



ANNO TERTIO & QUARTO

GULIELMI IV. REGIS.

Cap. cxxii.

An Act to appoint Trustees for the Creditors of
the City of *Edinburgh*. [29th August 1833.]

WHEREAS an Act was passed in the Twenty-eighth Year
of the Reign of His Majesty King *George* the Third,
intituled *An Act for enlarging and improving the Harbour* 38 G.3. c.58.
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, and for empowering the Lord
Provost, Magistrates, and Council of the City of Edinburgh to pur-
chase Lands, Houses, and Areas, and to borrow Money for these
Purposes: And whereas another Act was passed in the Thirty-eighth
Year of the Reign of His said Majesty, intituled *An Act to amend an* 38 G.3. c.19.
Act made in the Twenty-eighth Year of the Reign of His present
Majesty, for enlarging and improving the Harbour of Leith: And
whereas another Act was passed in the Thirty-eighth Year of the
Reign of His said Majesty, intituled *An Act for further continuing* 38 G.3. c.54.
for Thirty-eight Years the Term granted by an Act of the Twenty-
fifth Year of the Reign of His late Majesty King George the
Second, for continuing the Duty of Two Pennies Scots upon every
Pint of Ale and Beer sold in the City of Edinburgh and Places ad-
[Local.] 30 F jacent,

- jaçant, for the Purposes therein mentioned, and for explaining and amending the said Act: And whereas another Act was passed in the*
- 39 G.3. c.44. *Thirty-ninth Year of the Reign of His said Majesty, intituled An Act to amend Two Acts made in the Twenty-eighth and Thirty-eighth Years of the Reign of His present Majesty, for enlarging and improving the Harbour of Leith: And whereas another Act was passed in the*
- 45 G.3. c.32. *Forty-fifth Year of the Reign of His said Majesty, intituled An Act for raising a further Sum of Money for the Improvement of the Harbour of Leith: And whereas another Act was passed in the*
- 45 G.3. c.114. *Forty-fifth Year of the Reign of His said Majesty, intituled An Act for enabling the Commissioners of the Treasury of Great Britain to advance a certain Sum of Money to the Lord Provost, Magistrates, and Council of the City of Edinburgh, towards the Completion of the Docks and other Works in the Harbour of Leith: And whereas another Act was passed in the*
- 47 G.3. c.3. *Forty-seventh Year of the Reign of His said Majesty, intituled An Act for enlarging the Powers of an Act of the Thirty-ninth Year of His present Majesty, for amending Two Acts of the Twenty-eighth and Thirty-eighth Years of His present Majesty, for enlarging and improving the Harbour of Leith, for making certain new Streets and Roads, and widening others adjacent to and connected with the said Harbour: And whereas another Act was passed in the*
- 53 G.3. c.33. *Fifty-third Year of the Reign of His said Majesty, intituled An Act for raising a further Sum of Money for the Improvement of the Harbour of Leith, and Works therewith connected: And whereas another Act was passed in the*
- 56 G.3. c.35. *Fifty-sixth Year of the Reign of His said Majesty, intituled An Act for altering and amending several Acts in regard to the Duty of Two Pennies Scots, upon every Pint of Ale and Beer sold in the City of Edinburgh and Places adjacent: And whereas another Act was passed in the*
- 3 G.4. c.91. *Third Year of the Reign of His late Majesty King George the Fourth, intituled An Act for regulating the Mode of accounting for the Common Good and Revenues of the Royal Burghs in Scotland: And whereas another Act was passed in the*
- 6 G.4. c.103. *Sixth Year of the Reign of His late Majesty King George the Fourth, intituled An Act to enable the principal Officers and Commissioners of His Majesty's Navy to acquire certain Portions of the Docks and Shore Ground at Leith for a Naval Yard, and to enable the Commissioners of the Treasury to advance a certain Sum of Money on the Security of the Docks and of the Harbour of Leith: And whereas another Act was passed in the*
- 7 G.4. c.105. *Seventh Year of the Reign of His late Majesty King George the Fourth, intituled An Act to alter and amend several Acts made in the Twenty-eighth, Thirty-eighth, Thirty-ninth, Forty-fifth, Forty-seventh, and Fifty-third Years of the Reign of His late Majesty, for enlarging and improving the Harbour of Leith, and to appoint Commissioners for the Superintendence and Management of the said Harbour and Docks, and for other Purposes connected therewith: And whereas another Act was passed in the*
- 11 G.4. and
1 W.4. c.51. *Eleventh Year of the Reign of His late Majesty King George the Fourth and First Year of the Reign of His present Majesty, intituled An Act to repeal certain of the Duties on Cyder in the United Kingdom, and on Beer and Ale in Great Britain, and to make other Provisions in relation thereto: And whereas the Lord Provost, Magistrates, and Council of the City of Edinburgh,*

burgh, and their Predecessors in Office, have from Time to Time borrowed and taken up at Interest, and on Annuity, various Sums of Money, for which they and their Predecessors in Office have interposed the Credit of the said City, and for the Purpose of improving their Port and Harbour of *Leith* have constructed Two Wet Docks and various Draw Bridges, and Dry Docks, and other Works therein, for the Accommodation of the Trade of *Leith*: And whereas the said Lord Provost, Magistrates, and Council of the said City have, under the Authority and in virtue of the Powers contained in the said recited Act of the Forty-fifth Year of the Reign of His said Majesty King *George* the Third, borrowed from the Commissioners of His Majesty's Treasury, acting on behalf of the Public, the Sum of Twenty-five thousand Pounds; and the said Lord Provost, Magistrates, and Council of the City of *Edinburgh*, pursuant to the Directions of the said Act, for Security of the Repayment of the said Sum of Twenty-five thousand Pounds, with Interest thereon, did grant an Assignment to the Lord Chief Baron and other Barons of the Court of Exchequer in *Scotland* of all the Rates and Duties arising from the said Harbour, Docks, and other Works; and under the Authority and in virtue of the said recited Act of the Sixth Year of the Reign of His late Majesty King *George* the Fourth, the said Lord Provost, Magistrates, and Council have also borrowed from the said Commissioners of His Majesty's Treasury a further Sum of Two hundred and forty thousand Pounds, which last-mentioned Sum was to be repaid in the Manner and at the Times directed by the said last-recited Act; and the said Lord Provost, Magistrates, and Council, pursuant to the Directions of the said last-recited Act, for Security of the Repayment of the said last-mentioned Sum of Two hundred and forty thousand Pounds, with Interest thereon, did grant an Assignment to the said Barons of Exchequer in *Scotland* of all the Rates and Duties arising from the said Harbour, Docks, and other Works by virtue of the Acts in the said last-mentioned Act of the Sixth Year of the Reign of His said late Majesty King *George* the Fourth recited, and all Estate, Right, Title, and Interest of the said Lord Provost, Magistrates, and Council, and their Successors in Office, in and to the same, and all Quays, Houses, Lands, or other Property purchased for the Purposes of the said Harbour, Basins, Docks, and other Works: And whereas the greater Part of the said Two Sums of Twenty-five thousand Pounds and Two hundred and forty thousand Pounds, amounting together to the Sum of Two hundred and sixty-five thousand Pounds, is still due and owing to His Majesty by the said Lord Provost, Magistrates, and Council: And whereas large Debts have been contracted and are still owing by the City of *Edinburgh* to various other Creditors, and it is desirable that Measures should be taken for a speedy Reduction and Settlement of the Debts of the said City, in so far as there are or may be Funds legally available for that Purpose, and for the Security of the Creditors, and in the meantime to prevent undue Preferences among the Creditors, and to save the Expence which Creditors might incur by competing among themselves, or by doing legal Diligence for the Recovery of their Debts; but as these Purposes cannot be effectually accomplished without the Aid and Authority of Parliament, May it therefore

Trustees appointed.

fore 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 Right Honorable Sir *William Rae* of *Eskgrove*, Baronet, Sir *James Gibson Craig* of *Riccarton*, Baronet, *John Bonar* of *Ratho*, Banker, *Richard Mackenzie* of *Dolphinton*, Deputy Keeper of His Majesty's Signet in *Scotland*, *William Mac Hutcheon*, Merchant in *Edinburgh*, and *John Learmouth*, present Lord Provost of the City of *Edinburgh*, shall be and they are hereby nominated and appointed Trustees for the said Creditors, for the Purpose of realizing and distributing among the said Creditors, in the most expeditious and economical Manner, the whole Estate and Effects, heritable and moveable, real and personal, wheresoever situate, and of whatever Denomination, belonging to the said City, which are legally liable for the said Debts, and attachable by the Diligence of the said Creditors.

For choosing Two additional Trustees.

II. And be it further enacted, That the Trustees herein nominated and appointed shall, at their First or some subsequent Meeting to be held by them, direct their Clerk to call a Meeting of the Creditors of the said City in the Manner herein-after directed to be called, for the Purpose of filling up Vacancies in the Number of the said Trustees ; and the Creditors assembled at such Meeting shall, out of a List of Six Names to be submitted to them by the Trustees herein nominated and appointed, elect and appoint Two fit Persons to be Trustees for the Purposes of this Act, and such Persons shall and may act with the Trustees by this Act named and appointed, in the Execution of the same, to all Intents and Purposes, as if they had been named and appointed Trustees in and by this Act : Provided always, that the Votes of the Creditors at such Election shall be taken by Value and not *per capita*, and that the Votes of Proxies duly authorized shall be received.

Vacancies how to be filled up.

III. And be it further enacted, That it shall and may be lawful for the said Trustees, or any of them, to resign the said Office of Trustee, by giving Fourteen Days previous Notice in Writing to the Clerk of the said Trustees of his Intention so to do ; and that, in case of the Resignation, Death, or Disqualification or Incapacity to act of any of the said Trustees, it shall and may be lawful for the said Trustees, or any Three or more of them, and they are hereby required, within Three Months but not sooner than One Month after such Notice shall have been received by the Clerk, to call a Meeting of the Creditors of the said City, who shall, out of a List of Three Names for each such Vacancy, to be submitted to them by such Trustees, elect and appoint One or more fit Person or Persons to be a Trustee or Trustees for the Purposes of this Act ; provided that public Notice of the Time and Place of Meeting of the said Creditors for every such Election be given by Two several Advertisements in any Two Newspapers published in the City of *Edinburgh*, the first of such Advertisements being not less than Fourteen Days before the Day of Meeting for such Election ; and every

every Person who shall be elected and appointed a Trustee, pursuant to the Directions of this Act, shall and may act with the Trustees by this Act named and appointed in the Execution of this Act, to all Intents and Purposes, as if he had been named and appointed a Trustee in and by this Act: Provided always, that, until such Appointment shall be made, all Acts done by the remaining Trustees shall be valid and effectual; and that at all such Meetings the Votes of the Creditors shall be taken by Value and not *per capita*, and that the Votes of Proxies duly authorized shall be received.

IV. And be it further enacted, That in the Event of the Resignation, Death, or Disqualification of all the Trustees acting for the Time without the Appointment of Successors, or of there not being a Quorum left to act, it shall and may be lawful for the Creditors of the City for the Time to meet within the Council Chamber of the City of *Edinburgh* to elect new Trustees for the Purposes of this Act, and which Trustees so to be elected shall and may act in the Execution of this Act to all Intents and Purposes as if they had been herein named and appointed: Provided always, that public Notice of the Time and Place of Meeting of the said Creditors shall be given by the Clerk to the said Trustees to the Creditors by Two several Advertisements in any Two Newspapers published in the City of *Edinburgh*, the first of such Advertisements not being less than Fourteen Days before the Day of Meeting for such Election; and provided also that the Votes of the Creditors at such Election shall be taken by Value and not *per capita*, and that the Votes of Proxies duly authorized shall be received,

Further
Power of
electing
Trustees.

V. And be it further enacted, That the said Trustees shall hold their First Meeting within the Council Chamber of the said City of *Edinburgh* at Noon upon the Second *Monday* after the next Election of Lord Provost, Magistrates, and Council of the said City, and shall thereafter hold a Meeting at such Place or Places within the City of *Edinburgh*, and upon such Day or Days, as the said Trustees shall from Time to Time fix and determine; and the said Trustees may appoint such Person or Persons as they may think fit to act as their Clerk or Clerks, and to keep regular Minutes of the Proceedings of the Trustees, and to allow such Clerk or Clerks such reasonable Remuneration as they may think fit; and the said Trustees shall at all such Meetings, in the first place, chuse a Preses who shall have both a deliberative and in case of Equality a casting Vote in all Matters and Questions which shall come before such Meetings; and at all such Meetings Three Trustees shall be a Quorum, and shall be capable of acting as fully and effectually as if all the Trustees were present.

First and
subsequent
Meetings of
Trustees.

Preses.

Quorum.

VI. And be it further enacted, That the Preses of the last Meeting, or any Two or more of the said Trustees, may at all Times call Special Meetings of the said Trustees, by printed or written Summonses delivered to each Trustee then resident in *Edinburgh*, or sent to his Address through the Post Office, in which shall be stated the Time and Place of Meeting, and the special

Special
Meetings
may be
called.

cial Business for which the Meeting is called; and at all such Special Meetings it shall be competent to the said Trustees to consider the special Business only for which any such Special Meeting shall have been called.

Meetings may be adjourned.

Trustees to pay their own Expences.

VII. And be it further enacted, That the said Trustees, or the Majority of those present, although less than a Quorum, at any Ordinary or Special Meeting, may adjourn the same to any other Day, Hour, or Place as to them may seem expedient; Notice of such Adjournment being always given, in manner herein-before mentioned in regard to Special Meetings, to each of the said Trustees, with as little Delay as conveniently may be; and at all Meetings of the said Trustees the Trustees present shall defray their own Expences.

Trustees not to hold certain Offices or Places of Profit.

7 G.4. c.105.

VIII. Provided always, and be it further enacted, That none of the said Trustees to be hereafter elected and appointed shall be capable of acting as such during the Time that he shall be a Member of the Town Council of the said City, or hold the Office of Magistrate in *Leith*, *Canongate*, or *Portsburgh*, or be a Commissioner of the Docks and Harbour of *Leith*, under the said recited Act of the Seventh Year of the Reign of His late Majesty King *George* the Fourth, or who shall enjoy any Office or Place of Profit under the said Lord Provost, Magistrates, and Council, or while he has any Share or Interest in any Contract relating to the Execution of any Works carried on by them.

Accounts of City to be open to Trustees.

IX. And be it further enacted, That all Books, Records, Minutes, Accounts, and Papers of every Description, belonging to the said City of *Edinburgh*, preceding the said Second *Monday* after the next Election of Lord Provost, Magistrates, and Council of the said City, shall at all Times be open to the Inspection and Examination of the said Trustees, and of every One of them; and upon the Requisition of any Meeting, or of a Quorum of the said Trustees, every Officer or Person in whose Custody any such Books, Records, Minutes, Accounts, and Papers may be shall be and he is hereby required to furnish to the said Trustees at their Expence such Copies of or Extracts from the same as they shall require.

Property to be vested in Trustees.

X. And be it further enacted, That the whole Estate and Effects, heritable and moveable, real and personal, wheresoever situate, and of whatever Denomination, belonging to the said City, which are legally liable for the said Debts, and attachable by the Diligence of the said Creditors as aforesaid, shall be and shall be deemed and held to be vested in the said Trustees herein-before named, or who may be appointed in manner herein authorized, for behoof of the Creditors of the said City; and it is hereby declared that every Right, Title, and Interest which was formerly in the Magistrates and Council of the said City, except as herein-after provided, shall, from and after the said Second *Monday* after the next Election of Lord Provost, Magistrates, and Council of the said City, in so far as relates to the said Estate and Effects, heritable and moveable, real and personal, liable for the said Debts, and attachable by the Diligence

gence of the said Creditors, be in the said Trustees for the Purposes foresaid, to the end that the said Estate and Effects may, if necessary, be levied and recovered, sold and converted into Money for the Benefit of the Creditors of the said City: Declaring always, that nothing herein contained shall divest or be held to have divested the Lord Provost, Magistrates, and Council of the said City of the Estate and Effects, heritable and moveable, real and Personal, belonging to the said City, which are not liable for the said Debts nor attachable by the Diligence of the said Creditors as aforesaid.

XI. Provided also, and be it enacted, That nothing in this Act contained shall vest or be deemed or construed to vest in the said Trustees hereby appointed any Estates, Property, or Effects, heritable or moveable, already disposed, assigned, and made over by the said Lord Provost, Magistrates, and Council as aforesaid, in Security for the said Debt due to His Majesty, or to be by this Act or in Terms of the Provisions of this Act disposed, assigned, conveyed, or made over to any Person or Persons in Security for the said Debt, so long as any Part of the said Debt shall remain unpaid; but all such Securities shall be good, valid, and preferable over and out of the Estates, Property, and Effects, heritable and moveable, over or upon which the same are or shall be granted, until the full Repayment to His Majesty of the said Debt, Principal, Interest, and Penalties, if incurred, any thing herein contained to the contrary notwithstanding: Provided always, that any Surplus remaining annually, after the Payment of the said Interest, Annuity, and Sinking Fund, shall be paid over to the said Trustees, in the Event of the same being found to be legally attachable by the Diligence of Creditors, or otherwise to the said Lord Provost, Magistrates, and Council.

Exception of Property conveyed to Treasury.

XII. And be it further enacted, That the said Trustees shall and they are hereby required, as soon as conveniently may be after they shall have entered on the Duties of their Office, by public Advertisement inserted in the *Edinburgh Gazette*, and in Three Newspapers published in *Edinburgh*, to call upon all Creditors to lodge their Claims within One Month from the Date of the last of such Advertisements; and at the End of such Time the said Trustees shall cause a State of the Ranking of the whole of the Creditors of the said City to be made out, and to be deposited in the Hands of their Clerk for the Inspection of the Creditors; and the said Trustees shall give Notice of such Deposition by Advertisement in the *Edinburgh Gazette*, and in Three Newspapers published in *Edinburgh*.

Trustees to advertise for Claims, and to make up a State of Ranking of Creditors.

XIII. And be it further enacted, That the said Trustees shall, as soon as conveniently may be, take an Account of the whole Estate and Effects, heritable and moveable, real and personal, wheresoever situate, of the said City of *Edinburgh*, and also an Account of all the Debts and Obligations incurred by or on behalf of the said City; and in such Accounts the Annuities due and payable by the said

Trustees to take an Account of the Property and of the Debts of the City of *Edinburgh*.

City

City shall be valued; and for the Purpose of enabling the said Trustees to take such Accounts, the Lord Provost, Magistrates, and Council of the said City shall, and they are hereby required, with as little Delay as possible, to make up and deliver to the said Trustees full and accurate Accounts of such Estate and Effects, and also of the Debts and Obligations of the City of *Edinburgh*.

Providing
for the in-
terim annual
Expenditure
of the City.

XIV. And be it further enacted, That until the Rights of the said Lord Provost, Magistrates, and Council, and the said Trustees respectively, to the said Estate and Effects, shall be fixed and ascertained, the whole Revenues of the said City shall be collected by the Chamberlain of the said City, and the other Collectors thereof, as heretofore; and it shall and may be lawful for the said Lord Provost, Magistrates, and Council, from Time to Time to apply such Part of the Monies collected by the said Chamberlain or other Collectors as aforesaid, as may be required to enable the said Lord Provost, Magistrates, and Council to defray the annual Expenditure of the said City: Provided always, that if any Difference shall arise between the said Trustees and the said Lord Provost, Magistrates, and Council as to the Amount of the said annual Expenditure until the Rights of Parties shall be fixed and ascertained as aforesaid, the said Trustees and the said Lord Provost, Magistrates, and Council respectively shall and they are hereby authorized to settle the same by Compromise, Submission, or judicial Reference, or to apply to the Court of Session, in either Division thereof, by Petition, and the Arbiter or Arbiters in such Submission, and Referee or Referees in such judicial Reference, are hereby required and empowered summarily, and failing such Submission or judicial Reference, then the said Court is hereby required and empowered summarily, and without awaiting the Course of the Roll, to consider and ascertain what Sum of Money will be necessary to enable the said Lord Provost, Magistrates, and Council to defray the ordinary Expenditure of the said City for the Year then current, and upon such Sum being so ascertained to grant Warrant and Authority to the said Lord Provost, Magistrates, and Council, or their Chamberlain, to pay and apply the same accordingly out of such Part of the Revenues as shall not have been previously found to belong to the said Trustees; provided also, that no Diligence by Arrestment, Poinding, or otherwise, nor any Sist or Interdict, shall be competent, or of any avail, at the Instance of and to the said Trustees or Creditors, which shall have the Effect of interpellating any Person or Persons by whom any Part of the said City's Revenue is payable, or the said Collectors and others, from making Payment to the said Lord Provost, Magistrates, and Council of the said City, or their Chamberlain, of the Funds hereby authorized to be appropriated by them for carrying on the ordinary public and other Business aforesaid, any Law or Practice to the contrary notwithstanding.

Securities
how to be
ranked.

XV. And whereas it was the clear Meaning and Intention of the said Commissioners of His Majesty's Treasury, and the said Lord Provost, Magistrates, and Council, that the aforesaid Loans made by the said
Com-

Commissioners of the Treasury to the said Lord Provost, Magistrates, and Council, as aforesaid, should be secured upon the said Harbour, Docks, and other Works, and Quays, Houses, Lands, and other Property purchased for the Purposes of the said Harbour, Basins, Docks, and other Works, and also upon the Shore Dues, Harbour and Dock Rates and Duties, and Revenues of every Description arising or payable from the same; but Doubts have arisen how far such Security has been completely executed and effected; be it therefore enacted, That the Sum of Two hundred and sixty-five thousand Pounds herein-before mentioned, so far as still due and owing by the said Lord Provost, Magistrates, and Council, to His Majesty, together with any Interest, Annuity, Sinking Fund, or Penalty remaining due for the said Sum, and in Security for the Repayment of which the said Docks at *Leith*, and Works therewith connected, and the Rates and Duties arising from the Harbour, Docks, and other Works at *Leith*, have been conveyed to the Barons of Exchequer in *Scotland*, as herein-before mentioned, shall be and be held to be a preferable Debt upon the said Docks and other Works therewith connected, and upon the Revenues arising from the same, as also upon the said Harbour of *Leith*, and the Shore Dues and other Rates and Duties and Revenues payable to the said City from the same, to the Effect of securing the Repayment of the Balance remaining due of the said Sum, with Interest, in the Manner directed by the said recited Acts; and that all Debts other than the said Debts due and hereby or in any other Way secured to His Majesty, which, prior to the passing of this Act, shall have obtained any legal Preference amongst each other in the Order of Payment of the same, or otherwise, or any special Security, shall continue entitled to the same; all such Preferences and Securities being hereby specially reserved to the Persons holding the same; but no legal Proceeding taken subsequent to the First Day of *June* in the present Year One thousand eight hundred and thirty-three shall have any Effect in giving any Preference to any Creditor of the said City of *Edinburgh*; and all such other Debts shall be ranked *pari passu*; and that the Annuitants shall be ranked according to the Value of their Annuities, as the same shall have been ascertained; and that if any Question shall arise in relation to the ranking of the said Debts, the same shall, saving always the Preference hereby or otherwise created to His Majesty, be determined in the same Manner as if the Estate and Effects of the said City had been sequestrated at the said First Day of *June* under an Act of the Fifty-fourth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for rendering the Payment of Creditors more equal and expeditious in Scotland*, and as if the Trustees herein appointed had been then fully vested in the whole Property of the said City, attachable by the Diligence of Creditors as aforesaid: Provided always, that from and after the passing of this Act it shall not be competent to any of the said Creditors to prosecute or follow forth any Diligence in his own Name in regard to the said Debts, but that such Diligence, if necessary, shall be competent only to the said Trustees.

54G.3.c.137.

Property to
be conveyed
in Security
to the Com-
missioners of
the Trea-
sury.

XVI. And be it further enacted, That the said Lord Provost, Magistrates, and Council shall, in order more effectually to secure such Preference to His Majesty at the Expence of the said City, and without Prejudice to any Security heretofore granted for behoof of His Majesty, forthwith dispone, assign, convey, and make over by a valid and effectual Conveyance, to be approved of by the Lord Advocate of *Scotland* and the Solicitor General of *Scotland* for the Time being, to and in favour of the Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them, or to and in favour of any Person or Persons to whom or in whose Name the said Commissioners of the Treasury or any Three or more of them shall direct the same to be made over and held, the said Harbour, Docks, and other Works, and all Quays, Houses, Lands, or other Property purchased for the Purposes of the said Harbour, Basins, Docks, and other Works, together also with the Shore Dues, and Harbour and Dock Rates and Duties, and all the Revenue of every Description in anywise arising from the said Harbour, Docks, and other Works, and Quays, Houses, Lands, and Property aforesaid, together with all the Estate, Right, Title, and Interest of the said Lord Provost, Magistrates, and Council, and their Successors in Office, in and to the said Harbour, Docks, and other Works, and Quays, Houses, Lands, and Property, and Shore Dues, Harbour and Dock Rates and Duties, and Revenue aforesaid, in Security to the said Lords Commissioners of the Treasury for Payment to them of the said Principal Sum of Two hundred and sixty-five thousand Pounds, so far as still due and owing, and of the Interest and Penalties now due and owing, or which may become due and owing, for or in relation thereto; which Disposition, Assignment, and Conveyance in Security shall contain full Power and Authority to the said Commissioners of the Treasury, or any Three or more of them, in case of Failure in Payment of the Interest and Sinking Fund specified in the said recited Act of the Sixth Year of the Reign of His Majesty King *George* the Fourth, for the Space of Three Months after the stipulated Term of Payment thereof, to authorize, order, and direct the Person or Persons to whom or in whose Favour the said Commissioners of the Treasury, or any Three or more of them, shall have directed such Disposition, Assignment, and Conveyance to be granted, or any Receiver or Receivers, or other proper Person or Persons, whom the said Commissioners of the Treasury, or any Three or more of them, shall be pleased to nominate and appoint for that Purpose, to enter summarily into the Possession of the said Harbour, Docks, and other Works, and Quays, Houses, Lands, and Property, and to regulate, manage, collect, levy, and receive the Shore Dues, Rates, and Duties, and Revenue aforesaid, in such Manner as the said Commissioners of the Treasury, or any Three or more of them, shall direct, until such Time as the said Principal Sums and the Interest and Penalties due and to become due thereon shall be fully paid, satisfied, and extinguished; and the Security hereby granted shall be without Prejudice to the said Commissioners of His Majesty's Treasury, or such Person as shall be appointed by them as aforesaid, in case of the said Estates, Property, Dues, Rates, Duties, and Revenues not proving adequate to the Repayment of the said

Debt, Interest, and Penalties in the Manner directed by the said recited Acts, to rank and be ranked in the same Manner as the other Creditors of the said City, but no farther, for so much thereof as shall remain due and unsatisfied upon all other the Estates and Property of the said City liable to be attached by the Diligence of Creditors, any thing herein contained to the contrary notwithstanding.

XVII. Provided always, and be it enacted, That it shall not be lawful for the said Lord Provost, Magistrates, and Town Council after the passing of this Act to increase or reduce or vary the said Rates, Duties, Dues, or Revenues, or any of them, as at present collected, arising from the said Harbour, Docks, and other Works, Quays, Houses, Lands, or Property, without the Consent and Approbation of the said Commissioners of His Majesty's Treasury, or any Three or more of them, thereto had and obtained.

Rates not to be altered without Consent of the Commissioners of the Treasury.

XVIII. Provided also, and be it enacted, That it shall be lawful for the said Commissioners of His Majesty's Treasury, or any Three or more of them, in case they shall at any Time enter into, and so long as they shall continue in the Possession of the said Harbour, Docks, and other Works, and Quays, Houses, Lands, Estates, and other Property, to defray, out of the Rates, Duties, Shore Dues, or other Revenues arising therefrom, all the necessary Expences of maintaining, repairing, and managing the said Harbour, Docks, and other Works, Quays, Houses, Lands, and other Property.

Expence of Management may be defrayed.

XIX. And be it further enacted, That the said Lord Provost, Magistrates, and Council, both as representing the Community of the said City, and as to any other Interest vested in them as Lord Provost, Magistrates, and Council, and the said Trustees for the Creditors of the said City, and all other Persons, may compound and transact, either by Compromise, Submission, or judicial Reference, all doubtful Claims, and all Questions that may arise either in regard to what Part of the said Estate and Effects are legally liable for the said Debts and attachable by the Diligence of the said Creditors, or in regard to the Order of the ranking of the said Creditors, or that may arise under this Act in any Manner of Way.

Questions may be compromised.

XX. And be it further enacted, That, for the Purpose of reducing and paying off the Debt due by the said City, in so far as there are or may be Funds legally available for that Purpose, it shall and may be lawful for the said Trustees from Time to Time, in such Manner as to them shall seem most expedient, and so far as the said Trustees by this Act have Power so to do, to sell, feu, lease, or otherwise dispose of all or any Part of the Real Estate, and of the Feu Duties and Casualties, Patronages of Churches, or other Property of the said City, which are legally liable for the said Debts and attachable by the Diligence of the said Creditors, either by public Roup or private

Trustees to have Power to direct Property to be sold, feued, or leased.

private Bargain; and the said Lord Provost, Magistrates, and Council of the said City are hereby required to grant and execute along with the said Trustees all Deeds, Assignations, Conveyances, or Leases, and to do all Things necessary for rendering such Sales, Feus, or Leases effectual to the Purchasers, Feuars, and Lessees: Provided always, that no Sale of any Part of the Harbour or Docks at *Leith*, or of the Works therewith connected, or of the Shore Dues, Rates, Duties, or Revenues arising from the same, shall be made without the Consent of the Commissioners of His Majesty's Treasury, so long as any Part of the said Sum of Two hundred and sixty-five thousand Pounds due to His Majesty shall remain unpaid; and it shall and may be lawful for the said Trustees under this Act to make such Sales in such Manner as they shall think fit, and the said Lord Provost, Magistrates, and Council are hereby required to grant and execute along with the said Trustees all Deeds, Assignations, and Conveyances necessary for rendering such Sales effectual to the Purchasers; and it shall and may be lawful for the said Trustees under this Act to make such Sales, Feus, and Leases, notwithstanding the Rules and Regulations made by the said recited Act of the Third Year of the Reign of His late Majesty King *George* the Fourth, as to the Feus or Alienations of the Heritable Property being Part of the Common Good of Royal Burghs in *Scotland*; which Rules and Regulations, so far as concerns such Sales, Feus, or Leases of the Property or Common Good of the City of *Edinburgh*, as herein-before mentioned, under the Authority of this Act, are and shall be hereby suspended; and provided also, that the said Lord Provost, Magistrates, and Council shall be freed from all Expence connected with any Deeds to be granted by them jointly with the said Trustees; and that, until the Sales herein-before authorized shall be made by the said Trustees, it shall and may be lawful to the said Lord Provost, Magistrates, and Council to renew the Investitures of the Vassals of the said City.

Feu Duties,
if sold to the
Vassal.

XXI. And be it further enacted, That it shall and may be lawful to the said Trustees, on the Sale of any Feu Duties or Casualties of Superiority, if any such Sale shall be made to the Vassal in the Feu, to acknowledge the Receipt of the Purchase Money or other Consideration agreed to be given for the same; and also to grant an Obligation binding and obliging the said Lord Provost, Magistrates, and Council of the said City, and their Successors in Office, on the next Renewal of the Investiture in favour of the Vassal, or of his Heirs or Disponees, to insert a Blench-holding with a taxed Entry therein, in lieu and place of the Feu Duty and Casualties in the original Feu Rights; and such Receipt and Obligation delivered to the Vassal so purchasing, on Payment of the Purchase Money, shall be a sufficient Voucher to him in the meantime, until the Renewal of such Investiture; and if such Sale of any Feu Duties or Casualties shall be made to any other Persons than the Vassals in the Feus, it shall and may be lawful to the said Lord Provost, Magistrates, and Council, and the said Trustees, to make the Title thereto,
by

If sold to
any other
Person.

by Assignment, in the Terms following, or in Terms to the like Effect:

WE, the Lord Provost, Magistrates, and Council of the City of *Edinburgh*, and we, a Quorum of the Trustees appointed in and by an Act passed in the Year of the Reign of His Majesty King *William* the Fourth, intituled *An Act* [*here insert the Title of this Act*], in consideration of the Sum of paid to the said Trustees, do hereby sell and dispone, assign, convey, and make over to and in favour of the Feu Duties and Casualties following [*as the Case may be*]; viz. [*here insert the Amount, with a short Description of the Property out of which and the Name of the Vassal by whom the same are payable,*] surrogating hereby and substituting the said in our Right and Place in the Premises, with Power to draw the said Feu Duties and Casualties [*as the Case may be*] payable at for the Year and for all future Years, with Warrantice from our own Facts and Deeds only; and to follow out all Measures necessary for enforcing Payment thereof, in the same Manner as we the said Lord Provost, Magistrates, and Council might have done before the passing of the said Act; and we consent to the Registration of this Assignment in the Books of Council and Session for Preservation, and also in the Particular Register of Sasines kept at *Edinburgh*, in Terms of the said Act; and to that Effect we constitute our Procurators. In witness whereof, these Presents, written by are subscribed by

Form of
Assignment.

And which Assignment, having been duly intimated to the Persons liable in Payment of the said Feu Duties or Casualties, under the Hand of a Notary Public, either personally or by leaving a Copy thereof at the Houses respectively out of which the Feu Duties or Casualties sold are payable, and being recorded, with such Intimation, in the Particular Register of Sasines kept at *Edinburgh*, shall effectually vest the said Feu Duties and Casualties in the said Purchasers, and create the same real Burdens over the several Properties out of which they are payable: Provided always, that the Lord Provost, Magistrates, and Council of the said City shall, notwithstanding of such Sales, continue to be the Superiors of the said Feus, and grant all the Renewals of the Investitures thereof, and if the Casualties due to Superiors on the granting of such Renewals shall not have been sold as aforesaid, to recover and receive the same, and that the Purchasers of the said Feu Duties and Casualties shall not be held or taken to be the Superiors interjected between the said Lord Provost, Magistrates, and Council, and their Vassals, any Law or Practice to the contrary notwithstanding; or it shall and may be lawful to the said Trustees to order the said Feu Duties and Casualties to be sold, in such other Manner as may appear to them more beneficial for the general Interest of the Creditors of the said City.

Power of
Assignment.

Proviso.

Power given
to buy up
Feu Duties.

XXII. And whereas the City of *Edinburgh* is indebted and owing certain Feu Duties or annual Sums to his Grace the Duke of *Portland*, the Heirs of the Honorable *James Erskine* of *Alva*, formerly one of the Senators of the College of Justice, the Governors of *George Heriot's* Hospital, and others; and it may be for the Interest of the Creditors of the City that the same, and all Casualties connected therewith, should be purchased from the Persons having Right thereto; be it therefore enacted, That the said Trustees shall be and they are hereby authorized and empowered, if they shall deem it expedient so to do, to purchase the whole of the said Feu Duties, Annuities, and Casualties, or any Part thereof, and to apply such Part of the Funds under their Control in virtue of this Act as may be necessary for Payment thereof.

Transferable
Bonds may
be issued.

XXIII. And whereas it may be advantageous to the Creditors of the said City if the said Trustees were enabled to give Bonds, in the Form after mentioned, to such of the Creditors of the said City as may require such Bonds in exchange for the Securities now held by such Creditors, and also to such of the Creditors as may not have hitherto received any Voucher for their Debts, and to make such Bonds negotiable by Indorsement; be it therefore enacted, That it shall and may be lawful for the said Trustees to execute and issue Bonds for the Payment of any Sum or Sums of Money not exceeding in the whole the Sum of Four hundred thousand Pounds, each of which Bonds shall not be for securing less than Fifty Pounds and Interest, and shall be printed or written in whole or in part, and shall be conceived in the following Words, or in Words to the like Effect; *viz.*

Form of
Bond.

‘ N°.
‘ WE, the Trustees appointed in and by virtue of an Act passed in
‘ the Year of the Reign of His Majesty King *William*
‘ the Fourth, intituled *An Act* [*here insert the Title of this Act*], in
‘ consideration of do
‘ hereby bind and oblige ourselves, and our Successors in Office, as
‘ Trustees aforesaid, to pay to the said *A. B.*, his, her, or their
‘ Executors, Administrators, or Assigns, the aforesaid Sum of
‘ at the Term of
‘ next to come, with a Fifth Part more of Penalty in case of Failure,
‘ together with the Interest thereof, at and after the Rate of
‘ from to the said Day of Payment,
‘ and half-yearly thereafter, until Payment of the said Principal
‘ Sum; and we consent to the Registration hereof in the Books of
‘ Council and Session, or any other Judges Books competent, in
‘ order that Letters of Horning on Six Days Charge, and all other
‘ Execution competent, may follow thereon; and to that Effect we
‘ constitute our Procurators, &c. In
‘ witness whereof these Presents, duly stamped according to Law,
‘ are subscribed by being a
‘ Quorum of the said Trustees, this Day of
‘ in the Year before
‘ these Witnesses.’

Provided

Provided always, that any Creditor requiring any such Bond shall defray the Expence of such Bond, and the Holders of such transferable Bonds shall be, to all Intents and Purposes, on the same Footing with the other Creditors of the said City, and shall not be entitled to any Preference in virtue of any such Bond.

XXIV. And be it further enacted, That all such Bonds signed by the Trustees shall be binding upon the said Trustees, and their Successors in Office, as Trustees only, and the Bonds so to be issued shall be numbered, beginning with Number One, and so proceeding in arithmetical Progression; and a Memorial of every such Bond, containing the Name of the Person to whom granted, the Date, and the Amount, shall be entered in a Book to be kept for that Purpose by the Clerk to the said Trustees, which Book shall at all seasonable Times be open to the Inspection of all Persons desiring to inspect the same, on Payment of One Shilling for each such Inspection.

Bonds to be numbered and registered.

XXV. And be it further enacted, That all and every Person or Persons, Bodies Politic and Corporate, to whom any such Bonds shall be made payable, or who shall be entitled to the Money thereby due, may from Time to Time assign or transfer his, her, or their Right and Interest to the Principal Sums and Interest thereby secured, to any Person or Persons, Bodies Politic or Corporate, whomsoever, by indorsing their Name on such Bond; and all such Transfers or Assignments shall, without any Intimation thereof, be effectual to all Intents and Purposes, and shall entitle such Assignees, his, her, or their Executors, Successors, and Assignees, to the Benefit of the Sums contained in the said Bonds, and Payment thereof; and such Assignee may in like Manner assign or transfer the same, and so *toties quoties*; and it shall not be in the Power of any Person or Persons who shall have made any such Transfer to make void, release, or discharge the same, or any Monies thereby due, or any Part thereof; and all Receipts by the Holders of any such transferable Bonds, on Payment being made to them of the Principal Sums in the said Bonds by the said Trustees, shall be by Delivery of the said Bonds, with the Words "Received Payment" written on the Back thereof, and signed by the Party holding the same; and all Interest paid upon the said Bonds shall be marked on the Back thereof, and signed by the Party holding the same, or by the Mandatory of such Party duly authorized.

Bonds may be transferred.

XXVI. And be it further enacted, That all Actions, Suits, and Prosecutions of every Kind, in so far as the same relate to any Estate and Effects, heritable and moveable, real and personal, belonging to the said City, which are not liable for the said Debts, nor attachable by the Diligence of the said Creditors as aforesaid, in which the said Lord Provost, Magistrates, and Council, or their Lessees, Tacksmen, Collectors, or others acting for them or under their Authority, are or shall be Pursuers and Defenders, shall continue to be carried on in their respective Names, in the same Manner as if this Act had never been passed: Provided always, that it shall be in the Power

Actions and Suits how to be carried on.

of

of the said Trustees, at the Expence of the Trust Funds, to continue or enter into Compromises of all such Actions, Suits, and Prosecutions, in so far as they relate to the Estate and Effects, heritable and moveable, real and personal, legally liable for the said Debts, and attachable by the Diligence of the said Creditors as aforesaid.

Trustees
how to sue
and be sued.

XXVII. And be it further enacted, That the said Trustees may sue or be sued for any thing done or ordered by them in virtue of this Act in the Name of a Quorum of their Number or of their Clerk for the Time being; and no Action or Suit wherein the said Trustees shall be concerned as Pursuers or Defenders shall cease or abate by the Death or Removal of any such Quorum or of any such Clerk, but such Quorum, or the Clerk to the said Trustees for the Time being, shall be deemed to be Pursuer or Defender, as the Case may be, in every such Action or Suit.

Reservation
of Rights of
Patronage.

XXVIII. And be it further enacted, That notwithstanding any thing herein contained the Exercise of the Rights of Presentation of the said Lord Provost, Magistrates, and Council of Persons to be Ministers of Churches, Professors in Universities, Masters in Schools, Bursars of Bursaries, and to the Appointment to all Offices and Situations of Trust, Profit, or Emolument, or otherwise, which they now possess, either by themselves, or jointly with other Persons or Bodies Politic and Corporate, shall remain in the said Lord Provost, Magistrates, and Council, so long as the said Rights of Presentation shall remain vested in them or in the said Trustees.

Jurisdictions
reserved.

XXIX. And be it further enacted, That nothing herein contained shall affect or be held to affect any Heritable Estate settled in or appropriated to the said Lord Provost, Magistrates, and Council for special Uses or Purposes, nor any Jurisdictions, civil and criminal, which are at present possessed, held, exercised, and enjoyed by the said Lord Provost, Magistrates, and Council, and Persons acting under their Authority, all such Rights and Jurisdictions being hereby specially reserved entire.

Liabilities
reserved.

XXX. And be it further enacted, That nothing herein contained shall affect or be held to affect any Question as to the Liability of any Person or Persons, Property or Properties, now responsible for the Debts of the said City, or any Part thereof, nor shall the same be affected by the granting of any new Documents of Debt to the Creditors of the said City, in manner herein-before authorized.

Power to
settle Debts
by Composi-
tion.

XXXI. And be it further enacted, That in case the Lord Provost, Magistrates, and Council shall at any Time propose a Settlement of the said Debts, exclusive of the Debt due to His Majesty, by Composition, the said Trustees shall, within Fourteen Days after receiving such Proposal, call a Meeting of the said Creditors, in manner herein-before directed as to Meetings of Creditors to fill up Vacancies, to consider of such Offer of Composition; and if Four Fifths in Value of the whole of the said Creditors shall, at such Meeting, or at any Adjournment thereof, declare their Assent to such Offer of Composition,

tion, the said Trustees shall forthwith proceed to carry the same into effect; and at such Meeting the Votes of Proxies duly authorized shall be received.

XXXII. And be it enacted, That whatever Surplus of the Annual Revenue shall remain after defraying the interim Annual Expenditure of the said City, in manner herein-before provided, shall be paid by the Chamberlain of the said City to the said Trustees; and that in case any Surplus of the Estate and Effects hereby vested in the said Trustees shall remain after Payment and Satisfaction of the Debts of the said City, such Surplus shall by the said Trustees be paid and made over to the said Lord Provost, Magistrates, and Council.

Surplus
how to be
disposed of.

XXXIII. And be it further enacted, That it shall and may be lawful to the said Lord Provost, Magistrates, and Council, with the Consent of the Lords Commissioners of His Majesty's Treasury, and of Four Fifths in Value of the other Creditors of the said City, to declare the Trusts created by this Act to be at an end; and when and so soon as such Consent and Declaration shall have been recorded in the Council Books of the said City, and advertised Three several Times in the *Edinburgh Gazette*, the Powers and Authorities by this Act granted to the said Trustees shall cease and determine.

Powers of
Trustees to
cease.

XXXIV. Provided always, and be it enacted, That no Trustee acting under the Authority of this Act shall be liable for any thing omitted to be done, or for the Actings of any Person or Persons appointed by the said Trustees, or shall bear any personal Responsibility whatever for any thing done by him under the Authority of this Act, unless such Trustee shall have actually intromitted with any of the Monies hereby placed under the Management of the said Trustees; and no Appointment of any Person as a Trustee for the Purposes of this Act shall disqualify such Person from giving Evidence in any Court of Law, in any Matter arising out of the Provisions of this Act, or in relation to the same.

Trustees
not to be
personally
liable.

XXXV. Saving and reserving always to the King's most Excellent Majesty, His Heirs and Successors, to the Magistrates of *South* and *North Leith*, to the Commissioners for the Harbour and Docks of *Leith*, acting under the before recited Act of the Seventh Year of the Reign of His Majesty King *George* the Fourth, the Ministers of the City of *Edinburgh*, the Commissioners of Police of *Leith*, and to all other Person and Persons whatsoever having or claiming any Rights or Privileges in and over the Estate and Property of the City of *Edinburgh*, all such Prerogatives, Powers, Rights, and Privileges as they respectively had and enjoyed before the passing of this Act.

Saving
Clause.

XXXVI. And be it further enacted, That the Expence of applying for and obtaining this Act shall be defrayed out of the first and readiest of the Monies belonging to the said City of *Edinburgh*.

Expences of
Act.

Public Act.

XXXVII. 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 by all Judges, Justices, and others, without being specially pleaded.

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