Anno sexto

Georgii III. Regis.

An Act 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.

WHEREAS by an Act made in the First Year of the Reign of 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 Preamble.

per Chalder on all Coals 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 another Act made in the Seventh Year of her said Majesty's Reign, the said recited Act was continued, and to be in full Force and Virtue until the First Day of May, One thousand seven hundred and twenty three: And whereas by another Act made in the Seventh Year of 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, 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 another Act made in the Eighth Year 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 compleated, 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, intirely 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,

fore, 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 to 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) 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 another Act, made in the Twenty third Year 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 to the said several Acts of the Seventh Year of King George the First, and Eighth Year of his 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 there-

on; 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 with 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 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, Blyth, 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 thereafter be, 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 Mo-

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nies to arise therefrom, for the Purposes aforesaid; 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, since the passing the said last mentioned Act, the said Trustees have, 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 have 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 Marl or Soft Rock, whereon that Part of the same Pier has been built; and both the East and West Piers having also been greatly shaken by the Seas, it is 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, will be very expensive, being estimated, at a moderate Computation, at Eleven thousand Pounds, and upwards; and the said Trustees having, 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 still 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, will cease and determine on the First Day of June, which will be in the Year One thousand seven hundred and sixty six; it will not be possible for the said Trustees to pay off the said remaining Debt, and complete the Repairs and Works directed by the said recited Acts to be made, without the further Aid and Assistance of Parliament; And whereas the Powers by the said former

mer Acts granted, relating to the Authority given, and Salary to be allowed, to the Pier or Harbour Master, are found upon Experience to be insufficient for the well governing the said Harbour, and properly rewarding such Service; to the End therefore, that the Trustees to the said recited Act of the Seventh Year of His said late Majesty King George the First, may be enabled to pay off their said Debt, and compleat 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 may be granted to him for the better regulating and Preservation of the Shipping therein: May it 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 Act of the Eighth Year of the Reign of His said late Majesty King George the Second, and which would otherwise cease and determine on the First Day of June, One thousand seven hundred and sixty six, shall, from and after the said First Day of June, One thousand seven hundred and sixty six, 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, Blyth, 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 to 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 sixty six, 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.

Duty of One Farthing *per* Chalder on Coals, granted by Act 8 *Geo.* II. further continued.

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

Manner of Recovery.

any of the Owners, of the Ship or Vessel in which such Coals shall be shipped or loaded; it shall and may be lawful to and 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 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.

The Duty may be mortgaged.

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 impowered, from time to time, by any Writing or Instrument under their Hands and Seals, without any Stamp to be impressed thereon, to assign over or mortgage the said Duties by this Act continued, or any Part thereof (subject nevertheless to the Payment of the said Sum of Five thousand five hundred Pounds, now due and owing as aforesaid) 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.

Further Allowance to be made to the Harbour Master.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Trustees, or the greater Number of them, for the time being, to give and allow, from time to time, to the Person who now is, or shall be, by the said Trustees, or any Five of them, appointed, pursuant to the said Act of the Twenty third Year of His said late Majesty King George the Second, to be Pier Master or Harbour Master, or to order the lying, anchoring, mooring, and ballasting, the Ships within the said Piers or Harbour of Whitby, as therein mentioned, such Salary, or yearly or other Allowances, for his Pains and Trouble, as they shall think fit, not exceeding in the Whole Thirty Pounds per Annum.

For better regulating the mooring of Vessels.

And whereas for the regulating of the Shipping, and better Direction thereof, in the laying, mooring, or anchoring of any Ship or Vessel, or loading, shipping, or discharging of Goods, Wares, and Merchandize, or in regard to the heaving out, or delivering, or taking in Ballast, and the Government of the Shipping in all other Respects whatsoever, within the said Piers or Harbour, it is extremely necessary, that the Rules, Orders, and Directions, of the Pier Master or Harbour Master, should be strictly adhered to and obeyed, not only to prevent Confusion therein, but also as tending greatly to the Safety and Preservation of all Shipping coming into, laying, anchoring, or mooring, within the said Piers or Harbour; be it therefore further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Pier Master or Harbour Master aforesaid, from time to time, and at all Times hereafter, to give such Orders and Directions to all Ships, Vessels, or Boats, as do or shall, or may at any Time or Times hereafter, come or lay within the said Piers or Harbour, for their laying, mooring, anchoring, loading, shipping, or discharging, of any Goods, Wares, and Merchandize, or in regard to the heaving out, or delivering, or taking in Ballast, and the Government of the Shipping in all other Respects whatsoever, within the said Piers or Harbour, as to him shall seem reasonable and meet; and that if the Owner or Owners, Master or Commander of any Ship or Vessel, or Boat, shall disobey such Order or Orders, or Directions, given him or them by such Pier Master or Harbour Master, or shall refuse or neglect to obey, and comply therewith, such Owner or Owners, Master or Commander, of all and every Ship or Vessel, Wherry or Boat, so disobeying,

ing, refusing, or neglecting, to obey and comply therewith, shall, for every such Disobedience of such Order or Orders, Direction or Directions, Refusal or Neglect, forfeit and pay unto the said Trustees, for the Repairs or Improvement of the said Harbour, the Sum of Twenty Pounds, to be levied and recovered on such Owner or Owners, Master or Commander of such Ship or Vessel, or Boat, in like Manner, and by the like Ways and Means as any Fine or other Forfeiture or Penalty inflicted, by or in Pursuance of this or any of the said recited Acts, is or are thereby appointed to be recovered and levied; and also that in case of the Disobedience of such Orders or Directions of the said Pier Master or Harbour Master, to immediately unmoor such Ship or Vessel, and to remove or cause to be removed such Ship or Vessel, Goods, Wares, or Merchandize, to such Place and Mooring as to him shall seem convenient and proper; the Expence whereof shall be defrayed by the said Pier Master or Harbour Master, and shall be repaid by the Owner or Owners, Master or Commander, of every such Ship or Vessel; and in case of Refusal to repay the same, shall be levied and recovered of such Owner or Owners, Master or Commander, of every such Ship or Vessel, in like Manner, and by the like Ways and Means as aforesaid.

Penalty on Masters of Vessels not complying with Orders.

And be it also enacted, That in case any Master or Commander, or other Person, on Board of any Ship or Vessel which shall be moored within the said Piers or Harbour, shall at any Time, upon a Flowing Tide, refuse or neglect, upon Demand of the Pier Master or Harbour Master, to unloose or slacken the Rope or Ropes by which such Ship or Vessel shall be so moored, to give a convenient Passage to any other Ship or Vessel, which shall be coming into, or going out of the said Harbour; or in case there shall be no Person on Board any such Ship or Vessel so moored, or who shall answer to the Call of the said Pier Master, or Harbour Master, for the Purpose aforesaid; in every such Case, it shall and may be lawful for the said Pier Master, or Harbour Master, to cut the Rope or Ropes by which such Ship or Vessel shall be so moored as aforesaid, in order to give a convenient Passage for the Ship or Vessel which shall be so coming into or going out of the said Harbour.

Allowing an Appeal.

Provided always, That in case any Owner or Owners, Master or Commander, of any Ship or Vessel, or Boat, or any other Person, shall think himself or herself aggrieved, by any of such Orders or Directions given

given by such Pier Master or Harbour Master, or the Unmooring or Removal of such Ship or Vessel, or of such Goods, Wares, or Merchandize, or the cutting of any such Ropes; it shall and may be lawful to and for him, her, or them, within the Space of Twelve Hours after such Order or Orders, Direction or Directions, given, or Proceedings therein had, and such Penalty incurred, or cutting of any such Ropes, to appeal or complain to any Two or more Justices of the Peace for the North Riding of the said County of York, or to any Three or more of the said Trustees, for the time being, which Justices or Trustees respectively are hereby required and authorized immediately to hear the Matter of the said Appeal or Complaint, and to determine upon the Examination of Witnesses upon Oath (which Oath the said Justices or Trustees are hereby impowered and required to administer) the Matter of the Appeal or Complaint of any such Person or Persons in a summary Way, and, if they see Cause, may, by their Order, revoke or disannul, at their Discretion, all or any such Orders, Directions, and Proceedings, of such Pier Master or Harbour Master, or mitigate the said Penalty, or vacate or set aside the same, and set the Parties at Liberty, or recompense him, her, or them, for the Damages in cutting such Rope or Ropes, or otherwise may ratify and confirm the Acts of the said Pier Master or Harbour Master, in cutting such Rope or Ropes, and all such his Order or Orders, Direction or Directions, or Proceedings, with such Costs and Charges, as to such Justices or Trustees shall seem reasonable; and to make such Orders and Judgements in regard to the same, or give such other Relief to the Parties, as they shall think right or reasonable.

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

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 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 sixty six, 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 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 of the said Manor of Whitby for the time being, and the Justices of 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 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.

Great Yarmouth excepted.

Provided always, 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 Act of the Eighth Year of the Reign of his late Majesty King George the Second as aforesaid; any thing herein before contained to the contrary notwithstanding.

For paying the Expences of the Act.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and 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. 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 Six 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; and if the Plaintiff or Plaintiffs shall 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.

General Issue.

Treble Costs.

Publick Act. 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 whatsoever, without specially pleading the same.

FINIS.