ANNO TRICESIMO SEXTO

Georgii III. Regis.

****

CAP. CXXI.

An Act for further continuing the Duty of One Farthing *per* Chalder on Coals, granted by an Act passed in the First Year of the Reign of Queen *Anne*, and revived and continued by Two Acts passed in the Eighth Year of the Reign of King *George* the Second, and in the Sixth Year of the Reign of His present Majesty, for improving and repairing the Piers and Harbour of *Whitby*, in the County of *York*. [18th *May* 1796.]

Preamble. 1 *Anne*, Cap. 19.

WHEREAS by an Act passed in the First Year of the Reign of Her late Majesty Queen *Anne*, for the rebuilding and repairing the Piers of the Town and Port of *Whitby*, in the County of *York*, several Duties were granted and laid upon all Ships and Vessels entering within the Piers of the said Port, and upon certain Goods and Merchandizes therein particularly mentioned, landed within the Haven or Piers of the said Port of *Whitby*, and shipped off from *Whitby* aforesaid; and also a Duty of One Farthing *per* Chalder on all Coals loaded

loaded at *Newcaſtle upon Tyne*, or at *Sunderland*, *Blythe*, *Seaton*, *Sluice*, *Cullercoats*, or any other Harbour, Colliery, or Place, that was or was reputed to be a Member of the ſaid Port of *Newcaſtle upon Tyne*, for the Term of Nine Years, to commence from the Firſt Day of *May* One thouſand ſeven hundred and two, with ſuch Proviſions for the due collecting, accounting for, and applying of the ſaid Duties, and other Powers, Matters, and Things relating thereto, and for keeping clear the ſaid Harbour, as in the ſame Act is particularly mentioned and contained: And whereas by an Act paſſed in the Seventh Year of her ſaid late Majeſty's Reign, the ſaid recited Act was continued until the Firſt Day of *May* One thouſand ſeven hundred and twenty-three: And whereas by an Act paſſed in the Seventh Year of the Reign of His late Majeſty King *George* the Firſt, the ſaid Duties and Sums of Money granted and impoſed by the ſaid Act of the Firſt Year of Her ſaid late Majeſty's Reign, and continued by the ſaid Act of the Seventh Year of Her Reign as aforeſaid, (ſave and except the ſaid Duty of One Farthing *per* Chalder), were made perpetual, and enacted to be paid to the Truſtees therein named, and their Succeſſors for ever, to the End that the Piers and Harbour of *Whitby* aforeſaid, might be preſerved, kept, and continued in good Repair: And whereas by an Act paſſed in the Eighth Year of the Reign of His late Majeſty King *George* the Second, for lengthening the Weſt Pier of the ſaid Harbour of *Whitby*, and for improving the ſaid Harbour, after reciting, that, by and with the ſaid ſeveral Duties and Sums of Money collected and received by virtue of the ſaid former Acts, the ſaid Piers had been rebuilt, finiſhed, and completed, and had been preſerved, kept, and continued in good Repair, but that nevertheleſs for ſome Years then paſt, the Entrance into the ſaid Port of *Whitby* had been rendered very narrow and difficult, by Reaſon of a Bank of Sand which was then, and for ſome Time paſt had been gathering about the Head of the Weſt Pier of the ſaid Harbour of *Whitby*, and would in Time, if not prevented, entirely ſtop and choak up the ſame; and inaſmuch as the ſaid Sand Bed, and the further Increaſe thereof, in the Judgement and Underſtanding of experienced Perſons, might and could only be remedied and prevented by lengthening and extending the ſaid Weſt Pier One hundred Yards further into the Sea; therefore, that the ſaid Piers and Harbour might be improved and made as ſecure for Colliers and Coaſting Veſſels as might be, and for lengthening and extending the ſaid Weſt Pier, it was enacted, That from and after the Firſt Day of *June* One thouſand ſeven hundred and thirty-five, the ſaid Duty of One Farthing *per* Chalder, granted by the ſaid Act of the Firſt Year of Queen *Anne*, and continued by the ſaid Act of the Seventh Year of her Reign, (but which had ceaſed from the Firſt Day of *May* One thouſand ſeven hundred and twenty-three), ſhould be paid to the Truſtees under the ſaid Act of the Seventh Year of King *George* the Firſt, for the Term of Thirty-one Years, to commence and be computed from the ſaid Firſt Day of *June* One thouſand ſeven hundred and thirty-five, for the Purpoſes aforeſaid; and the ſaid Act of the Firſt Year of Her ſaid late Majeſty's Reign, and all and every the Clauſes, Proviſions, Penalties, Matters, and Things therein contained, touching the ſaid Duty of One Farthing *per* Chalder thereby granted, (ſave and except as to the Powers and Authorities thereby veſted in the Truſtees therein named, and to be named purſuant thereto, and a Clauſe therein contained, touching the ceaſing of the ſaid Duty, on raiſing Six thouſand Pounds as therein mentioned),

Act 7 *Anne.*

7 *Geo.* I, Cap. 16.

8 *Geo.* II, Cap. 10.

mentioned), were revived and continued for the ſame Term of Thirty-one Years, with ſeveral other Powers and Clauſes relating to the ſaid Duty and Work propoſed to be done, and the regulating the ſaid Harbour: And whereas by an Act, paſſed in the Twenty-third Year of the Reign of His late Majeſty King *George* the Second, for the more effectual repairing and preſerving the ſaid Piers and Harbour, after reciting, that purſuant to the ſaid Act of the Eighth Year of King *George* the Second, the Weſt Pier of the ſaid Harbour had been lengthened One hundred Yards, and terminated with a ſtrong circular Head, whereon was erected a commodious Battery, with a ſtrong Parapet and Embrazures for Five Pieces of Cannon, for Protection of the Entrance of the ſaid Harbour, as alſo of ſuch Ships as might be obliged to take Shelter in the Road from an Enemy; but that for carrying on the ſaid Work, the Truſtees under the ſaid ſeveral Acts of the Seventh Year of King *George* the Firſt, and Eighth Year of His ſaid late Majeſty King *George* the Second, had been neceſſitated to borrow ſeveral Sums of Money on the ſaid Fund of One Farthing *per* Chalder, amounting to Six thouſand two hundred Pounds, which then remained charged thereon; and that the ſaid Truſtees had employed the reſt of the Duties granted as aforeſaid, as they aroſe in rebuilding and repairing other Parts of the ſaid Piers, and in getting up Quarries at the Mouth of the ſaid Harbour, in order to deepen the Channel, which had ſo good an Effect, that it had encouraged the Inhabitants of *Whitby* aforeſaid, and others, to build in the ſaid Harbour much larger Ships than were formerly uſed, and that the Weſt and Eaſt Piers had been greatly ſhaken by the Seas, and that the Marle or ſoft Rock on which they were built was worn away in ſeveral Places, by the great Quantity of Sand ſcoured out of the ſaid Harbour, which had occaſioned their ſinking, and the Walls thereof to bulge out, and that the Communication between the Town and the Weſt Pier was in a great Meaſure interrupted; and that it was abſolutely neceſſary for the Security of the ſaid Harbour, that the ſaid Parts of the ſaid Eaſt and Weſt Piers ſhould be rebuilt or repaired and raiſed, and that it would be a great Improvement to the ſaid Harbour, and tend very much to the Advantage and Safety of all Colliers and Coaſting Veſſels, if the remaining Part of the Stone Rock, at the Entrance of the ſaid Harbour was taken away, and the Way repaired and made ſufficient from the ſaid Town of *Whitby* to the ſaid Weſt Pier, with proper Moorings for Ships along the ſame; it was enacted, That, from and after the Firſt Day of *June* One thouſand ſeven hundred and fifty, an additional Duty of One Farthing *per* Chalder ſhould be paid by the Maſter or Owners of every Ship that ſhould load or ſhip any Coals at the Port of *Newcaſtle upon Tyne*, or at *Sunderland*, *Blythe*, *Seaton*, *Sluice*, *Cullercoats*, or any other Harbour, Colliery, or Place, that is, or is reputed to be, a Member of the ſaid Port of *Newcaſtle upon Tyne*, to the Truſtees named in the ſaid Act of the Seventh Year of the Reign of His ſaid late Majeſty King *George* the Firſt, and ſuch other Perſon and Perſons as had been, or ſhould be thereafter nominated or appointed Truſtees, purſuant and according to the Directions thereof, for and during, and unto the full End and Term of Thirty-one Years, to commence and be computed from the Firſt Day of *June* One thouſand ſeven hundred and fifty; and ſeveral other Powers and Clauſes relating to the paying, levying, and collecting, the ſaid laſt mentioned Duty of One Farthing *per* Chalder, and borrowing Money thereon, and Application of the Monies to ariſe therefrom, for the Purpoſes aforeſaid,

23 *Geo.* II, Cap. 39.

and for the better enabling the Truſtees thereby authorized to execute and carry on the Works thereby intended and directed, and for other Purpoſes, were thereby and therein given and enacted: And whereas, by an Act, paſſed in the Sixth Year of the Reign of His preſent Majeſty, for further continuing the Duty of One Farthing *per* Chalder on Coals, granted by an Act of the Firſt Year of Queen *Anne*, and revived and continued by an Act of the Eighth of King *George* the Second, for improving and repairing the Piers and Harbour of *Whitby*, in the County of *York*, and for better regulating the Shipping there, after reciting, that ſince the paſſing of the laſt recited Act, the ſaid Truſtees had, in purſuance thereof, and of the other Acts aforeſaid, cauſed many expenſive Works to be carried on and done in repairing the ſaid Eaſt and Weſt Piers, and in deepening the Channel into the Harbour, by taking up the Stone Rocks in and near the Entrance thereof, and particularly had rebuilt about Two hundred and thirty Yards in Length of the old Part of the ſaid Weſt Pier, and cauſed it to be executed in the moſt ſubſtantial and effectual Manner, but the Foundation of a conſiderable Part of the Remainder of that Pier, being weakened and impaired by the ſcouring away of the Sand out of the Harbour, or the Decay or waſhing away of the Marle or ſoft Rock, whereon that Part of the ſame Pier had been built, and both the Eaſt and Weſt Piers had alſo been greatly ſhaken by the Seas, it was become abſolutely neceſſary to repair the ſame Part of the ſaid Weſt Pier in the ſame ſubſtantial Manner without Delay, which Repairs and the other Works directed to be done by the ſaid recited Acts would be very expenſive, being eſtimated, at a moderate Computation, at Eleven thouſand Pounds and upwards; and the ſaid Truſtees had for carrying on the ſaid Works, and other Works for repairing the ſaid Piers, and improving the ſaid Harbour, according to the Truſts repoſed in them as aforeſaid, borrowed upon Mortgage of the Duties granted as aforeſaid, the Sum of Eleven thouſand ſeven hundred Pounds, whereof Five thouſand five hundred Pounds remained then unpaid when the Accounts relating thereto, and to the ſaid Works, were ſtated on the Firſt Day of *July* One thouſand ſeven hundred and ſixty-five; and as the Duty of One Farthing *per* Chalder granted by the ſaid Act of the Eighth Year of His late Majeſty King *George* the Second for the Term of Thirty-one Years as aforeſaid, would ceaſe and determine on the Firſt of *June*, which would be in the Year One thouſand ſeven hundred and ſixty-ſix, it would not be poſſible for the ſaid Truſtees to pay off the ſaid remaining Debt, and to complete the Repairs and Works directed by the ſaid recited Acts to be made, without the further Aid and Aſſiſtance of Parliament; and reciting, that the Powers by the ſaid former Acts granted relating to the Authority given, and Salary to be allowed to the Pier or Harbour Maſter, were found upon Experience to be inſufficient for the well governing the ſaid Harbour, and properly rewarding ſuch Service; therefore, that the ſaid Truſtees under the ſaid recited Act of the Seventh Year of His ſaid late Majeſty King *George* the Firſt might be enabled to pay off their ſaid Debt, and complete and finiſh the ſaid Repairs and Works directed as aforeſaid, and to allow a larger Salary to the Pier and Harbour Maſter by them appointed or to be appointed, and further Powers might be granted to him for the better Regulation and Preſervation of the Shipping therein; it was enacted, that the Duty of One Farthing *per* Chalder granted as aforeſaid, by the ſaid Act of the Eighth

6 *Geo.* III, Cap. 81.

Year

Year of the Reign of His late Majeſty King *George* the Second, ſhould, from and after the ſaid Firſt Day of *June* One thouſand ſeven hundred and ſixty-ſix, continue to be paid to the Truſtees to the ſaid Act of the Seventh Year of the Reign of His ſaid late Majeſty King *George* the Firſt, for the Term of Thirty-one Years, to commence and be computed from the ſaid Firſt Day of *June* One thouſand ſeven hundred and ſixty-ſix, for the Purpoſes aforeſaid: And whereas by another Act paſſed in the Twenty-firſt Year of the Reign of His preſent Majeſty, the ſaid recited Act of the Twenty-third Year of the Reign of His late Majeſty King *George* the Second was continued from the Expiration thereof upon the Firſt Day of *June* One thouſand ſeven hundred and eighty-one, for the further Term of Thirty-one Years: And whereas in purſuance of the ſaid Acts, many expenſive Works have been erected for the Improvement of the ſaid Piers and Harbour, and the Approaches thereto, and a conſiderable Sum of Money hath been borrowed on the Credit of the Duties thereby granted, a great Part of which ſtill remains due: And whereas the Piers of the ſaid Harbour have been for ſome Time paſt repairing, and conſiderable further Repairs and Improvements are wanting to render the ſame more extenſively uſeful, and the Entrance thereto more ſafe and eaſy; but the ſame cannot be done unleſs the Powers of the ſaid former Acts, and alſo the ſaid Duty on Coals are further continued; 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 Duty of One Farthing *per* Chalder granted as aforeſaid by the ſaid Acts of the Eighth Year of the Reign of His ſaid late Majeſty King *George* the Second, and the Sixth Year of the Reign of His preſent Majeſty, (and which would otherwiſe ceaſe and determine on the Firſt Day of *June* One thouſand ſeven hundred and ninety-ſeven), ſhall, from and after the ſaid Firſt Day of *June* One thouſand ſeven hundred and ninety-ſeven, continue to be, and be paid by the Maſter or Owners of every Ship that ſhall load or ſhip any Coals at the Port of *Newcaſtle upon Tyne*, or at *Sunderland*, *Blythe*, *Seaton*, *Sluice*, *Cullercoats*, or any other Harbour, Colliery, or Place that is or is reputed to be a Member of the ſaid Port of *Newcaſtle upon Tyne*, to the Truſtees under the ſaid Act of the Seventh Year of the Reign of His ſaid late Majeſty King *George* the Firſt, for and during, and unto the full End and Term of Thirty-one Years, to commence and be computed from the ſaid Firſt Day of *June* One thouſand ſeven hundred and ninety-ſeven, for the Purpoſes aforeſaid, over and above all other Duties heretofore granted in and by the ſaid recited Acts of Parliament, or any of them.

21 *Geo.* III. Cap. 12.

Debt contracted, and further Repairs and Improvements wanted.

Duty on Coals further continued.

II. And be it further enacted by the Authority aforeſaid, That the ſaid Duty of One Farthing *per* Chalder hereby continued and granted, ſhall be paid at the ſhipping or loading of the ſaid Coals, to the Collector or Collectors appointed or to be appointed as hereafter is mentioned for collecting the ſame, and in caſe the ſame ſhall not be paid upon Demand thereof made by ſuch Collector or Collectors, or any of them, of the Maſter or any of the Owners of the Ship or Veſſel in which ſuch Coals ſhall be ſhipped or loaded, it ſhall be lawful for ſuch Collector or Collectors, or any of them, to enter into ſuch Ship, and levy the ſaid Duty hereby granted on the Coals ſo ſhipped, by Diſtreſs and Sale of any of the

Manner of paying the Coal Duty.

the Tackling, Apparel, or Furniture of ſuch Ship, or of any of the Goods or Merchandize therein, of or belonging to the Maſter or any of the Owners thereof, rendering the Overplus (if any ſhall be) after ſuch Collector's reaſonable Coſts and Charges in taking, keeping and ſelling ſuch Diſtreſs ſhall be deducted, to the Owner or Owners of the ſame, or to the Maſter of ſuch Ship, or to his or their Agents or Factor, or to the Collector of the Cuſtoms at the Port where ſuch Diſtreſs ſhall be taken for the Time being, for the Uſe of ſuch Owner or Owners when he or they ſhall require the ſame.

For borrowing Money.

III. And be it further enacted by the Authority aforeſaid, That the ſaid Truſtees, or the greater Number of them for the Time being, ſhall and may, and they are hereby empowered from Time to Time, by any Writing or Inſtrument under their Hands and Seals, to aſſign over or mortgage the ſaid Duties by this Act continued, or any Part thereof, (ſubject nevertheleſs to the Payment of ſuch Sum or Sums of Money as are now due and owing on the Credit of the ſaid former Acts, or any of them), the Coſts and Charges of ſuch Aſſignment or Mortgage to be borne and paid out of ſuch Duties, for any Time or Term for which the ſaid Duties are by the ſaid former Acts, or any of them, and this preſent Act made payable, or any Part of ſuch Time or Term as a Security for Repayment of any Sum or Sums of Money ſo to be borrowed, to ſuch Perſon or Perſons, or his or their Truſtees, as ſhall advance or lend the Money, with ſuch Intereſt for the ſame, not exceeding Five Pounds *per Centum per Annum*, as the ſaid Truſtees or the greater Number of them for the Time being ſhall agree to give; which Money ſo to be borrowed, and all other Sums of Money to ariſe from any of the Duties granted and continued by this Act, or any other of the ſaid recited Acts, ſhall, after paying the Charges and Expences of collecting, gathering, and receiving the ſame, be applied and diſpoſed of for the Repairs and Improvement of the ſaid Piers and Harbour as in the ſaid recited Acts, and this preſent Act, are mentioned and directed concerning the ſame, and to no other Uſe, Intent, or Purpoſe, whatſoever.

For continuing the Powers of the former Acts with reſpect to the collecting and applying the Duty.

IV. And, to the End the ſaid Duties and Payments hereby granted may be duly collected and applied, be it further enacted by the Authority aforeſaid, That all and every the Powers and Authorities which in and by any of the ſaid recited Acts are or were veſted in the Truſtees named or appointed in or by virtue, or in purſuance of the ſaid recited Act of the Seventh Year of the Reign of His ſaid late Majeſty King *George* the Firſt, or in the Lord or Lady of the Manor of *Whitby* aforeſaid for the Time being, or in the Juſtices of the Peace in and for the North Riding of the County of *York*, and Quarter Seſſions of the Juſtices of the ſame Riding reſpectively, for the appointing a Collector or Collectors of and for the due collecting, ſecuring, accounting for, paying, and applying, the Duties in or by any of the ſaid recited Acts granted, and inſpecting, examining, and ſtating, the Accounts thereof, or inflicting and levying, or recovering and applying ſuch Fines and Penalties as are therein mentioned, for the Defaults, Neglects, or Omiſſions, relating thereto, therein alſo expreſſed, ſhall, from and after the ſaid Firſt Day of *June* One thouſand ſeven hundred and ninety-ſeven, be, and the ſame and every of them are hereby veſted in, and ſhall and may be exerciſed by the ſaid Truſtees named in the ſaid Act of the Seventh Year of His late Majeſty King *George*

George the First; and such Person and Persons as hath or have been, or shall be appointed Trustees pursuant to the same Act, and the Lord or Lady of the said Manor of *Whitby* for the Time being, and the Justices of the Peace and Quarter Sessions of the Peace in and for the said North Riding respectively, for the appointing a Collector or Collectors, and the due collecting, securing, accounting for, paying, and applying the Duties in and by this present Act continued, and for inspecting, examining, and stating the Accounts thereof, and for inflicting and levying, or recovering and applying such Fines and Penalties as aforesaid for such Defaults, Neglects, or Omissions relating thereto as aforesaid, in as full and ample Manner, to all Intents, Constructions, and Purposes, as such Powers and Authorities are or were in the said recited Acts, or any of them, given to or vested in the Trustees, Lord or Lady of the said Manor, Justices and Quarter Sessions respectively, therein respectively named, with respect to the Duties in and by the same Acts, or any of them, granted, continued, or revived.

Accounts to be open for Inspection.

V. Provided always, and be it enacted, That the Accounts of the said Trustees shall at all seasonable Times be open to the Inspection of any Person duly authorized by any Port contributing to the said Rates.

Great Yarmouth exempted from the Payment of One Farthing *per* Chalder upon Coal.

VI. Provided also, and it is hereby further enacted, That all Ships and Vessels belonging to the Town and Borough of *Great Yarmouth*, in the County of *Norfolk*, shall be exempted from the Payment of the Duty of One Farthing *per* Chalder hereby continued and granted for the Purposes aforesaid, in like Manner and upon the same Conditions as they are exempted from the Duty of One Farthing *per* Chalder granted by the said Act of the First Year of the Reign of Her said late Majesty Queen *Anne*, and revived and continued by the said Acts of the Eighth Year of the Reign of His late Majesty King *George* the Second, and the Sixth Year of the Reign of His present Majesty as aforesaid, any Thing herein-before contained to the contrary notwithstanding.

For paying the Expences of the Act.

VII. And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the said Trustees, or the greater Number of them for the Time being, and they are hereby required to pay the Charges and Expences of passing and obtaining this Act, out of any of the Duties hereby or by any of the said recited Acts granted or continued; or out of any Monies to be borrowed on them or any of them; any Thing herein contained to the contrary notwithstanding.

Limitation of Actions.

VIII. And be it further enacted by the Authority aforesaid, That if any Action or Suit shall be commenced against any Person or Persons for any Thing done or to be done in pursuance of the said recited Acts or this present Act, then in every such Case the Action or Suit shall be brought within Three Calendar Months next after the Fact committed, and shall be laid in the County of *York*, and not elsewhere; and the Defendant or Defendants in such Action or Suit so to be brought shall and may plead the General Issue, and give the said recited Acts, or this present Act, as the Case shall require, and the special Matter in Evidence at any Trial to be had thereupon; or if the Plaintiff or Plaintiffs shall

General Issue.

become nonſuited or diſcontinue his, her, or their Action or Actions, Suit or Suits, or if upon Demurrer Judgement ſhall be given againſt the Plaintiff or Plaintiffs, the Defendant or Defendants ſhall and may recover Treble Coſts, and have ſuch Remedy for the ſame as any Defendant or Defendants hath or have in any Caſes by Law.

Treble Coſts.

Publick Act.

IX. And be it further enacted by the Authority aforeſaid, That this Act ſhall be adjudged, deemed, and taken to be a Publick Act; and be judicially taken Notice of as ſuch in all Courts, and by all Judges, Juſtices, and other Perſons whomſoever, without ſpecially pleading the ſame.

FINIS.