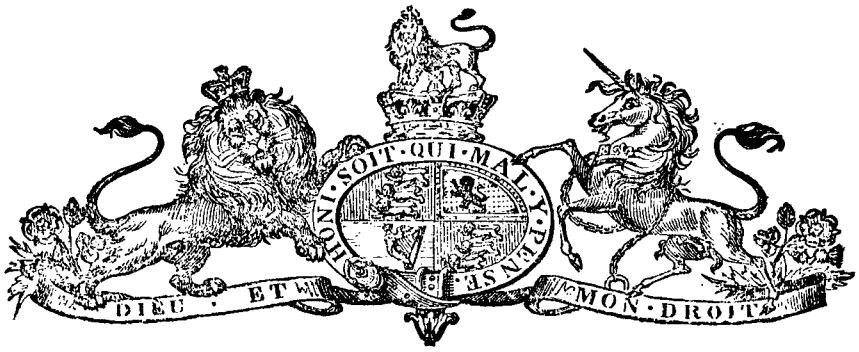


ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. CIX.

An Act to declare and define the respective Rights of Her Majesty and of His Royal Highness the Prince of *Wales* and Duke of *Cornwall* to the Mines and Minerals in or under Land lying below High-water Mark, within and adjacent to the County of *Cornwall*, and for other Purposes.

[2d *August* 1858.]

Articles of Agreement, dated July 1, 1858.

WHEREAS by Articles of Agreement made and entered into the First Day of *July* One thousand eight hundred and fifty-eight, between the Honourable *Charles Alexander Gore*, a Commissioner of Her Majesty's Woods, Forests, and Land Revenues, on behalf of the Queen's most Excellent Majesty, of the one Part, and His Royal Highness *Albert Edward* Prince of *Wales* and Duke of *Cornwall* of the other Part, under the Privy Seal of His said Royal Highness in right of the Duchy of *Cornwall*, and the Hand and Seal of the said *Charles Alexander Gore*, reciting that Questions having arisen as to whether the Mines and Minerals lying under the Seashore between High and Low Water Marks within the County of *Cornwall*, and under the Estuaries and tidal Rivers within the same County, and under the open Sea below Low-water Mark, adjacent to but not in or Part of the same County, were

respectively

respectively the Property of Her said Majesty the Queen in right of Her Crown or of His said Royal Highness *Albert Edward* Prince of *Wales* in right of His Duchy of *Cornwall*, Her Majesty's Government and the Council of the Duchy of *Cornwall* did refer such Questions to the Right Honourable Sir *John Patteson*, Knight, (late One of the Justices of Her Majesty's Court of Queen's Bench, and a Member of Her Majesty's most Honourable Privy Council,) for his Consideration and Decision, by a Letter of Reference dated the Eighteenth Day of *February* One thousand eight hundred and fifty-six, signed by Lord *Cranworth*, Lord High Chancellor of *Great Britain*, and the Right Honourable *Thomas Pemberton Leigh*, Chancellor of the Duchy of *Cornwall*, and set forth in the said Articles of Agreement; and reciting that the said Sir *John Patteson*, having accepted and entered upon the said Reference, had considered and decided the said Questions as between Her Majesty on the one hand, and His Royal Highness the Prince of *Wales* and Duke of *Cornwall* on the other hand, as follows; (that is to say,) first, that the Right to all Mines and Minerals lying under the Seashore between High and Low Water Marks within the said County of *Cornwall*, and under Estuaries and tidal Rivers and other Places even below Low-water Mark, being in and Part of the said County, is vested in His Royal Highness as Part of the Soil and territorial Possessions of the Duchy of *Cornwall*; secondly, that the Right to all Mines and Minerals lying below Low-water Mark under the open Sea, adjacent to but not being Part of the County of *Cornwall*, is vested in Her Majesty the Queen in right of Her Crown (although such Minerals may or might be won by Workings commenced above Low-water Mark and extended below it); and reciting that it was intended that a Bill should be submitted to Parliament for the Purpose of obtaining the Sanction and Ratification by the Legislature of the said Reference and Award; and reciting that upon the Suggestion and Recommendation of the said Sir *John Patteson* it had been agreed that Provision should be made by the said Bill for the Purpose of giving to Her Majesty the Queen, and all and every Persons and Person who might for the Time being be entitled under or in right of the Crown to or to the Management of any of the said Mines and Minerals under the open Sea, and Her and their Lessees and Tenants, such Facilities to work, win, and get the same as therein-after mentioned upon the Terms and Conditions therein-after also mentioned, it was by the Agreement now in recital witnessed, agreed, and declared, by and between the said Parties thereto, that a Bill should be forthwith submitted to Parliament for the Ratification and Confirmation of the said Reference to Sir *John Patteson* and his Award thereon; and it was thereby further agreed and declared, that in the said proposed Bill there should be contained the several Provisions specified in the said Articles of Agreement, and which are intended to

be

be included among the Enactments herein-after contained: And whereas the said Reference did not apply or extend to the Mines and Minerals in or under Estates belonging to Her said Majesty in right of Her Crown in the County of *Cornwall* situate above High-water Mark, or to Mines and Minerals in or under Land below High-water Mark, which is Part and Parcel of any Manor belonging to Her Majesty in right of Her Crown: And whereas the said Reference was not intended to apply to or affect any Claim or Title of any Person claiming any Mines or Minerals adversely, both to Her said Majesty in right of Her Crown, and to His said Royal Highness in right of His Duchy of *Cornwall;* Be it therefore enacted and declared 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, as follows:

All Minerals under the Seashore and other Places below High-water Mark in Cornwall are vested in His Royal Highness the Prince of Wales and Duke of Cornwall.

I. All Mines and Minerals lying under the Seashore between High and Low Water Marks within the said County of *Cornwall*, and under Estuaries and tidal Rivers and other Places (below High-water Mark), even below Low-water Mark, being in and Part of the said County, are, as between the Queen's Majesty in right of Her Crown on the one hand, and His Royal Highness *Albert Edward* Prince of *Wales* and Duke of *Cornwall* in right of His Duchy of *Cornwall* on the other hand, vested in His said Royal Highness *Albert Edward* Prince of *Wales* and Duke of *Cornwall* in right of the Duchy of *Cornwall* as Part of the Soil and territorial Possessions of the said Duchy; but this Declaration is not to extend to the Mines and Minerals in or under Land below High-water Mark which is Part and Parcel of any Manor belonging to Her Majesty in right of Her Crown.

All Minerals below Low-water Mark adjacent to the County of Cornwall are vested in the Queen in right of Her Crown.

II. All Mines and Minerals lying below Low-water Mark under the open Sea, adjacent to but not being Part of the County of *Cornwall*, are, as between the Queen's Majesty in right of Her Crown on the one hand, and His Royal Highness *Albert Edward* Prince of *Wales* and Duke of *Cornwall* in right of His Duchy of *Cornwall* on the other hand, vested in Her Majesty the Queen in right of Her Crown as Part of the Soil and territorial Possessions of the Crown.

Her Majesty and Her Lessees to have Liberty to work such Minerals through the Lands of the Duchy.

III. It shall be lawful at all Times hereafter for Her Majesty, Her Heirs and Successors, and all and every Persons and Person who may for the Time being be entitled in right of the Crown to or to the Management of any of the said Mines and Minerals lying below Low-water Mark under the open Sea, adjacent to but not being Part of the County of *Cornwall* aforesaid, and for Her and their Lessees or Tenants, when and so often and so long as may be necessary for the

the Purposes herein-after expressed, to take or use or to pass through, over, or under any Lands for the Time being Parcel of the Soil and territorial Possessions of the said Duchy within the said County, and which Lands shall be either in the Occupation of Tenants under Leases or Agreements made subsequently to the Date of this Act, or in the Occupation of the Duke of *Cornwall* for the Time being, in order to make or sink any Pits, Shafts, Adits, Drifts, Levels, Drains, Watercourses, Pools, or Embankments, and to make, lay, place, use, and repair any Spoil Banks, Roads, Ways, Bridges, and Banks, and to make, erect, and repair any Lodges, Sheds, Steam and other Engines, Buildings, Works, and Machinery in, under, upon, through, over, or along the said Lands, or any Part thereof, which may from Time to Time or at any Time hereafter be required, and to do all such other Acts as may be necessary or convenient for working, searching for, digging, raising, or carrying away, dressing, or making merchantable the same Mines and Minerals, giving to the Duke of *Cornwall* for the Time being, and to any other Person or Persons who for the Time being may be interested in the Land so required, Two Months previous Notice thereof, stating the Nature of the Facilities required, and also making Compensation and Satisfaction to the Duke of *Cornwall* for the Time being, and to other the Person or Persons, if any, for the Time being interested in the said Lands so taken or used or passed through, over, under, or along in the Manner herein mentioned: Provided always, that no Pit, Shaft, Adit, Drift, Level, Drain, Watercourse, Pool, or Embankment which shall or may weaken, damage, injure, or endanger any House or other Building, shall be sunk, driven, or made, nor shall any Tramroad, Waggon, or other Way, or any Works or Machinery, be placed, laid, made, or erected, nor shall any Minerals be dressed or made merchantable within Fifty Feet of any Dwelling House, or upon any Garden or Orchard, or so as to interfere with any Mining Works or Operations for the Time being of the Duke of *Cornwall* for the Time being, His Lessees or Tenants.

Compensation to be made.

IV. Provided also, That Her Majesty, Her Heirs or Successors, or other the Person or Persons making use of the said Facilities, or any of them, shall make to the Duke of *Cornwall* for the Time being, and other the Person or Persons, if any, for the Time being interested as aforesaid, Compensation and Satisfaction for such Facilities, and for any Damage or Injury occasioned thereby or consequent thereon, to be ascertained as herein-after provided; and further, that Her Majesty, Her Heirs or Successors, or other the Person or Persons making use of the said Facilities, or any of them, do and shall make, erect, and keep good and sufficient Gates, Rails, Bars, or Posts in all Places where the same shall be necessary or proper, to shut up or enclose

enclose any Breach, Gateway, or Opening which shall be made from Time to Time in any of the Fences of the said Lands, and shall also make all Conveniences necessary and proper for the Convenience and Safety of the Owners or Occupiers for the Time being of the said Lands and other Lands adjoining thereto, and of the Public, in order to prevent any Damage or Inconvenience and Trespasses upon the same Lands, or any of them, by Cattle or other Animals.

Mode of ascertaining Compensation.

V. In all Cases where the said Facilities or any of them shall be used upon, through, over, under, or along Lands lying between High-water Mark and Low-water Mark Part of the Soil and territorial Possessions of the Duchy of *Cornwall*, the Compensation and Satisfaction to be made shall be a Sum equal to One Fifteenth Part of the nett Dues or Moneys to be from Time to Time received by Her Majesty, Her Heirs or Successors, from the Mines and Minerals lying below Low-water Mark as aforesaid, which shall be worked and gotten by means of the said Facilities, or any of them, in addition to Compensation and Satisfaction for or in respect of any Building, Wharf, or other artificial Structure on the said Lands which may be injuriously affected by the said Facilities being used upon, through, over, under, or along the same, such Compensation and Satisfaction to be settled in the same Manner as the Compensation and Satisfaction hereinafter provided for; and that when the said Facilities or any of them shall be used on, through, over, under, or along any Land other than Lands lying between High-water Mark and Low-water Mark as aforesaid, if the Amount of Compensation and Satisfaction to be made for the same shall not be determined by Agreement, then and in every such Case the Matter in difference shall be settled by Arbitration by Two Arbitrators, One Arbitrator to be named by the Officer for the Time being having the Management of the Land Revenues of the Crown in *Cornwall*, and another Arbitrator to be named by the Duke of *Cornwall* for the Time being, or by the Council of the Duchy for the Time being, or by other the Person or Persons, if any, for the Time being interested in the said Lands so to be used as aforesaid, and the Matter in difference shall be determined by the said Arbitrators, or by an Umpire to be appointed by them before they shall enter upon the Reference; and if such Arbitrators or either of them, or such Umpire, shall die or refuse or for Seven Days neglect to act, other Persons or another Person shall forthwith be named or appointed to supply the Places or Place of the Persons or Person so dying or refusing or neglecting to act, in the same Manner as such last-mentioned Persons or Person were or was named or appointed; and further, the said Arbitrators or Umpire shall determine by whom and how the Costs of the Reference and Award or Umpirage shall in each Case be paid, and they or he may

call for any Documents in the Possession or Power of either of the Parties which may be deemed necessary for determining the Matter in difference, and may summon and examine upon Oath any Witness, and administer the Oath for that Purpose.

Her Majesty not to be liable for any Damage done by Her Lessees.

VI. Provided always, That Her Majesty, Her Heirs or Successors, shall not be liable to the Payment of Compensation for any Damage done by any Lessee or other Person in or about any searching or working for Mines or Minerals under the Authority of this Act, but that such Compensation shall be payable and paid by the Lessee or other Person committing such Damage, his Heirs, Executors, or Administrators.

Lines of High and Low Water Mark to be settled by Arbitration in case of Difference.

VII. In case any Difference shall at any Time arise as between the Queen's Majesty in right of Her Crown, or any of Her Tenants under Leases or Agreements made subsequently to the passing of this Act on the one hand, and the Duke of *Cornwall* or any of his Tenants, under Leases or Agreements made subsequently to the passing of this Act, on the other hand, as to the true Line of High-water Mark or of Low-water Mark, every such Difference shall be settled by Arbitration or Umpirage, in the same Manner and subject to the same Conditions in all respects as is by this Act provided for the Ascertainment in certain Cases of the Compensation and Satisfaction to be made for the Exercise of the Facilities by this Act conferred with reference to the working of Mines and Minerals below Low-water Mark adjacent to the County of *Cornwall*.

Interpretation of Terms.

VIII. In this Act the following Expressions and Words shall have the several Meanings hereby assigned to them, unless there is something in the Context repugnant to such Construction; the Expressions "Duke of *Cornwall*" and "Duke of *Cornwall* for the Time being" shall comprehend the Personage for the Time being entitled to the Revenues of the Duchy of *Cornwall*, and shall include Her Majesty, Her Heirs and Successors, when there may be no Duke of *Cornwall*; the Expression "Mines and Minerals" shall comprehend all Mines and Minerals, and all Quarries, Veins, or Beds of Stone, and all Substrata of any other Nature whatsoever, and the Ground and Soil in, upon, and under which such Mines and Minerals, Quarries, Veins, or Beds of Stone, and other Substrata lie; and the Words "the County of *Cornwall*" shall mean the said County exclusive of any Lands added thereto or taken therefrom by an Act passed in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter Sixty-one.

IX. Saving

General Saving of Rights.

IX. Saving always to all and every Persons or Person, Bodies Politic or Corporate, and their respective Heirs, Successors, Executors, Administrators, and Assigns, (other than and except Her said Majesty, Her Heirs and Successors, in right of the Crown, and His said Royal Highness *Albert Edward* Prince of *Wales* and Duke of *Cornwall*, and His Successors, in right of the Duchy of *Cornwall* aforesaid, and all and every the Person or Persons, Bodies Politic or Corporate, claiming or to claim under or by virtue of any Grant, Lease, Agreement, or Assurance made or entered into by Her said Majesty, Her Heirs or Successors, in right of the Crown, or His said Royal Highness, or His Successors, in right of the Duchy of *Cornwall* aforesaid, or the Council of the Duchy of *Cornwall*, at any Time or Times subsequent to the passing of this Act,) all such Estates, Rights, Titles, Claims, and Demands whatsoever as they or any of them had previous to the passing of this Act, or might or could have had in case this Act had not been passed.

Short Title.

X. In citing this Act in any Act of Parliament, Deed, or other legal Instrument, it shall be sufficient to refer to it as "The *Cornwall* Submarine Mines Act, 1858."

LONDON:
Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1858.