



ANNO NONO

GEORGIIV. REGIS.

Cap. xiv.

An Act to amend an Act of the Fifty-first Year of His late Majesty, for erecting a new Market Place in the Town or Borough and Manor of *Gosport* in the County of *Southampton*.

[3d April 1828.]

WHEREAS an Act was passed in the Fifty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for erecting a new Market Place in the Town or Borough and Manor of Gosport in the County of Southampton*: And whereas it has been found that the Powers and Provisions of the said recited Act are very defective and inadequate to fulfil the Purposes thereby intended; and it is expedient that the same should be altered and amended: 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 several surviving original Proprietors of the said new Market Place, together with such other Persons who now are or shall hereafter be entitled to or become interested in One or more Share or Shares therein, shall have full Power and Authority to carry the said recited Act and this Act into Execution, in such and the same Manner as they are empowered and authorized to carry the said recited Act into Execution.

51G.3.c.172.

Proprietors under the former Act empowered to execute this Act.

[*Local.*]

X x

II. And

Extending
Powers of
former Act.

II. And be it further enacted, That the said recited Act, and all and every the Powers, Provisions, Authorities, Matters, and Things therein contained, (save and except such Parts thereof as are hereby varied, altered, or repealed,) shall be extended to this Act, and shall remain and continue in full Force and Effect, in as full, ample, and beneficial a Manner, to all Intents, Constructions, and Purposes whatsoever, as if the said several Powers, Provisions, Authorities, Matters, and Things had been particularly repeated and re-enacted in this Act.

Penalty on
Persons sel-
ling Meat,
&c. in any
other Place
than the
new Market
Place.

III. And, for preventing any Encroachment or Encroachments being hereafter made on the said Market and Market Place, be it further enacted, That it shall not be lawful for any Person or Persons, except as herein-after provided, to sell, or offer or expose to sale, any Manner of Flesh Meat or other raw Victuals, Fish, Poultry, Rabbits, Sucking Pigs, Eggs, Butter, Cheese, Herbs, Roots, or other Garden Stuff, Fruit, China, Glass, or Earthenware, or other Goods, Commodities, or Things which are usually sold in Public Markets or Fairs, in any Street, Highway, or Place whatsoever within the said Town or Borough, other than the said Market or Market Place; and every Person who shall so sell, or offer or expose to sale, within the said Town or Borough, any Flesh Meat or other raw Victuals, Fish, Poultry, Rabbits, Sucking Pigs, Eggs, Butter, Cheese, Herbs, Roots, or Garden Stuff, Fruit, China, Glass, or Earthenware, or other Goods, Commodities, or Things which are usually sold in Public Markets or Fairs, in any Street, Highway, or Place other than the said Market or Market Place, and shall be convicted thereof before One or more of His Majesty's Justices of the Peace for the said County of *Southampton*, shall for every such Offence forfeit and pay the Sum of Forty Shillings, to be levied by Distress and Sale of the Goods and Chattels of the Offender or Offenders, rendering the Overplus (if any), after deducting the Expences of such Distress and Sale of the said Goods and Chattels, to the Owner or Owners thereof; one Moiety of which Penalty shall go to the Informer, and the other Moiety thereof to the said Proprietors, to be applied for and towards the Purposes of the said recited Act and this Act: Provided always, that nothing herein contained shall be deemed, construed, or taken to prevent any of the Inhabitant Householders within the said Town or Borough from selling, or offering or exposing to sale, any Manner of Goods, Wares, Merchandize, Commodities, Matters, or Things usually sold in Public Markets or Fairs, within the Houses, Shops, or Premises occupied by such Inhabitant Householders.

Recovery of
Toll by Dis-
tress in case
of Nonpay-
ment.

IV. And be it further enacted, That in case any Person or Persons renting, holding, or using, or in any Manner occupying any of the Stalls, Shops, Standings, Shambles, Cellars, or other Conveniences in the said Market Place, Fish Stalls, or Buildings, or any or either of them, or any Part thereof, or who shall bring, put, place, or expose or offer for sale in the said Market Place, Fish Stalls, or Buildings, any Manner of Flesh Meat or other raw Victuals, Fish, Poultry, Eggs, Sucking Pigs, Butter, Cheese, Herbs, Roots, or other Garden Stuff, Fruit, China, Glass, Earthenware, Cloth, Linen, or any other Marketable Commodities, Matters, or Things whatsoever, for or in respect of which any Toll, Stallage, Rent, or Sum or Sums of Money,

may be demanded or taken thereon under and by virtue of the said recited Act or this Act, shall, upon Demand thereof made by the Collector, Farmer, Lessee or Lessees, or other Person or Persons authorized by the Proprietors for the Time being to receive the said Toll, Stallage, Rent, or Sum or Sums of Money, neglect or refuse to pay, or shall wilfully evade the Payment of the said Toll, Stallage, Rent, or Sum or Sums of Money due or payable under and by virtue of the said recited Act or this Act; or in case any Dispute shall arise with respect to the Amount of the Tolls, Stallages, Rent, or Sum or Sums of Money due; it shall and may be lawful to and for the said Collector, Farmer, Lessee or Lessees, or other Person or Persons authorized and appointed under and by virtue of the said recited Act or this Act, or hereafter to be appointed by the Proprietors for the Time being, to collect and receive the said Rents, Tolls, and Stallages, either by himself, or his or their Assistant or Assistants, to seize and detain all such Articles, Matters, or Things whatsoever, until the Amount of the Tolls, Stallages, Rents, Sum or Sums of Money due or payable as aforesaid, and the Charges of keeping such Articles, Matters, or Things, shall be ascertained by One or more Justice or Justices of the Peace for the said County of *Southampton*, who, upon Application made to him or them for that Purpose, whether there shall have been such Seizure or not, shall examine into the Matter on the Oath of the Parties Complainants, or other Witness or Witnesses, (which Oath such Justice or Justices is and are hereby authorized and empowered to administer,) and shall determine the Amount of the Tolls, Stallages, Rent, or Sum or Sums of Money due, and the Charges of keeping such Articles, Matters, or Things, if any such Seizure shall have been made, and shall award such Costs and Charges to either Party, as to the said Justice or Justices shall appear right and proper; all which Tolls, Stallages, Rents, Sum or Sums of Money, Costs and Charges, shall and may be levied and recovered, in case of Nonpayment thereof forthwith, by Sale of such Articles, Matters, or Things, if any such Seizure shall have been made, or by Distress and Sale of the Goods and Chattels of the Person or Persons liable to pay the same, by Warrant under the Hand and Seal or Hands and Seals of such Justice or Justices, rendering the Overplus (if any), on Demand, after deducting the Costs and Charges of such Sale, and of such Distress and Sale, as the Case may be, to the Person or Persons whose Goods and Chattels shall be so sold or distrained.

V. And be it further enacted, That the Inspector or Inspectors of Provisions in the said Market Place, Fish Stalls, and Buildings, or the Collector, Farmer, Lessee or Lessees, or other Person or Persons authorized by the Proprietors for the Time being to receive the said Tolls, Stallages, Rent, or Sum or Sums of Money, shall and may, and he and they is and are hereby authorized and required to seize and publicly to destroy all unwholesome Meat, Fish, Poultry, Eggs, Butter, Cheese, and other Provisions which shall and may be offered or exposed for Sale in the said Market Place or the Limits thereof, or the Fish Stalls or Buildings thereto belonging, or within any Part of the said Town or Borough of *Gosport*.

Inspector,
&c. to seize
and destroy
all unwhole-
some Meat,
&c.

VI. Pro-

Justices
may deter-
mine Dis-
putes and
award Costs.

VI. Provided always, and be it further enacted, That if any Disputes shall arise concerning the Amount of the Rates, Tolls, or Duties due, or the Charges occasioned by any Distress, it shall be lawful for the Collector or Person distraining to detain such Distress, or the Money arising from the Sale thereof, (as the Case may happen,) until the Amount of the Rates, Tolls, or Duties due, and the Charges of seizing, distraining, keeping, or selling such Distress, (as the Case shall happen,) shall be ascertained by One or more Justice or Justices of the Peace for the said County, who, upon Application made to him or them for that Purpose, shall examine the said Matter upon Oath of the Parties or other Witness or Witnesses, and determine the Amount of the Rates, Tolls, or Duties due; and it shall be lawful for such Justice to assess and award such Costs, to be paid by either of the Parties to the other of them, as he shall think just and reasonable; and in case of Nonpayment thereof on Demand, such Costs shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, by Warrant under the Hand and Seal of such Justice.

No Goods
to be sold
by Auction,
&c. in the
Streets.

VII. Provided always, and be it further enacted, That no Person or Persons whomsoever shall sell or cause to be sold, by Auction, Outcry, or by Hand or otherwise, any Goods, Articles, Matters, or Things whatsoever, (whether the same shall be his, her, or their own Work or Make, Manufacture or not,) in any of the public Streets, Lanes, Passages, Alleys, or Paths of the said Town or Borough, upon pain that every Person so offending, and being thereof convicted before any Justice or Justices as aforesaid, shall forfeit and pay any Sum not exceeding Five Pounds nor less than Twenty Shilling, at the Discretion of the said Justice or Justices, to be recovered and applied in manner herein-after mentioned.

Treasurer
and Clerk
not to be
the same
Person.

VIII. And be it further enacted, That it shall not be lawful for the said Proprietors to continue or appoint the Person who has been or may be appointed their Clerk in the Execution of this Act, or the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, the Treasurer for the Purposes of this Act, or to continue or appoint any Person who has been or may be appointed Treasurer, or the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, the Clerk to the said Proprietors; and if any Person shall accept the Offices of Clerk and Treasurer for the Purposes of this Act, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, shall accept the Office of Treasurer, or shall act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer, or being the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, shall accept the Office of Clerk in the Execution of this Act, or shall act as Deputy of such Clerk, or in any Manner officiate for such Clerk, or if any Treasurer shall hold any Place of Trust or Profit under the said Proprietors other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred

dred Pounds to any Person who shall sue for the same, to be recovered, with full Costs of Suit, in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than one Imparlance, shall be allowed.

IX. And be it further enacted, That if any Person who shall be summoned as a Witness to attend and give Evidence before any Justice of the Peace touching any Matter of Facts contained in any Information or Complaint for any Offence committed against this Act, either on the Part of the Prosecutor or the Person or Persons accused, shall refuse or neglect to appear at the Time and Place to be for that Purpose appointed, having been paid or tendered a reasonable Sum for his or her Costs and Charges, without a reasonable Excuse for his or her Refusal or Neglect, or appearing shall refuse to be examined upon Oath, or (in case of a Quaker or Quakers, on solemn Affirmation) to give Evidence before such Justice of the Peace, then and in either of the said Cases every such Person shall forfeit and pay for every such Offence any Sum not exceeding Ten Pounds, to be recovered in like Manner as any Penalty imposed by this Act may be recovered.

For compelling Witnesses to attend.

X. And be it further enacted, That if any Person or Persons shall assault, obstruct, hinder, or molest any Collector, Lessee or Lessees, Farmer or Farmers for the Time being, or other Person or Persons whomsoever, who is or are or shall be employed to carry the said recited Act or this Act into Execution, in the Performance or Execution of his or their Duty, every such Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, as to such Justice or Justices shall seem meet, to be recovered and applied in manner herein-after mentioned.

Punishing Persons preventing Execution of Acts.

XI. And be it further enacted, That no Person summoned to give Evidence as a Witness on any Offence committed against this or the said recited Act shall be deemed or taken to be incompetent thereto, by reason only that such Person is a Proprietor of the said Market Place, or an Inhabitant of the said Town or Borough of *Gosport* or Parish of *Alverstoke*, or an Officer employed by the said Proprietors, or any Person acting under the Powers of this or the said recited Act.

Inhabitants not incompetent Witnesses.

XII. And be it further enacted, That for the more speedy Conviction of Offenders against this Act, all and every the Justice and Justices of the Peace, before whom any Person or Persons shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up in the Form or to the Effect following; (that is to say,)

Form of Conviction.

‘ } BE it remembered, That on the Day of
 ‘ to wit. } in the Year of our Lord
 ‘ is convicted before me [or us] of His Majesty’s
 ‘ Justices of the Peace for the by virtue of
 [Local.] Y y ‘ an

‘ an Act passed in the Fifty-first Year of the Reign of His Majesty King George the Third, [or the Ninth Year of the Reign of His Majesty King George the Fourth,] intituled *An Act [here set forth the Title of the Act, and specify the Offence, and the Time and Place when and where the same was committed]*. Given under Hand and Seal the Day and Year first above written.’

Justices may proceed by Summons in the Recovery of Penalties.

XIII. And be it further enacted, That in all Cases in which by this Act or the said recited Act any Penalty or Forfeiture is imposed and made recoverable by Information and Complaint before a Justice or Justices of the Peace for the said County of *Southampton*, to whom Complaint and Information shall be made of any Offence against this Act or the said recited Act, to summon the Party complained against before him or them, and on such Summons to hear and determine the Matter of such Complaint and Information, and on Proof of the Offence to commit the Offender, and to adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information and Complaint in Writing shall have been exhibited or taken by or before such Justice or Justices; and all such Proceedings by Summons, without Information and Complaint, shall be as good, valid, and effectual, to all Intents and Purposes, as if an Information and Complaint in Writing was or had been exhibited.

Fines and Penalties, how to be recovered and applied.

XIV. And be it further enacted, That all Fines, Penalties, and Forfeitures inflicted or imposed by the said recited Act and this Act (the Manner of levying and Recovery whereof is not otherwise by the said recited Act or this Act particularly directed), or which shall be inflicted or imposed by any Rule, Order, or Bye Law made by the said Proprietors for the Time being, their Executors, Administrators, and Assigns, shall and may, in case of Nonpayment thereof, be recovered, in a summary Way, by the Order and Adjudication of any One or more Justice or Justices of the Peace for the said County of *Southampton*, on Information and Complaint to him or them for that Purpose exhibited; and afterwards be levied, as well as the Costs of such Proceedings, on Nonpayment, by Distress and Sale of the Goods and Chattels of the Offender or Offenders, or Person or Persons liable to pay the same, by Warrant under the Hand and Seal or Hands and Seals of such Justice or Justices, who is and are hereby authorized and required to summon any Witness or Witnesses upon Oath, and to examine him, her, or them of and concerning such Offences, Matters, and Things, and to hear and determine the same; and the Overplus (if any) of the Money so levied or recovered, after discharging the Fine, Penalty, Forfeiture, Costs, and Charges for which such Warrant shall be issued, and the Costs and Charges and Expences of recovering and levying the same, shall be returned, upon Demand, to the Owner or Owners of the Goods or Chattels so seized or detained; and in case such Fines, Penalties, Forfeitures, Costs, and Charges shall not be forthwith paid upon Conviction, then it shall be lawful for such Justice or Justices to order the Offender or Offenders so convicted to be detained in safe Custody until Return can be conveniently made to such Warrant of Distress, unless such Offender or Offenders shall give sufficient Security (that is to say, in

Double the Amount at least of the Penalty thereby incurred,) to such Justice or Justices, for his, her, or their Appearance on the Day appointed for the Return of the Warrant of Distress, such Day not being more than Three Days from the Day of taking such Security, and which Security such Justice or Justices is or are hereby empowered to take, by way of Recognizance or otherwise; and if, upon the Return of such Warrant of Distress, it shall appear that no sufficient Distress can be had, or if it shall appear, either by Confession of the Offender or Offenders, or otherwise, that such Offender or Offenders hath or have not sufficient Goods and Chattels whereon such Penalties, Forfeitures, Fines, Costs, and Charges may be levied where a Warrant of Distress issues, such Justice or Justices shall not be required to issue such Warrant of Distress; and thereupon it shall be lawful for the said Justice or Justices, or any other Justice or Justices of the Peace for the said County of *Southampton*, and he and they is and are hereby authorized and required, by Warrant under his or their Hand and Seal or Hands and Seals, to cause such Offender or Offenders to be committed to the Common Gaol of the said County, or to the House of Correction within the said Town of *Gosport*, there to remain without Bail or Mainprize for any Term not exceeding Three Calendar Months, to hard Labour, nor less than One Calendar Month, unless such Fines, Penalties, and Forfeitures, and all reasonable Costs and Charges, shall be sooner paid and satisfied; and such Penalties and Forfeitures, when so levied, (the Application whereof is not otherwise directed,) shall be paid to the said Clerk and Treasurer to the said Proprietors for the Time being, to be wholly applied for and towards the Purposes of the said recited Act and this Act, and to and for no other Use or Purpose whatsoever; any thing in the said recited Act to the contrary notwithstanding.

XV. And be it further enacted, That no Proceeding to be had touching the Conviction of any Offender or Offenders under this Act or the said recited Act, or any other Matter or Thing to be done or transacted in or relating to the Execution of this Act or the said recited Act, shall be vacated or quashed for Want of Form only; and no Order made touching or concerning any of the Matters aforesaid, or any of the Proceedings to be had touching the Conviction of any Offender against this Act or the said recited Act, shall be removed or removable by Certiorari, or any other Writ or Process, into any of His Majesty's Courts of Record at *Westminster*; and that where any Distress shall be made for any Sum of Money to be levied by virtue of this Act or the said recited 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 the Summons, Conviction, or Warrant of Distress, or any other Proceeding relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio*, on account of any subsequent Irregularity in the Proceedings of the Person or Persons making such Distress, but the Person or Persons aggrieved by such Irregularities shall and may recover full Satisfaction for the said special Damage in an Action upon the Case.

Proceedings not to be quashed for Want of Form, or removed by Certiorari.

XVI. And

Limitation of
Actions.

XVI. And be it further enacted, That no Action or Suit shall be commenced against any Person or Persons for any thing done under this Act or the said recited Act, until Twenty-one Days Notice shall be thereof given, in Writing, to the Clerk and Treasurer for the Time being to the said Proprietors, or after sufficient Satisfaction or Tender thereof hath been made to the Party or Parties aggrieved, or after Six Calendar Months next after the Meeting at which the Cause of Complaint arose, or after the Fact was committed, for which such Action or Suit shall be so brought; and all such Actions or Suits shall be laid, brought, and tried in the County where the Cause of Action shall have arisen, and not elsewhere; and the Defendant or Defendants 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, and that the same was done in pursuance and by the Authority of this Act and the said recited Act; and if it shall appear to have been so done, or that such Action or Suit was brought before Twenty-one Days Notice thereof given as aforesaid, or that sufficient Satisfaction was made or tendered as aforesaid, or if any such Action or Suit shall not be commenced within the Time for that Purpose herein-before limited, or shall be brought or laid in any other County or Place than as aforesaid, then and in any or either of the said Cases the Jury shall find for the Defendant or Defendants; and upon such or any other Verdict to be found for the Defendant or Defendants in any such Action or Suit, or if the Plaintiff or Plaintiffs in any such Action or Suit shall become nonsuited, or shall suffer a Discontinuance of any such Action or Suit, or if upon Demurrer Judgment shall be given for the Plaintiff or Plaintiffs, Defendant or Defendants, then, and in any or either of the Cases aforesaid, such Plaintiff or Plaintiffs, Defendant or Defendants, shall have full Costs, and shall have such Remedy for recovering the same as any Plaintiff or Plaintiffs, Defendant or Defendants, hath or have in other Cases by Law.

General
Issue.

Expences of
Act.

XVII. And be it further enacted, That the Costs, Charges, and Expences of obtaining and passing this Act shall be paid and defrayed by the said Proprietors out of the first Monies which shall arise by virtue of the said recited Act or this Act.

Public Act.

XVIII. 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.