



ANNO PRIMO & SECUNDO

# GEORGII IV. REGIS.

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## *Cap. xlii.*

An Act for extending the Term, and altering and enlarging the Powers of several Acts passed in the Reign of His late Majesty King *George* the Third, for constructing an Harbour in *Mount's Bay*, in the County of *Cornwall*.

[19th April 1821.]

**W**HEREAS an Act was passed in the Fifty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for constructing an Harbour at Porthleven, in Mount's Bay, in the County of Cornwall*; whereby certain Persons and their Successors were incorporated into a Company by the Name and Style of "*The Porthleven Harbour Company*," for the Purpose of constructing the said Harbour; and the said Company were thereby authorized to raise among themselves for the Purposes of the said Act any Sum or Sums of Money not exceeding in the Whole the Sum of Sixty thousand Pounds; and in case they should deem it expedient for the Purposes aforesaid, were also authorized to raise any further Sum or Sums of Money not exceeding Twenty thousand Pounds, in manner therein mentioned: And whereas another Act was passed in the Fifty-third Year of the Reign of His said late Majesty, intituled *An Act for explaining and amending an Act of His present Majesty, for constructing an Harbour at Porthleven, in Mount's Bay, in the County of Cornwall*, whereby certain other Persons

[Local.]

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sons were nominated and constituted Directors for ordering and superintending the Management of the Affairs of the said Company, and additional Powers were by the said last-mentioned Act given to the said Company for that Purpose: And whereas another Act was passed in the Fifty-sixth Year of the Reign of His said late Majesty, 56G.3. c. xxii. intituled *An Act for amending and enlarging the Powers of Two Acts of His present Majesty, for constructing an Harbour at Porthleven, in Mount's Bay, in the County of Cornwall*, whereby the said Company were enabled to borrow certain Sums of Money by granting Annuities and Promissory Notes; and the Time limited by the said recited Act of the Fifty-first Year of the Reign of His said late Majesty, for completing the said Harbour, together with the Powers and Provisions contained in the said Two recited Acts, were extended to the Space of Five Years from the passing the said Act: And whereas the said Act received the Royal Assent, and thereupon passed, on the Twenty-first of *May* One thousand eight hundred and sixteen: And whereas the said Company of Proprietors have, in pursuance of the Provisions of the said recited Acts, proceeded in the Execution of the said Harbour, and have made considerable Progress in the Works thereof, but have not yet completed the same: And whereas certain Members of the said Company, on or about the Twenty-fourth Day of *January* One thousand eight hundred and eighteen, borrowed of the Commissioners appointed by an Act made and passed in the Fifty-seventh Year of His said late Majesty King 57G.3. c. 34. *George* the Third, intituled *An Act to authorize the Issue of Exchequer Bills, and the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works and Fisheries in the United Kingdom, and Employment of the Poor in Great Britain, in manner therein mentioned*, (amended by an Act made and passed in the same Session of Parliament,) the Sum of Eight thousand Pounds in Exchequer Bills, on the Personal Security of the said Parties respectively, and which Sum of Eight thousand Pounds has been applied by the said Members of the said Company in and towards the Works of the said Harbour and Completion of the said Undertaking: And whereas it is expedient that some of the Powers and Provisions of the said recited Acts should be amended and enlarged, and additional Powers granted for the better and more effectually completing the Works of the said Harbour, and carrying the Purposes of the said recited Acts into Execution; and also for raising a further Sum for the Purposes aforesaid, as herein-after mentioned: 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 it shall be lawful to and for the said Company of Proprietors called *The Porthleven Harbour Company*, in case they shall deem it meet and expedient, to raise any Sum, not exceeding the Sum of Twenty-five thousand Pounds, in addition to the several Sums authorized to be raised by the said recited Acts or any of them, and notwithstanding at the Time of raising the said Sum of Twenty-five thousand Pounds, or any Part thereof, the Whole of the Sums authorized to be raised by the aforesaid Acts shall not have been raised; such Sum of Twenty-five thousand Pounds to be

Power to  
raise a fur-  
ther Sum.



raised by borrowing the same at any Rate of Interest not exceeding Five Pounds *per Centum per Annum*, upon the Credit of the Lands, Tenements and Hereditaments of the said Company, the Rents thereof, and the Rates, Duties, and Revenue of the said Harbour, by way of Mortgage, such Mortgages to be made in such and the like Manner and Form, or as near thereto as Circumstances will permit, as is directed and contained in the said recited Act passed in the Fifty-first Year of the Reign of His said late Majesty, in respect of the Monies thereby directed to be raised by Mortgage, or in such other Form as the said *Porthleven Harbour* Company may think fit.

II. And whereas all the Annuitants being the only *bonâ fide* Creditors of the said Company, under the Provisions contained in the before-mentioned recited Acts, having had Notice of this Act, and not objecting thereto; be it therefore further enacted, That all such Mortgages and Securities which may be given or granted to the said Commissioners, or to the Members of the said Company, or Party or Parties who have given Personal Security for securing the Repayment of the said Sum of Eight thousand Pounds so advanced by and borrowed from the said Commissioners for the Issue of Exchequer Bills as aforesaid, and all Mortgages and Securities to be given and granted for securing Repayment of any Sum or Sums of Money which shall be borrowed under or by virtue of this Act, shall both as to Principal and Interest have Priority over and precede all prior and other Securities, upon the said Lands and Harbour, and other the Premises directed to be charged, and also all Dividends and Division of Profit or Interest upon any Sums subscribed or contributed towards the said Undertaking; any thing contained in the said recited Acts, or any of them, to the contrary thereof in anywise notwithstanding: Provided, always, that all such Mortgages and Securities shall be registered with the Clerk of the said Company, and that the Holders of such Mortgages shall stand upon the same Footing, the one with the other, in respect of their Right to the Payment of the Interest and Principal, without any Priority among themselves, notwithstanding the Sums of Money for which such Mortgages shall have been issued, may have been advanced at different Times.

Mortgages and Securities to be registered.

III. And be it further enacted, That such Mortgages shall be construed equitably, in the same Manner as is directed by the said recited Act of the Fifty-first Year of the Reign of His said late Majesty, with respect to the Mortgages thereby authorized to be made; and that such Mortgages may from Time to Time be assigned and transferred in such and the like manner as Deeds of Mortgage are by the said recited Act of the Fifty-first Year of the Reign of His said late Majesty authorized to be assigned and transferred; and every Assignment and Transfer shall be registered with the Clerk of the said Company, in such or the like Manner as the Assignments or Transfers of such Mortgage Deeds are by the same Act directed to be registered; and the Clerk of the said Company shall be paid for registering every such Mortgage, and every such Assignment or Transfer, such Sum not exceeding Three Shillings; and that the Assignees of such Mortgages shall have such and the like Priority in all Respects as the original Mortgagee.

Mortgage may be assigned.

Assignment to be registered.

IV. And



Application  
of the Money.

IV. And be it further enacted, That it shall be lawful to and for the said Company, to apply and dispose of the said Sum of Twenty-five thousand Pounds, or such Part thereof as shall be raised (after defraying the Expences of this Act) in making and completing the said Harbour, and generally in carrying the said recited Acts and this Act into Execution and Effect.

In default of  
Payment of  
Loan, the  
Property  
assigned in  
Security may  
be sold and  
appropriated  
for that Pur-  
pose.

V. And be it further enacted, That if any Default shall be made in the Repayment, (but not otherwise), of all or any Part of any Monies to be borrowed in pursuance of the aforesaid Power in that Behalf for the Space of Six Calendar Months after Notice to pay the same shall have been given by the Mortgagees or Assignees, or other the Persons entitled to the said Monies so secured as aforesaid, whether beneficially or as Trustees to the said Company (such Notice to be in Writing, and to be left at the Office, and directed to the Clerk of the said Company), that then it shall be lawful for the said Mortgagees or Assignees so for the Time being beneficially or legally entitled to the said Money so secured as aforesaid, or to a Sum equal to Two-thirds of the Whole which may have been borrowed under the Powers of this Act, and then due, to take Possession of all or any Parts or Part of such Property so to be comprized in such Mortgage Securities, and by Sale or Mortgage of the same, or a competent Part thereof, to raise or levy such Sum or Sums of Money as shall be sufficient to repay all Monies due upon or in respect of such Mortgages and the Interest thereof; and all Costs and Charges attending such Proceedings, and the Monies so recovered (the Costs and Charges aforesaid excepted) shall be paid and applied in the Reimbursement and Satisfaction of the Sum due upon or in respect of such Mortgages; and all Surplus of the said Monies, after answering the Purposes aforesaid, shall be paid to the said *Porthleven Harbour* Company, to be held by them upon the like Trusts as were subsisting thereof at the Time of such Sale; and the Receipts of such Mortgagees or Assignees so taking Possession as aforesaid, shall alone be a full and sufficient Discharge to such Mortgagees or Purchasers, or Mortgagee or Purchaser, for the Monies or Money advanced on Mortgage, or for the Purchase Monies or Purchase Money of the said Property and Effects so mortgaged or sold; and such Mortgagees or Purchasers, or Mortgagee or Purchaser, shall not be bound to see to the Application thereof, nor shall be liable or in any Manner accountable for the Misapplication or Nonapplication of such Monies or Money by the Persons or Person receiving the same.

Lenders not  
bound to see  
to the Appli-  
cation of  
Monies bor-  
rowed.

VI. And be it further enacted, That it shall not be lawful or requisite, in relation to any Securities to be taken in pursuance of this Act, for the Lender or Lenders to inquire or raise any Questions as to the Necessity or Cause of borrowing the Money, or as to the Application thereof; but all such Securities granted under the Authority aforesaid, shall be deemed to be raised under the Power of and for the Purposes of the said recited Acts and this Act, and be valid and effectual to the Lender or Lenders of the Money.

Interest to  
be paid Half-  
yearly.

VII. And be it further enacted, That the Interest of the Money which shall be borrowed or raised as aforesaid, shall, when the Funds  
of



of the said Company can be made available for that Purpose, be paid Half-yearly to the several Persons entitled thereto.

VIII. Provided always, and be it further enacted, That it shall and may be lawful to and for the Directors of the said Company, in case they shall think it meet and expedient, and for the Benefit of the Creditors of the said Company, under the Common Seal of the said Company, and before any Sale under the Powers of this Act, to demise and lease all and every or any Part or Parts, Share or Shares of the said Harbour, Lands, Rents, and the Tolls, Rates, Duties, and Revenues thereof, authorized to be taken by the said first recited Act, and either before or after the said Harbour shall be completed, and for such Term or Number of Years, and at such Rents or Annual Sums, or for such a gross Sum of Money, and under all and every the Terms, Stipulations, and Conditions as the said Company of Proprietors shall think fit; and further, that the Rents, Issues, and Annual Produce to be reserved and made payable on any such Lease, and also any gross Sum or Sums of Money to be received on and for the granting any such Lease, shall, in all Respects be paid and applicable in such Manner as the aforesaid Rents, Tolls, and Duties, or the Monies arising from the Sale thereof under this Act, would, under the said recited Acts and this present Act, be applicable if such Lease were not made.

Power to lease.

IX. Provided always, and be it further enacted, That at any Special Meeting to be holden under or by virtue and in pursuance of the said Act of the Fifty-first Year of the Reign of His said late Majesty, all Orders, Resolutions, and Determinations to be made at such General Meeting which shall be made by the Proprietors of the said Company present at such Meeting, (and the Amount of whose Shares shall equal or exceed Three-fourths of the Amount in Value of the Shares of the Whole of the Proprietors present at such Meeting), shall in all Things whatsoever be binding and conclusive on all the Members of the said Company, in the same Manner as is directed by the said Act of the Fifty-first Year of the Reign of His said late Majesty, to be binding; any thing herein-before or in the said recited Acts or any of them, to the contrary thereof in anywise notwithstanding.

Three-fourths in Value of the Proprietors attending General and Special Meetings to bind the whole Company.

X. Provided always, and be it further enacted, That it shall not be lawful for the said Company of Proprietors to continue or appoint the Clerk of the Company, or the Partner of any such Clerk, the Treasurer for the Purposes of the said recited Acts and this Act, or any of them, or to continue or appoint the Person or Persons who has or have been or may be appointed Treasurer or Treasurers, or the Partner of any such Treasurer or Treasurers; the Clerk to the said Company of Proprietors, for executing the said Acts and this Act or any of them; and if any Person shall act in both the said Capacities of Clerk and Treasurer, for the Purposes of the said Acts and this Act, or any of them, or if any Person being the Partner of any such Clerk shall act as Treasurer, or being the Partner of such Treasurer shall act as Clerk, in the Execution of the said Acts and this Act, or any of them, every Person so offending shall for every

Clerk restrained from acting as Treasurer, and Treasurer as Clerk.



such Offence forfeit and pay the Sum of Fifty Pounds, to any Person or Persons who shall sue for the same, to be recovered in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than one Impar lance shall be allowed.

The Mode of Service of Notices, &c. on the Company.

XI. And be it further enacted, That in all Cases wherein it may be requisite or necessary for any Person or Persons, or Party or Parties, to serve upon the said Company of Proprietors any Notice or Notices, or any Writ or Writs or other legal Proceedings, the Service upon the Clerk or Clerks of the said Company, or left at the Office or usual Place of Abode of such Clerk or Clerks, shall be deemed good and sufficient Service of the same respectively on the said Company.

Repealing Clause for Officers to account on Oath.

XII. And be it further enacted, That so much of the said recited Act, of the Fifty-first Year of the Reign of His said late Majesty, as directs or requires that the Treasurer, Collector, Surveyor, and other Officers to be elected and appointed by the said Company of Proprietors, and other Persons, shall, upon their several Oaths, if thereunto required, verify the Accounts of all Monies which shall have been by them collected or raised, and how and to what Uses the same shall have been paid and applied, and the particular Articles thereof, and the several Receipts and Payments which shall be therein contained, and as subjects any such Officers or other Persons to any Penalty or Punishment, for refusing to verify the same upon Oath, shall be and the same is hereby repealed.

Exemptions from Rates and Duties for Vessels employed in His Majesty's Service to remain in force.

XIII. Provided always, and be it enacted, That so much and such Parts of the said first recited Act, as exempts from the Payment of the Rates and Duties thereby granted, all Vessels in the Service of His Majesty's Customs or Excise, or any Ship, Transport, or Packet of His Majesty, conveying any Stores or Troops to or from the said Harbour, or carrying the Mails of Letters and Expresses, under the Authority of His Majesty's Postmaster General, or any Ship or Vessel employed in or upon His Majesty's Service, in the Conveyance of any Officers or Soldiers, or any Horses, Arms, Ammunition or Baggage belonging to them or any of them, shall continue and remain in full force and effect to all Intents and Purposes, as if this Act had not been passed.

Regulations as to Gunpowder, &c. brought into the Harbour, not to extend to Gunpowder or other Stores belonging to His Majesty.

XIV. Provided also, and be it enacted, That the Regulations contained in the said first recited Act, as to the Time which Gunpowder, Pitch, Tar, or other inflammable or combustible Matter therein particularly described, shall be suffered to be or remain on any Quay, Pier, Wharf, or Barrier belonging to the said Harbour, or upon the Deck of any Ship or Vessel within the said Harbour, shall not extend or be construed to extend to any Gunpowder or other Stores belonging to His Majesty, or any of His Majesty's Forces.

Extending for Five Years from 21st May 1821,

XV. Provided always, and be it further enacted, That the Time limited and extended by the said recited Act of the Fifty-sixth Year of the Reign of His said late Majesty, for rendering the said Harbour capable

capable of receiving Ships or Vessels of the Burthen of Two hundred Tons, and for proving the same to the Satisfaction of the Magistrates, as is mentioned in the said recited Act of the Fifty-first Year of the Reign of His said late Majesty, shall be extended to the Space of Five Years from the Twenty-first Day of *May* One thousand eight hundred and twenty-one, and that the said recited Acts, and all and every the Tolls, Rates, Duties, Powers, Authorities, Provisions, Regulations, Privileges, Penalties, Forfeitures, Matters, and Things whatsoever therein contained, so far as the same are not hereby, or by the said Two last recited Acts, altered or repealed, shall extend and be construed to extend, to operate and be in as full Force and Effect, with respect to this Act, to all Intents and Purposes, as if the same, and every of them, and every Part thereof, were repeated and re-enacted in this Act, and were made Part thereof; and the said Three recited Acts and this Act shall, as to all Matters and Things whatsoever, (except as aforesaid), be construed as one Act.

the Limita-  
tion of first  
recited Act.

XVI. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such, by all Judges, Justices, and others, without being specially pleaded.

Public Act.

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