

ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

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CAP. CIV.

An Act to authorize the County of *Clare* to borrow a Sum of Money for the Relief of the Creditors and others remaining unpaid by reason of the Default of the late Treasurer of the said County, to provide for the Repayment of the same, and to direct Proceedings to be taken in reference to the Default of such late Treasurer.

[14th *August* 1838.

WHEREAS a large Sum is due to the County of *Clare* by *George O'Callaghan* Esquire, the late Treasurer of the said County, and several Demands upon the said County remain unpaid in consequence thereof: And whereas the Nature and Circumstances of the Property of the said late Treasurer render it expedient to enter into an Arrangement for securing the ultimate Repayment of the Sums owing by him to the said County, with Interest as herein-after mentioned; and it is expedient to enable the said County in the meantime to borrow such Sum or Sums as may be necessary for discharging the said Demands upon it: Be it therefore enacted by the Queen'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 Chief Remembrancer of the Court of Exchequer in *Ireland* shall, with all convenient Speed, proceed to ascertain the whole Sum due or payable by the said *George O'Callaghan* to the said County as such Treasurer as aforesaid, and also to ascertain

The Chief Remembrancer shall ascertain the Sum due by the late Trea-

surer of the County of Clare, and certify the same and the Funds applicable;

tain the Amount of all existing Demands upon the said County, and of all Funds now applicable to the Payment thereof, whether in the Hands of the present Treasurer or otherwise; and he shall certify the Sum due by the said *George O'Callaghan*, and the Amount of the said Demands, and of the Funds applicable to the Payment thereof, to the Lord Lieutenant of *Ireland* in Council.

and shall determine whether any and what Proceedings should be taken against him for Recovery of the Sum for which he made default;

or may determine that an Agreement should be entered into with the late Treasurer for securing and repaying the Sum, and direct the necessary Acts to be done in order thereto.

II. And be it enacted, That it shall be lawful for the said Chief Remembrancer, and he is hereby authorized and required, forthwith to investigate the Nature and Circumstances of the Estate, Real and Personal, of the said *George O'Callaghan*, and to determine thereupon whether any and what Proceedings should be taken to enforce the Payment of the Balance which may be found due by him to the said County, or on account of any Monies for which he was liable, or which he was bound to pay or account for as the Treasurer of such County, and to enforce Payment of the Balance which he shall find due by the said *George O'Callaghan*, by causing Her Majesty's Writ of Levari facias to issue against him, his Lands and Goods, or by granting a Custodiam of the Lands of the said *George O'Callaghan* in like Manner as if he were Debtor to the Crown for the Balance which shall be found due by him as aforesaid; or if the said Chief Remembrancer shall think that it will not be beneficial to take any such Proceedings, or to take such Proceedings only for Part of such Balance, and that, on the contrary, it would be more to the Public Advantage that an Agreement should be entered into by or for or with the said *George O'Callaghan*, for his giving or procuring Security for the ultimate Repayment of the Sums or Balance owing by him to the said County, or on account of his Default in his said Office, with any Interest thereon or any Part thereof, then that it shall be lawful for the said Chief Remembrancer, and he is hereby required, to consider and determine the Terms of such Agreement, and the Nature and Amount of such Security, and the Title to the Property to be included in or affected by the same, and the Amount to be charged thereon for Principal, Interest, Receiver's Fees, Poundage, or other reasonable Charges, and the Form and Manner in which, and the Acts, Deeds, Assurances, or other Matters by which, the same ought to be effected, and to direct to be had and done all such Acts, Deeds, and Assurances, and other Matters, as to the said Chief Remembrancer shall seem expedient, either by the Conveyance of any Lands or other Property to a Trustee or Trustees or by effecting a Policy or Policies of Insurance on the Life of the said late Treasurer, and applying any Property to the Payment of the Premiums on such Policy or Policies, and to the Payment of Interest on the Sums or Balance so owing by the said *George O'Callaghan*, or otherwise, or by such other Ways or Means as the said Chief Remembrancer shall deem expedient, and shall find to be practicable under all the Circumstances of the Case; and to consider and determine on the Person or Persons who shall be Trustee or Trustees for any of the Purposes of such Security; and to consider and determine the Rate of Interest to be payable upon the Balance or Sum so to be secured, or to be included in such Security, (such Rate of Interest not to be less than Five Pounds *per Centum per Annum*,) and from Time to Time to consider, determine, and make Orders, as to the said Chief Remembrancer shall seem expedient, for compelling the Sheriff or Officer charged with the Execution

cution of such Writ of Levari facias as aforesaid, or the Custodee or Custodees named in any such Custodiam as aforesaid, or any such Trustee or Trustees as aforesaid, to account for any Monies which he or they shall receive as aforesaid, and to pay any Balance due by him or them into the Bank with which the Treasurer of the said County has his public Account, to the Credit thereof, as the Chief Remembrancer shall direct, or for the Removal of such Custodee or Custodees, or Trustee or Trustees, or for the Appointment of other and others in their or his Room, or for compelling such Trustee or Trustees to assign over to such Person or Persons as the said Chief Remembrancer shall nominate, as new Trustee or Trustees, any Property vested in him or them as such Trustee or Trustees; and further from Time to Time to consider, determine, and make Orders, as to the said Chief Remembrancer shall seem expedient, for effectuating the Purposes of any such Security as aforesaid, and for preventing the same from being defeated or delayed, or for any other Purposes of this Act; and all such Orders as the said Chief Remembrancer shall make touching the Premises shall be enforced by Attachment or otherwise, and shall have such Force and Effect as any Order or Orders which he is or shall be by Law empowered to make in the Performance of any of the Functions or Duties appertaining to his Office; and all the Powers and Authorities now vested in him for taking, enforcing, or auditing the Accounts of County Treasurers, or any other Accounts, by virtue of an Act passed in the last Session of Parliament, intituled *An Act to provide more effectual Means to make Treasurers of Counties and Counties of Cities in* Ireland *account for Public Monies, and to secure the same*, and of the said Lord Lieutenant's Warrant in pursuance thereof, shall and may be used and applied in and towards the Performance of any Duty or Power imposed on or given to him by this Act.

Chief Remembrancer to have all such Powers in the Premises as he is invested with in respect to other Matters of Account.

7 W. 4. & 1 Vict. c. 54.

III. And be it enacted, That it shall and may be lawful for the said Lord Lieutenant of *Ireland* in Council, by any Order to be by him made for that Purpose, to authorize the present Treasurer of the said County to borrow, upon the Security of a County Rate to be levied as herein-after mentioned, any Sum that the said Lord Lieutenant in Council shall deem necessary beyond the Balance in his Hands for enabling the said County to discharge any of the said existing Demands upon it, and to direct that the same, with such Interest thereupon as the said Lord Lieutenant in Council shall think proper, shall be levied off the County as Grand Jury Cess now is, by so many Instalments as shall be stated in the said Order, and that the first and each subsequent Instalment shall be paid at such Assizes as in and by the said Order shall be appointed in that Behalf; and if any Person shall agree with the said Treasurer to lend or advance the Amount of the said Instalments, or any of them, for the Use of the said County, and shall pay the same into the Bank with which the said Treasurer has his public Account as aforesaid, to the Credit of the said Account, it shall be lawful for the said Treasurer to give to him a Draft upon the said Bank for the Amount of each Instalment which he shall so advance, and which Draft shall be countersigned by the Clerk of the Crown of the said County, and shall be made payable to the Payee or his Order, with such Interest as aforesaid, at the Assizes at which the said Instalment ought to be paid under

Lord Lieutenant in Council may authorize the present Treasurer to borrow Money on Security of a County Rate.

or

or by virtue of the said Order in Council; and the said Treasurer shall include the Amount of every such Instalment, and of the Interest which will become payable thereupon, in the Warrant which he shall issue for raising the Sums leviable under the Grand Jury Presentments of the preceding Assizes, and the same shall be raised and paid into the said Bank in like Manner as any Sums leviable by Grand Jury Presentment ought now to be; and any Sum or Sums which shall be lent or advanced as aforesaid shall be paid and applied by the said Treasurer in satisfaction of the said Demands, in such Manner as the said Lord Lieutenant in Council shall in and by such Order as aforesaid direct.

Order of Chief Remembrancer shall be lodged with Clerk of Privy Council, and published in Dublin Gazette.

IV. And be it enacted, That any Order which the said Chief Remembrancer shall make for any of the Purposes of this Act shall be lodged with the Clerk of Her Majesty's Privy Council in *Ireland*, who shall cause the same to be published in the *Dublin Gazette*; and it shall be lawful for the said Lord Lieutenant in Council to reverse or vary the same, provided a Petition of Appeal against such Order shall be presented to the said Lord Lieutenant in Council within Twenty-one Days after the same shall have been published as aforesaid in the said Gazette, and shall not in the meantime take effect.

Interpretation of certain Terms used in this Act.

V. And be it enacted, That the Words and Expressions herein mentioned, which in their ordinary Signification have a more confined or a different Meaning, shall in this Act, except where the Nature of the Provision or Context of the Act shall exclude such Construction, be interpreted as follows; (that is to say,) the Words "Lord Lieutenant of *Ireland*" shall extend to any Lords Justices or other Chief Governor or Governors of *Ireland*; and the Word "Land" shall extend to Manors, Messuages, and other Hereditaments, whether corporeal or incorporeal; and the Word "Person" shall extend to and comprise all and every Bodies Politic and Corporate, Sole and Aggregate; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male.

Sureties of G. O'Callaghan not released.

VI. Provided always, That nothing herein contained shall be construed to release or to authorize the said Chief Remembrancer to release the Sureties of the said *George O'Callaghan* from their Liability under the Recognizances entered into by them or either of them.

Public Act.

VII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

Act may be amended.

VIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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