



ANNO QUINQUAGESIMO PRIMO

GEORGII III. REGIS.

Cap. 15.

An Act for widening and improving the Street called the *Nethergate*, in the Burgh of *Dundee*, in the County of *Forfar*. [4th April 1811.]

WHEREAS the Access to the Burgh of *Dundee*, in the County of *Forfar*, on one Side is by a Street called the *Nethergate*, through which is the great Post Road from *Edinburgh* and *Pertb*, to the North of *Scotland*, which Street is in some Places so narrow, that Carriages cannot pass with Safety: And whereas the Magistrates and Town Council of the said Burgh have expended considerable Sums of Money in purchasing and taking down Houses to widen the said Street; but the said intended Improvements cannot be completed 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 Magistrates and Town Council of the said Burgh of *Dundee* shall have full Power and Authority, and they are hereby authorised and empowered to treat and agree with the Owners and Occupiers of all Tenements, Houses and Shops in the said Street called the *Nethergate*, where the said Street is not already of the Breadth of Eighty Feet, for the Purchase of the said Houses, Tenements and Shops, in order that the same may be demolished, and the said Street thereby widened, and particularly with the following Persons, their

[*Loc. & Per.*]

3 N

Heirs

Power given to the Magistrates and Town Council to treat and agree with the Proprietors and Occupiers certain Houses.

Heirs and Successors; that is to say, the Houses with the Appurtenances, situated between the *Kirkwynd*, and the said *Netbergate Street*, which belong to *John Whittel*, the Heirs and Successors of *Thomas Kinnear*, *James Gray*, *George Milne*, *Andrew Garland*, and the Town of *Dundee*, (who are all the Heritors, Occupiers and Life-Renters at present known or discovered, of Houses and Premises intended by this Act to be taken down,) or with the Heirs, Disponees or Successors, of all or any of the said Persons, and with any other Person or Persons, Body or Bodies Corporate, who are or may be Proprietors, Life-Renters, Occupiers or Lessees of Lands, Tenements or Hereditaments, which are so situated as to prevent the said Street being widened to the Breadth of Eighty Feet.

Misnomers
not to afford
Objection.

II. Provided always, That although any of the Heritors, Occupiers or Life-renters of any of the said Houses, Tenements, Premises or Hereditaments, shall, through Misinformation, be wrong named or described in this Act, it shall not afford any Ground or Pretence to the Persons interested or any of them, for objecting to or interrupting the Execution of the Work, and Improvement by this Act intended to be authorised, in case it shall appear to any Two Justices of the Peace for the said County, and be certified by Writing under their Hands, that such Error proceeded from Mistake.

The Magis-
trates and
Town Coun-
cil to give
Intimation to
the Proprie-
tors as to the
particular
Properties
they mean to
take, on or
before Jan. 1,
1812.

III. Provided also and be it enacted, That the said Magistrates and Town Council shall be obliged on or before the First Day of *January* One thousand eight hundred and twelve, to give Notice by Advertisement, to be inserted in a Newspaper published at *Dundee*, and in One of the Newspapers of known Circulation, published at *Edinburgh*, to the several Heritors and Life-Renters of the said Houses, Tenements and Premises or Hereditaments, or such of them as are intended to be taken or purchased for the Purpose of this Act, describing such Properties and the Owners thereof, and others interested therein, as far as is known, otherwise this Act shall be no longer binding upon the said Heritors, Life-Renters and others interested, and after such Notice and Advertisement, it shall be in the Power of the said Heritors, Life-Renters and others interested, if so inclined, to compel the said Magistrates and Town Council to proceed and complete the Purchase of such Houses, Tenements or Hereditaments, in the Terms and upon the Conditions of this Act.

Power to
Bodies Poli-
tic, &c. to
convey.

IV. And be it further enacted, That it shall and may be lawful to and for all Bodies, Politic, Corporate or Collegiate, Trustees, Heirs of Entail, Tutors or Curators for Infants, Minors, Idiots, Furious or other Persons, and to and for all and every other Person or Persons whomsoever, who are or shall be seized, possessed of or interested in any of the said Houses, Tenements, Hereditaments or Premises, to sell and convey the same or any Part thereof, and all the Right to, and Interest which they or those for whom they are entitled to act, have in the same, to the said Magistrates and Town Council and their Successors in Office; for the Purpose of widening and improving the said Street; and all Contracts, Agreements, Sales or other Conveyances so made, shall be valid to all Intents and Purposes, any Law, Statute or Usage to the contrary notwithstanding; and all Trustees, Heirs of Entail, Tutors or Curators, Corporations, Proprietors, Incumbrancers, and all other
Persons

Persons shall be and hereby are indemnified for what they may do, in virtue or pursuance of this Act.

V. And be it enacted, That if the Owners and Occupiers of the said Houses, Shops, Hereditaments or Premises, or any of them, shall not come to a voluntary Agreement with the said Magistrates and Town Council of *Dundee* as to the Value thereof, or any Part thereof, and of the Interest any Person may have in the same, it shall be lawful to the said Magistrates and Town Council, or for the Owners, Occupiers, and others interested, to apply to the Sheriff Depute or Substitute of the County or Shire of *Forfar*, who shall be, and hereby are empowered to determine the Value, or what shall be paid for and in respect of the said Persons surrendering their Right or Interest in the said Houses, Shops and Hereditaments, with all the Costs arising from or in consequence of such Application; and the said Sheriffs Depute or Sheriffs Substitute, shall thereupon and in every such Case summon a Jury, to consist of not fewer than Fifteen qualified Persons, to enquire into the Value of such Houses, Shops and Hereditaments, and the Leases and Occupation thereof, and the Damage to be sustained by the Owner, Occupier or others interested therein by being deprived thereof, or of any Part of the same, and the Recompence to be made by the said Magistrates and Council, and the Jury, being sworn and impaneled, shall enquire into the Matters submitted to them, and shall thereupon return a Verdict which shall be final, and the said Sheriffs Depute or Substitute, shall adjudge the Value and Recompence thereby awarded to be paid to the Person or Persons having Right thereto, and upon the Sum or Sums awarded being paid by the said Magistrates and Council to the Person or Persons adjudged to be entitled thereto, or in the Case of Disability or refusing to receive, consigning the same in the Hands of the Treasurer of the Bank of *Scotland*, or of the Royal Bank of *Scotland* in manner by this Act directed, the said Magistrates and Town Council, and their Successors in Office, shall have right to remove the Owners and Occupiers of such Houses, Shops and Hereditaments, and Premises, and to enter into Possession and Use thereof, for the Purposes of this Act; as fully and effectually as if such Owners or Occupiers had executed regular Dispositions of the same, and Infeftment had followed in favor of the Magistrates and Council, and the said Proceedings and Orders of the Sheriffs Depute, or their Substitute, shall be final, and not removeable or questionable by Bills or Letters of Advocation or Suspension to or by any other Court whatsoever, any Law or Usage to the contrary notwithstanding.

In case of Refusal the Properties to be valued by a Jury.

VI. Provided always, and be it enacted, That in the Event of such Jury awarding a greater Compensation than the said Magistrates and Council shall have offered, but less than the Owner or Owners, Occupier or Occupiers shall have required, the Expence of such Jury shall be defrayed and borne by the said Magistrates and Council, and the said Owner or Owners, Occupier or Occupiers, equally, but in case the Jury shall award to such Occupier or Occupiers, Owner or Owners, the Sum so required, or any greater Sum, the whole of the said Expence shall be paid by the said Magistrates and Council, and on the other Hand, if the said Jury shall award the Sum offered by the said Magistrates and Council, or a less Sum, the whole of the said Expence shall be paid by the said Owner or Owners, Occupier or Occupiers: Provided always, that in all Cases

Expence of Jury by whom to be paid.

Cases where any Person or Persons shall, by reason of Absence, be prevented from treating with the said Magistrates and Council, such Costs and Expences shall be borne and paid by the said Magistrates and Council.

Money payable to Persons under Entail or Disability how to be disposed of.

If 200l. and upwards.

VII. And be it enacted, That whatever Money shall be paid by Agreement, or by Award as aforesaid for Houses, or other Subjects so taken or used by the said Magistrates and Council, which were held under Entail, or subject to Life-rent Annuities or other Incumbrances, or belonging to any Corporation, married Woman, Minor, Lunatic, Idiot or other Person under legal Disability or Incapacity, such Money, in case the same amounts to Two hundred Pounds or upwards, shall be under the Authority and Direction of the Court of Session, and shall, without Delay, be paid into the Bank of *Scotland* or Royal Bank of *Scotland*, upon the highest Interest that can be got, in order that it may be applied, with the Approbation and by the Authority of the said Court, in the Purchase of the Land Tax, or in the Discharge of any Debt or Incumbrance [affecting the said Houses or other Subjects, or affecting other Lands or Houses belonging to the same Persons, and settled to the same or like Uses, or under the like Conditions and Limitations, and when such Money cannot be applied to these or to the like Purposes, then the same shall be laid out in the Purchase or on the Security of other Houses and Subjects of the like Nature, and the Rights and the Titles thereof shall be devised to the same Person or Persons, or for their Benefit, to the same Series of Heirs for the same Uses and Purposes, and under the same Provisions, Conditions and Limitations as the Houses and other Subjects taken and used for the Purposes of this Act, were devised and settled, or such of them as shall be then existing and capable of taking Effect, and in the mean Time, until such Purchase or Security can be effected, the Interest of such Money shall be paid by Authority of the said Court to the Person or Persons who for the Time would have been entitled to the Rents and Profits of the Lands, Houses or other Subjects so taken and used by the said Magistrates and Council.

If less than 200l. and above 20l.

VIII. And be it enacted, That if such Money be less than Two hundred Pounds, but shall exceed Twenty Pounds Sterling, then at the Option of the Person or Persons who for the Time being would have been entitled to the Rents and Profits of the Land, Houses or other Subjects conveyed to or taken by the Magistrates and Council for the Purposes of this Act, to be signified in Writing under their respective Hands, or under the Hands of their Tutors, Curators or Trustees, in Cases of Minority, Lunacy or Trust to be paid into one of the said Banks, under the same Direction and Authority, to be applied in the Manner before directed, or otherwise the same shall be paid at the like Option, to Two Trustees, to be named by the Person or Persons making such Option, and approved of by the said Magistrates and Council, under this Act, in order that such Money, and the Interest arising thereon, may be applied in the Manner before directed; so far as the Circumstances of the Case shall make it practicable.

If less than 20l.

IX. And be it enacted, That where such Money shall be less than Twenty Pounds Sterling, then the same shall be applied to the Use of the Person or Persons who for the Time being would have been entitled

to the Rents and Profits of the Houses and other Subjects so taken and conveyed for the Purposes aforesaid, in such Manner as the Magistrates and Council shall think fit; or in case of Trust, to his or their Trustees; or in case of Minority or Lunacy, to his, her or their Tutors or Curators, for the Use and Benefit of such Person or Persons so entitled respectively.

X. And be it further enacted, That in case any Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any House or other Subject to be purchased by virtue 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 Magistrates and Town Council; 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, Houses, or other Subjects, be not known or discovered, then and in every such Case, it shall and may be lawful to and for the said 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 Houses, or other Subjects (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 Court shall seem meet, to order the same to be laid out and vested 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 Claims 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, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay such Sum or Sums of Money into the Bank as aforesaid.

In case of not making out Titles.

Purchase Money to be paid into Bank.

XI. 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 this Act, for the Purchase of any Houses or other Subjects, or of any Estate, Right or Interest, in any Lands, Houses or other Subjects, to be purchased in pursuance thereof, the Person or Persons who shall have been in Possession of such Houses or other Subjects at the Time of such Purchase, and all Persons claiming under such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Houses or other Subjects, 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, Houses or other Subjects, or to some Estate or Interest therein.

Where any Question shall arise touching the Right to such Money.

The Court may order reasonable Expences of Purchasers to be paid by the said Magistrates and Council.

XII. Provided always, and be it further enacted, That where by reason of Disability or Incapacity of the Person or Persons or Corporation entitled to any Lands, Houses or other Subjects to be purchased under the Authority of 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, Houses or other Subjects, to be settled to the like Uses in pursuance 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 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 Magistrates and Council, who shall from Time to Time pay such Sums of Money, for such Purposes as the said Court shall direct.

Life-renters to be secured to the Amount of their Annuities.

XIII. And be it enacted, That in case any Tenement, House, Shop or other Hereditament taken for the Purpose of this Act shall happen to be life-rented by any Person, and shall be valued at a Sum, which at the Rate of Five Pounds *per Centum per Annum*, will not yield an Interest equal to the Annuity, which such Life-Renter received from the Subject at a Medium of the three preceding Years, the said Magistrates and Council shall be obliged to make up to the Life-Renter, annually, during his or her Life, the Deficiency and Difference between the said Interest and Annuity, and that in case the Life-Renter and Fiar of such Subject shall not both concur in receiving and discharging the Price or adjudged Value thereof, the said Magistrates and Council shall be obliged, if the Parties desire to retain the said Price during the Life of the Life-Renter, and to pay Interest therefor at the Rate of Five Pounds *per Centum per Annum*, to be applied in part of the Life-Rent Annuity.

In case of not Payment of Sums awarded in Six Months the Award to be void, if Proprietor pleases.

XIV. Provided always, and be it enacted, That in case the Sum or Sums of Money awarded, in the Manner before directed to be paid to the Owner, Occupier, Life-Renter and others interested shall not be paid, tendered or consigned as hereinbefore directed, within Six Calendar Months next after the same shall have been so awarded, then and in such Case the Award, Determination, Orders and Adjudication thereupon shall not be binding on the said Owners, Occupiers and others interested, but the same shall continue binding on the said Magistrates and Council, if the Persons interested intimate their Intention to that effect.

Houses, &c. to be taken down.

XV. And be it enacted, That it shall and may be lawful to and for the said Magistrates and Town Council, and they are hereby authorized and empowered, after making Payments of such Sum or Sums of Money as shall be agreed on between them and the said Owners, Occupiers and others interested or as shall be adjudged as aforesaid for the Purchase of the said Houses, Shops and Hereditaments, and the Interest of any Person therein, or after Consignation thereof, in the Cases before mentioned, to order and cause the said Houses, Shops and Hereditaments, and other Subjects to be taken down, and the Areas to be cleared, and to use the Property for the Purpose of widening the said Street to the Breadth aforesaid, according to the Intendments of this Act, but for no other Purpose.

XVI. And

XVI. And be it enacted, That if in order to make the Street of the Breadth aforesaid, it shall only be found necessary to take a Part of any House, Shop, or other Property comprehended in this Act, the Proprietors, Life-Renters and Possessors of such Houses, Shops or other Subjects encroached upon or injured, shall be entitled, if they so incline to receive, and be paid the full and adequate Value of the whole of such House, Shop, or other Subject, to be ascertained in Manner before directed, which the said Magistrates and Council shall be, and they are hereby obliged to purchase, account for and pay accordingly.

If a Part of the Houses, &c. are not necessary the Magistrates and Town Council shall, nevertheless be obliged to purchase the whole of the Property.

XVII. And be it enacted, That it shall be lawful for the said Magistrates and Council to sell and dispose of such Part or Parts of the Grounds, Houses and Tenements as may be purchased by them, and as shall not be wanted for the Purposes of this Act, and apply the Money arising therefrom towards the Expence of carrying this Act into Execution.

Magistrates and Council may re-sell.

XVIII. Provided always, and be it further enacted, That the said Magistrates and Council, before they shall sell and dispose of such Ground, Houses or Tenements, shall first offer to re-sell the same to the Person or Persons from whom they shall have purchased such Ground, Houses or Tenements; and in case such Person or Persons shall not then and thereupon agree, or shall refuse to re-purchase the same, then and in every such Case, any Affidavit to be made and sworn before one of His Majesty's Justices of the Peace for the County of *Forfar*, by some Person or Persons no way interested in the said Ground, Houses or Tenements, stating that such Offer was made by or on Behalf of the said Magistrates and Council, and that such Offer was not then and thereupon agreed to, or was refused by the Person or Persons to whom the same was so offered, shall in all Courts whatsoever, be sufficient Evidence and Proof that such Offer was made, and was not agreed to, or was refused by the Person or Persons to whom it was made, as the Case may be; and in case the Parties cannot agree as to the Value of such Ground, Houses or Tenements, the same shall be settled by a Jury in Manner herein directed.

Owner to have the first Offer.

XIX. And be it further enacted, That after the Purchase of such Houses, Shops or other Subjects, or any of them, the said Magistrates and Town Council shall be and they are hereby authorized and empowered to sell, by private Sales or publick Auction, for the best Price that can be obtained, the Materials of all such Houses, Shops and Premises, and they shall be obliged to apply the Money received to and for the Purposes of this Act, and to no other Purpose.

Materials may be sold.

XX. Provided also, and be it enacted, That previous Notice shall be given by the said Magistrates and Council to the Tenants and Occupiers of all such Houses, Shops and other Subjects, as are to be pulled down and used as aforesaid, Three Months at least before the Term of *Whituesday* or *Martinmas* at which the said Tenants and Occupiers are to be removed therefrom, by affixing a Notice in Writing to that Effect upon the most patent Doors of such Houses, Shops or other Subjects, or by delivering such Notice to the principal Occupiers thereof, Satisfaction being always made to the Tenants in the Manner hereinbefore directed, if required

Occupiers must have Notice to remove.

to

to quit their Possession before Expiry of the Term for which their Leases have to run.

This Act
may be
pleaded.

XXI. And be it enacted, That in case any Suit or Action shall be commenced against any Person or Persons for any Thing done in pursuance of this Act, the Defendant or Defendants in such Suit or Action may produce this Act, and plead that the said Things are done by the Authority thereof, and if it shall appear so to be done, then the Defendant or Defendants shall be assolzied or acquitted from any such Suit or Action, and shall have treble Costs awarded to him or them, to be paid by the Prosecutor or Prosecutors.

Publick Act.

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

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