſuch Manner as the ſaid Lord Provoſt, Magiſtrates, and Council ſhall think fit; or in caſe of Infancy or Lunacy, then to his, her, or their Tutors or Curators, to and for the Uſe and Benefit of ſuch Perſon or Perſons ſo entitled reſpectively.

In caſe of not making out Titles; or if Perſons cannot be found, Purchaſe Money to be paid into the Bank.

VI. And be it further enacted, That in caſe the Perſon or Perſons to whom any Sum or Sums of Money ſhall be awarded for the Purchaſe of any Lands, Tenements, or Heritages, to be purchaſed by virtue of the ſaid recited Acts or of this Act, ſhall refuſe to accept the ſame, or ſhall not be able to make a good Title to the Premiſes, to the Satisfaction of the ſaid Truſtees; or in caſe ſuch Perſon or Perſons to whom ſuch Sum or Sums of Money ſhall be ſo awarded as aforeſaid cannot be found, or if the Perſon or Perſons entitled to ſuch Lands, Tenements, or Heritages, be not known or diſcovered, then, and in every ſuch Caſe, it ſhall and may be lawful, to and for the ſaid Lord Provoſt, Magiſtrates, and Council, to order the ſaid Sum or Sums of Money ſo awarded as aforeſaid, to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Credit of the Parties intereſted in the ſaid Lands, Tenements, or Heritages (deſcribing them), ſubject to the Order, Controul, and Diſpoſition of the Court of Seſſion; which ſaid Court, on the Application of any Perſon or Perſons making Claim to ſuch Sum or Sums of Money, or any Part thereof, by Petition, ſhall be and is hereby empowered, in a ſummary Way of Proceeding, or otherwiſe as to the ſame Court ſhall ſeem meet, to order the ſame to be laid out and inveſted in the public Funds, and to order Diſtribution thereof, or Payment of the Dividends thereof, according to the reſpective Eſtate or Eſtates, Title, or Intereſt, of the Perſon or Perſons making Claim thereunto, and to make ſuch other Order in the Premiſes as to the ſaid Court ſhall ſeem juſt and reaſonable; and the Caſhier or Caſhiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, who ſhall receive ſuch Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for ſuch Sum or Sums of Money, mentioning and ſpecifying

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ing for what and for whoſe Uſe the ſame is or are received, to ſuch Perſon or Perſons as ſhall pay any ſuch Sum or Sums of Money into the Bank as aforeſaid.

Where any Queſtion ſhall ariſe touching the Title to Money to be paid, the Perſon who ſhall be in Poſſeſſion of the Lands, &c. at the Time of ſuch Purchaſe, ſhall be deemed entitled thereto according to ſuch Poſſeſſion.

VII. And be it further enacted, That where any Queſtion ſhall ariſe touching the Title of any Perſon to any Money to be paid into the ſaid Banks, in purſuance of the ſaid recited Acts, or this Act, for the Purchaſe of any Lands, Tenements, or Heritages, or of any Eſtate, Right, or Intereſt, in any Lands, Tenements, or Heritages, to be purchaſed in purſuance thereof, the Perſon or Perſons who ſhall have been in Poſſeſſion of ſuch Lands, Tenements, or Heritages, at the Time of ſuch Purchaſe, and all Perſons claiming under ſuch Perſon or Perſons, or under the Poſſeſſion of ſuch Perſon or Perſons, ſhall be deemed and taken to have been lawfully entitled to ſuch Lands, Tenements, or Heritages, according to ſuch Poſſeſſion, until the contrary ſhall be ſhewn, to the Satisfaction of the ſaid Court of Seſſion; and ſuch Money, and the Intereſt thereof, ſhall be paid, applied, and diſpoſed of accordingly, unleſs it ſhall be made appear to the ſaid Court that ſuch Poſſeſſion was a wrongful Poſſeſſion, and that ſome other Perſon or Perſons was or were lawfully entitled to ſuch Lands, Tenements, or Heritages, or to ſome Eſtate or Intereſt therein.

The Court may order reaſonable Expences of Purchaſes to be paid by the Truſtees.

VIII. Provided always, and be it further enacted, That where, by reaſon of any Diſability or Incapacity of the Perſon or Perſons, or Corporation, entitled to any Lands, Tenements, or Heritages, to be purchaſed under the Authority of the ſaid recited Acts, or this Act, the Purchaſe Money for the ſame ſhall be required to be paid into the ſaid Banks, and to be applied in the Purchaſe of other Lands, Tenements, or Heritages, to be ſettled to the like Uſes, in purſuance of the ſaid recited Acts or of this Act, it ſhall be lawful for the ſaid Court to order the Expences of all Purchaſes, from Time to Time, to be made in purſuance of this Act or the ſaid recited Acts, or ſo much of ſuch Expences as the Court ſhall deem reaſonable, together with the neceſſary Coſts and Charges of obtaining ſuch Order, to be paid by the ſaid Lord Provoſt, Magiſtrates and Council, who ſhall, from Time to Time, pay ſuch Sums of Money for ſuch Purpoſes, as the ſaid Court ſhall direct.

Expences of the Act.

IX. And be it enacted, That the Expences of applying for and obtaining this Act ſhall be paid, in the firſt Place, out of the firſt and readieſt of the Rates and Duties by the ſaid recited Acts, or any of them authorized to be levied, or out of the ſaid Sum of Eighty thouſand Pounds by this Act authorized to be borrowed, in Manner before mentioned.

Public Act.

X. 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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