

ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

Cap. v.

An Act to authorize the Purchase of a certain Ferry called "Woodside Ferry" by the Commissioners for the Improvement of the Township or Chapelry of Birkenhead in the County Palatine of Chester; and for amending the Improvement Acts for the said Township. [22d April 1842.]

HEREAS an Act was passed in the Third and Fourth Years of the Reign of His Majesty King William the Fourth, intituled An Act for paving, lighting, watching, 3 & 4 W. 4. cleansing, and otherwise improving the Township or Chapelry of Birce 68. kenhead in the County Palatine of Chester, and for regulating the Police thereof, and for establishing a Market within the said Township; and another Act was passed in the First and Second Years of the Reign of Her present Majesty, intituled An Act to amend an Act passed 1 & 2 Vict. in the Third Year of the Reign of His late Majesty King William the c. 33: Fourth, intituled An Act for paving, lighting, watching, cleansing, and otherwise improving the Township or Chapelry of Birkenhead in [Local.]

* the County Palatine of Chester, and for regulating the Police thereof, and for establishing a Market within the said Township; which Acts require in some respects to be amended: And whereas there is a Ferry called Woodside Ferry from Birkenhead aforesaid to the Town of Liverpool, belonging to certain Individuals, who claim to demand and take Rates and Tolls for the Use of the same; and it would be of great local and public Advantage if the Commissioners acting under the said recited Acts were enabled to purchase the said Ferry, and if the Tolls for the Use thereof were regulated and limited, and also if the said Commissioners were empowered to purchase certain Land for the Improvement of the said Township; but such Objects cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it 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 all the Provisions, Matters, and Things contained in the said recited Acts, so far as the same are now unrepealed and in force, and except such of them or such Parts thereof as are by this Act repealed, altered, or otherwise provided for, shall extend to this Act, and to the several Purposes and Things hereby authorized to be done, as fully and effectually as if the same Provisions, Matters, and Things were repeated and re-enacted in this Act in reference to such Purposes and Things.

Extending Powers of former Acts to this Act.

Power to purchase the Ferry, &c.

II. And be it enacted, That it shall be lawful for the said Commissioners to purchase and take for a Consideration in Money the Ferry, Lands, and Property mentioned in the Schedule (A.) to this Act, or such Parts thereof as they shall think proper, and all subsisting Leases therein, and all Rent-charges, Annuities, Mortgages, or Incumbrances affecting the same, and all other Estates or Interests in such Ferry, Lands, and Property, of what Kind soever; and it shall be lawful for all Persons interested in the said Ferry, Lands, and Property, including such as would be capacitated to sell Lands under the Provisions of the said first-recited Act, to contract for the Sale of and to sell and convey their respective Interests in the said Ferry, Lands, and Property to the said Commissioners.

Acceptance of Compensation.

III. And be it enacted, That the Owners of any such Ferry, Lands, and Property, or of any Estate or Interest therein, and all Parties by this Act enabled to convey any such Ferry, Lands, and Property, may agree to accept, and, subject to the Restrictions in this Act contained as to the Payment thereof, may accept Satisfaction for the Value of such Ferry, Lands, and Property, or any Interest therein to which such Party shall be entitled.

Amount of Compensation to be ascertained by. Valuation in case of Parties under Disability.

IV. And with respect to the Consideration Money to be paid for any Estate or Interest to be purchased from any Party under any Disability or Incapacity, and not having Power to sell or convey, except under the Provisions in this Act or the said recited Acts contained, be it enacted, That such Consideration Money shall not, except where the same shall have been determined by the Verdict of a Jury, under the Provisions herein-after contained, be less than shall

be

be determined by the Valuation of Two able practical Surveyors, one of whom shall be nominated by the Commissioners, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Third Surveyor as any Two Justices shall for that Purpose nominate; and each of such Two Surveyors, if they agree, or, if not, then the Surveyor nominated by the said Justices, shall annex to the Valuation a Declaration of the Correctness thereof.

V. And with respect to the Consideration Money to be paid for Compensaany Estate or Interest to be purchased from any Party who by reason tion to abof Absence or from any other Incapacity or Accident is prevented sent Parties from treating, or cannot be found, be it enacted, That such Consitained by deration shall not be less than shall be determined by the Valuation Valuation. of such able practical Surveyor as Two Justices shall nominate for that Purpose, and such Surveyor shall annex to the Valuation a Declaration of the Correctness thereof.

VI. And be it enacted, That all Conveyances of the Ferry, Lands, Form of Conand Property, or any Interest therein so to be purchased as afore- veyance, said, may be according to the Form in the Schedule (B.) to this Act annexed, or as near thereto as the Circumstances of the Case will admit; and all such Conveyances shall be effectual to vest the Ferry, Lands, and Property, or the Interest therein thereby conveyed, in the Commissioners, and shall operate to merge all Terms of Years attendant by express Declaration or by Construction of Law on the Estate or Interest so thereby conveyed, and to bar and destroy all Estates Tail, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever, of and in the Ferry, Lands, and Property comprised in such Conveyances as shall have been purchased or compensated for by the Consideration therein mentioned; but although Terms of Years be thereby merged they shall in Equity afford the same Protection as if they had been kept on foot and assigned to a Trustee for the Commissioners to attend the Reversion and Inheritance.

VII. And with respect to the Costs of the Conveyance of the said Costs of Con-Ferry, Lands, and Property, or of any Estate or Interest therein veyances. purchased or taken by the Commissioners, be it enacted, That all such Costs shall be borne by the Commissioners; and such Costs shall include all Charges and Expences incurred on the Part as well of the Seller as of the Purchaser of all Conveyances and Assurances of the said Ferry, Lands, and Property, or any Interests therein, and of deducing, evidencing, and verifying the Title thereto, and of making out and furnishing such Abstracts and attested Copies as the Commissioners may require, and all other Expences incident to the Investigation, Deduction, and Verification of such Title; and before the Commissioners enter into the Possession of the Ferry, Lands, or Property so purchased or taken they shall pay the Amount of such Costs, and if there be any Dispute about the same they shall obtain an Order for the Taxation thereof, as herein-after provided; nevertheless, if within Seven Days after such Notice in Writing from the Commissioners the Parties from whom such Ferry, Lands, or Property shall have been purchased do not deliver a Bill of their Costs to the Commissioners,

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Commissioners, then the Commissioners shall not be prevented from entering into the Possession thereof by reason of the Nonpayment of such Costs, or by reason of such Order for Taxation thereof not having been obtained.

Taxation of Costs.

VIII. And be it enacted, That if the Commissioners and the Party entitled to any such Costs shall not agree as to the Amount thereof, such Costs shall be ascertained by the Court of Chancery, and for that Purpose either Party may apply to the Court by Petition, and thereupon the Court shall order such Costs to be referred to One of the Masters, to be taxed in the usual Manner; and upon Proof of such Service the Master shall proceed to tax such Costs accordingly, Notice of such Taxation being given to the other Party; and after the Taxation thereof it shall be lawful for the Court to order the Amount at which the same shall be so taxed, together with the Cost of Taxation, or so much of the same as shall be payable by the Commissioners, to be paid to the Party entitled thereto, and the same shall be paid accordingly; and the Expence of taxing such Costs, and of obtaining the Order referring the same to be taxed, shall be borne by the Commissioners, unless on the Taxation One Sixth Part of the Costs be disallowed, in which Case the Expence shall be borne by the Party from whom the Ferry, Lands, and Property, or any Interest therein, shall have been purchased or taken.

Where Par ties refuse to convey, or do not make out a Title, the Purchase deposited.

IX. And for the Purpose of providing for the Payment and Application, in certain Cases, of the Purchase Money to be paid in respect of any such Ferry, Lands, or Property, or of any Interest therein, not belonging to Parties under Disability; be it enacted, That in the following Cases, (that is to say,) if the Owner of any such Ferry, Money to be Lands, or Property, or of any Interest therein, on Tender of the Purchase Money either agreed or awarded to be paid, refuse to accept the same, or if any such Person fail to make out a Title to the Ferry, Lands, or Property in respect whereof such Purchase Money shall be payable, or to the Interest therein claimed by him, to the Satisfaction of the Commissioners, or if such Owner be gone out of the Kingdom, or cannot be found, or be not known, or refuse to convey or release such Ferry, Lands, or Property, as directed by the Commissioners, it shall be lawful for the Commissioners to deposit the Purchase Money payable in respect of such Ferry, Lands, or Property, or any Interest therein, in the Bank of England, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there to the Credit of the Parties interested in such Ferry, Lands, or Property, (describing them, so far as the Commissioners can do,) subject to the Control and Disposition of the said Court; and upon Receipt of such Money the Cashier of such Bank shall give to the Commissioners, or to the Party paying in such Money, a Receipt for such Money, specifying therein for what and for whose Use (described as aforesaid) the same shall have been received, and in respect of what Purchase the same shall have been paid in, and thereupon all the Interest in such Ferry, Lands, or Property, in respect whereof such Purchase Money shall have been deposited, shall vest absolutely in the Commissioners.

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X. And be it enacted, That upon the Application, by Petition, of Application any Party making claim to the Money so deposited as last aforesaid, or any Part thereof, or to the Ferry, Lands, or Property purchased or taken by the Commissioners, or any Part thereof, or any Interest in the same, the said Court of Chancery may, in a summary Way, as to such Court shall seem fit, order such Money to be laid out or invested in the Public Funds, or may order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estates, Titles, or Interests of the Parties making claim to such Money or Lands, or any Part thereof, and may make such other Order in the Premises as to such Court shall seem fit.

deposited.

XI. And with respect to Costs in Cases of Monies deposited in Costs in Cases the Bank of England, be it enacted, That the Court of Chancery of Money demay in all such Cases, except where Monies shall have been so deposited by reason of the wilful Refusal of any Party entitled thereto to receive the same, or to convey or release the Ferry, Lands, or Property, or the Interest therein, in respect whereof the same shall be payable, order the Costs of the following Matters, including therein all reasonable Charges and Expences incident thereto, to be paid by the Commissioners; (that is to say,) the Costs of the Purchase of the said Ferry, Lands, or Property, or of any Interest therein, or which shall have been incurred in consequence thereof, other than such Costs as are herein otherwise provided for, and the Costs of the Investment of such Monies in Government Securities purchased therewith, and also the Costs of obtaining the proper Orders for such Purpose, and of the Orders for the Payment of the Dividends and Interest of the Government Securities upon which such Monies shall be invested, and for the Payment out of Court of the Principal of such Monies, or of the Government Securities whereon the same shall be invested, and of all other Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants.

XII. And be it enacted, That the Commissioners shall not, except Payment of by Consent of the Owner and Occupier, enter upon any Lands or Price to be Property which shall be required to be purchased or permanently made previous to used for the Purposes of this Act, until they shall either have paid Entry. to every Party having any Interest therein, or deposited in the Bank of England, in the Manner herein mentioned, the Purchase Money agreed or awarded to be paid to such Parties respectively for their respective Interests therein.

XIII. And be it enacted, That when the Commissioners shall Notice of require to purchase the said Ferry, or any of the Lands and Property Intention to which by this Act they are authorized to purchase or take, they shall Ferry, &c. give Notice thereof to all the Parties interested in such Ferry, Lands, or Property, or enabled by this Act to sell and convey or release the same, or such of them as shall be known to the Commissioners, and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in the said Ferry, Lands, and Property, and of the Claims made by them in respect thereof; and every such Notice shall be in Writing, and shall state the Particulars of the Property so required, and shall state that the Commis-[Local.]

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sioners are willing to treat for the Purchase of the Interest of such Party in such Property, and as to the Compensation to be made for the Damage that may be sustained by him by reason of exercising the Powers of this Act.

Parties interested to state their Claims, XIV. And be it enacted, That if for One Month after the Receipt of such Notice any such Party shall fail to state the Particulars of his Claim in respect of the said Ferry, Lands, or Property, or to treat with the Commissioners in respect of his Interest therein, or if such Party and the Commissioners shall differ as to the Amount of the Compensation to be paid to such Party for any such Interest, or for any Damage that may be sustained by him by reason of the Execution of this Act, the Amount of such Compensation shall be settled in the Manner herein-after provided for settling Cases of disputed Compensation.

Proceedings in case of Refusal to deliver Possession of Lands.

XV. And be it enacted, That where, according to the Provisions of this Act, the Commissioners are authorized to enter upon and take possession of any Lands or Property required for the Purposes thereof, if the Owner or Occupier of any such Lands or Property, or any other Person, refuse to give up the Possession thereof, or hinder the Commissioners from entering upon or taking possession of the same, it shall be lawful for the Commissioners to issue their Precept, under the Hands of Three or more of the said Commissioners, or of their Clerk, to the Sheriff, to deliver Possession of the same to the Person appointed in such Precept to receive the same, and upon the Receipt of such Precept the Sheriff shall deliver Possession of any such Lands and Property accordingly; and the Costs accruing by reason of the issuing and Execution of such Precept, to be settled by the Sheriff, shall be paid by the Persons refusing to give Possession; and such Costs, if not paid on Demand, shall be levied by Distress, and the Sheriff shall issue his Warrant accordingly.

Dispute as to Compensation to be settled by a Jury.

XVI. And for the Purpose of making Provision for settling Cases of disputed Compensation arising under this Act, be it enacted, That if any Difference shall arise or if no Agreement can be come to between the Commissioners and the Owners of the Ferry, Lands, or Property, or of any Interest therein taken or required for the Purposes of this Act, (including among such Owners all Parties by this or the said first-recited Act enabled to sell or convey Lands,) as to the Value of such Ferry, Lands, or Property, or of any Interest therein, or as to the Compensation to be made in respect thereof, or if by reason of Absence any such Owner be prevented from treating, or if any such Owner fail to disclose or prove his Title to such Ferry, Lands, or Property, or any Interest therein, or if by reason of any Impediment or Disability any such Owner be incapable of making any Agreement, Conveyance, or Release necessary for enabling the Commissioners to take such Ferry, Lands, or Property, or if any such Difference arise as to the Amount of Damages for which any Party may be entitled to demand Compensation, according to the Provisions of this Act, the Amount of the Compensation to be paid by the Commissioners in every such Case shall be settled by the Verdict of a Jury in manner herein-after mentioned.

XVII. Pro-

XVII. Provided always, and be it enacted, That if the Compensa- Claims not tion claimed in any of the Cases mentioned in the preceding Enact- exceeding ment shall not exceed Fifty Pounds the same shall be settled by tled by Two Two Justices.

50l. to be set-Justices.

XVIII. And be it enacted, That where it shall be necessary to Notice by refer any such Question to the Determination of a Jury, by reason of Company of any such Difference as aforesaid, then, One Month at the least before have a Jury issuing their Warrant for summoning a Jury as herein-after provided, summoned. the Commissioners shall give Notice in Writing to the Party with whom such Difference shall have arisen, of their Intention to cause such Jury to be summoned, and in such Notice the Commissioners shall state what Sum of Money they are willing to give such Party for his Interest in such Ferry, Lands, and Property, and for the Damage to be sustained by him in the Execution of this Act.

XIX. And be it enacted, That if any Party who shall be entitled Requisition to any Compensation in respect of the said Ferry, Lands, or Property, by Party or of any Interest therein, taken for the Purposes of this Act, shall Compensadesire the Amount of such Compensation to be determined by a Jury, tion that a it shall be lawful for such Party to give Notice in Writing to the Jury may be Commissioners of such his Desire, and he shall in such Notice state summoned. the Nature of the Interest claimed by him in such Ferry, Lands, or Property, and the Amount of the Compensation claimed by him in respect thereof; and unless the Commissioners be willing to pay the Amount of Compensation so claimed, and shall enter into a written Agreement for that Purpose, then, within Twenty-one Days after the Receipt of any such Notice from any Party so entitled, they shall issue their Warrant to the Sheriff to summon a Jury accordingly, in the Manner herein mentioned.

XX. And be it enacted, That in every Case in which any such Warrant for Question of disputed Compensation shall be required to be deter-summoning mined by the Verdict of a Jury the Commissioners shall issue their addressed to Warrant to the Sheriff, under the Hands of Three or more of the said the Sheriff. Commissioners, or of their Clerk, requiring him to summon a Jury for that Purpose; and if such Sheriff be interested in the Matter in dispute, such Application shall be made to some Coroner of the County of Chester; and if all the Coroners of the said County be so interested, such Application may be made to some Person having filled the Office of Sheriff or Coroner in the said County, and who shall be then living there, and who shall not be interested in the Matter in dispute; and with respect to the Persons last mentioned Preference shall be given to one who shall have most recently served either of the said Offices.

XXI. And be it enacted, That throughout the Enactments con- Provisions tained in this Act relating to the Reference to a Jury, where the applicable to Term "Sheriff" is used, the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his Coroner. Place; and in every Case in which any such Warrant shall have been directed to any other Person than the Sheriff, such Sheriff shall, immediately on receiving Notice of the Delivery of the Warrant, deliver

a Sheriff to

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deliver over, on Application for that Purpose, to the Person to whom the same shall have been directed, or to any Person appointed by him to receive the same, the Jurors Book and Special Jurors List for the Time being belonging to the County of Chester.

Summoning of Jurymen.

XXII. And be it enacted, That upon the Receipt of such Warrant the Sheriff shall summon a Jury of Twenty-four indifferent Persons duly qualified to act as common Jurymen in the Superior Courts, to meet at the Time and Place named in the Warrant for that Purpose.

Impannelling of Jury.

XXIII. And be it enacted, That out of the Jurors appearing upon such Summons a Jury of Twelve Persons shall be drawn by the Sheriff in such Manner as Juries for Trials of Issues joined in the Superior Courts are by Law required to be drawn; and if a sufficient Number of Juryman do not appear in obedience to such Summons; the Sheriff shall return other indifferent Men, duly qualified as aforesaid, of the By-standers, or others that can speedily be procured, to make up the Jury to the Number aforesaid; and all Parties concerned may have their lawful Challenges against any of the Jurymen, but no such Party shall challenge the Array.

Notice of Inquiry.

XXIV. And be it enacted, That Fourteen Days Notice of the Time and Place of the Inquiry shall be given in Writing by the Commissioners to the other Party.

Sheriff to preside on Inquiry.

be summoned.

XXV. And be it enacted, That the Sheriff shall preside on the said Inquiry, and the Party claiming Compensation shall be deemed the Plaintiff, and shall have all such Rights and Privileges as the Plaintiff Witnesses to is entitled to in the Trial of Actions at Law; and if either Party so request, in Writing, the Sheriff shall summon before him any Person considered necessary to be examined as a Witness touching the Matters in question; and, on the like Request, the Sheriff shall order the Jury, or any Six or more of them, to view the Place or Matter in controversy, in like Manner as Views may be had in the Trial of Actions in the Superior Courts.

Oath of Jurymen.

XXVI. And be it enacted, That before the Jury proceed to inquire of and assess the Compensation or Damage in respect of which their Verdict is to be given they shall make Oath that they will truly and faithfully inquire of and assess such Compensation or Damage; and the Sheriff shall administer such Oaths, as well as the Oaths of all Persons called upon to give Evidence.

Value of Interests previously purchased to be deducted.

XXVII. And be it enacted, That in assessing the Sum of Money to be paid for the Purchase of any such Ferry, Lands, or Property, or of any Interest therein, the Value of any Interest in the same which may have been heretofore rightfully purchased by the Commissioners shall be first deducted.

Verdict and Judgment to be recorded.

XXVIII. And be it enacted, That the Sheriff shall give Judgment for the Purchase Money or Compensation assessed by such Jury; and the said Verdict and Judgment shall be signed by the Sheriff, and, being so signed, shall be kept by the Clerk of the Peace among the Records

Records of the Quarter Sessions of the County of Chester; and such Verdicts and Judgments shall be deemed Records, and the same, or true Copies thereof, shall be good Evidence in all Courts and elsewhere, and all Persons may inspect the said Verdicts and Judgments, and may have Copies thereof or Extracts therefrom, on paying for each Inspection thereof One Shilling, and for every One hundred Words copied or extracted therefrom Sixpence.

XXIX. And be it enacted, That on every such Inquiry before a Costs of In-Jury where the Verdict of the Jury shall be given for the same or a quiry. greater Sum than the Sum previously offered by the Commissioners, all the Costs of such Inquiry shall be borne by the Commissioners; but if the Verdict of the Jury be given for a less Sum than the Sum previously offered by the Commissioners, one Half of the Costs shall be defrayed by the Party entitled to the Sum awarded by the Jury, and the other Half by the Commissioners: Provided always, that in every Case where by reason of Absence in Foreign Parts or of any Disability the Party entitled to any Interest in the said Ferry, Lands, or Property shall have been prevented from treating with the Commissioners, all the Costs of the Inquiry shall be borne by the Commissioners.

XXX. And be it enacted, That such Costs shall be settled by the Particulars of Sheriff, and such Costs shall include all reasonable Costs, Charges, the Costs. and Expences incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry; and with respect to any such Costs payable by the Commissioners, if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, the same shall be recoverable by Distress, and on Application to any Justice he shall give his Warrant accordingly; and with respect to any such Costs payable by the Owner of the said Ferry, Lands, or Property, or of any Interest therein, the same may be deducted out of any Money awarded by the Jury to be paid to such Owner, as so much Money advanced for his Use, and the Payment of the Remainder of such Money shall be a good Payment and Satisfaction of the whole thereof.

> Sheriff and Jury for

XXXI. And be it enacted, That if the Sheriff make default in any Penantion of the Matters herein-before required to be done by him in relation to any such Trial or Inquiry he shall forfeit Fifty Pounds for every such Offence; and if any Person summoned and returned upon any Jury under this Act, whether common or special, do not appear, or appear but refuse to make Oath, or in any other Manner unlawfully neglect his Duty, he shall, unless he show reasonable Excuse to the Satisfaction of the Sheriff, forfeit a Sum not exceeding Ten Pounds; and every such Penalty payable by a Sheriff or Juryman shall be applied in satisfaction of the Costs of the Inquiry, so far as the same will extend; and in addition to the Penalty hereby imposed every such Juryman shall be subject to the same Regulations, Pains, and Penalties as if such Jury had been returned for the Trial of any Issue joined in any of the Superior Courts. [Local.]

XXXII. And

Penalty on Witnesses making default.

XXXII. And be it enacted, That if any Person duly summoned to give Evidence upon any such Inquiry, and to whom a Tender of his reasonable Expences shall have been made, fail to appear at the Time and Place specified in the Summons, without sufficient Cause, or if any Person, whether summoned or not, who shall appear as a Witness, refuse to be examined on Oath touching the Subject Matter in question, every Person so offending shall forfeit a Sum not exceeding Ten Pounds.

Special Jury to be summoned at the Request of either Party.

XXXIII. And be it enacted, That if either Party desire any such Question of disputed Compensation as aforesaid to be tried before a Special Jury, and before the Commissioners have issued their Warrant to the Sheriff give Notice in Writing of such Desire, such Question shall be so tried; and for that Purpose the Commissioners shall by their Warrant to the Sheriff require him to nominate a Special Jury for such Trial; and thereupon the Sheriff shall, as soon as conveniently may be after the Receipt by him of such Warrant, summon both the Parties to appear before him, by themselves or their Attornies, at some convenient Time and Place (not being less than Five Days from the Service of such Summons) appointed by him, for the Purpose of nominating a Special Jury; and at the Place and Time so appointed the Sheriff shall proceed to nominate and strike a Special Jury in the Manner in which such Juries shall be required by the Laws for the Time being in force to be nominated or struck by the proper Officers of the Superior Courts; and the Sheriff shall appoint a Day for the Parties or their Agents to appear before him to reduce the Number of such Jury, and thereof shall give Four Days Notice to the Parties, and on the Days so appointed the Sheriff shall proceed to reduce the said Special Jury to the Number of Twenty, in the Manner used and accustomed by the proper Officers of the Superior Courts.

Deficiency of Jurymen.

XXXIV. And be it enacted, That the Special Jury on such Inquiry shall consist of Twelve of the said Twenty who shall first appear on the Names being called over, the Parties having their lawful Challenges against any of the said Jurymen; and if a full Jury do not appear, or if after such Challenges a full Jury do not remain, then, upon the Application of either Party the Sheriff shall add to the List of such Jury the Names of any other disinterested Persons qualified to act as Special or Common Jurymen, who shall not have been previously struck off the aforesaid List, and who may then be attending the Court, or can speedily be procured, so as to complete such Jury, all Parties having their lawful Challenges against such Persons; and the Sheriff shall proceed to the Trial and Adjudication of the Matters in question by such Jury, and such Trial shall be attended in all respects with the like Incidents and Consequences as herein-before provided in the Case of a Trial by Common Jury.

Other Inby Consent.

XXXV. And be it enacted, That any other Inquiry than that for quiries before the Trial of which such Special Jury may have been struck and Special Jury reduced as aforesaid may be tried by such Jury provided the Parties reduced as aforesaid may be tried by such Jury, provided the Parties thereto respectively shall give their Consent to such Trial.

XXXVI. And be it enacted, That no Special Juryman shall, Special Jurywithout his Consent, be summoned or required to attend any such men not to Proceeding as aforesaid more than once in any Year.

attend more than once.

XXXVII. And with respect to any such Question of disputed Reference of Compensation or other Matter of Difference by this Act authorized Dispute as to to be referred to the Determination of Two Justices, be it enacted, tion to Jus-That either Party may apply to such Justices in respect to any such tices. Matter; and thereupon such Justices, in Presence of the Parties, or such of them as shall appear, being duly summoned for that Purpose, shall examine into the Matter in dispute, and shall award such an Amount of Compensation, or shall make such Determination in respect of the Matter so referred to them, as to them shall seem fit; and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall settle the Amount thereof; and in default of Payment of such Costs as directed by such Justices the same shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

XXXVIII. And whereas Francis Richard Price Esquire is or Contract beclaims to be entitled to the Ferry, Stables, Offices, Buildings, Yards, tween Com-Quays, Slips, Lands, and Appurtenances thereunto belonging, men-and Francis tioned in the said Schedule (A.) to this Act annexed, subject to a Richard Lease thereof; be it enacted, That any Contract which has been Price, Esq., entered into between the said Francis Richard Price and the Com- not to be missioners acting under the said recited Acts or either of them, or the affected. major Part of such Commissioners, or any Person acting under the Authority or by the Direction of the said Commissioners or the major Part of them, for the Sale and Purchase of the said Ferry, Stables, Offices, Buildings, Yards, Quays, Slips, Lands, and Appurtenances thereunto belonging, or the Estate, Right, Title, and Interest of the said Francis Richard Price in the same respectively, or otherwise relating thereto, shall be as valid and as binding upon the said Francis Richard Price, his Heirs and Assigns, and the said Commissioners, as if the same had been entered into after the passing of this Act.

XXXIX. And be it enacted, That it shall be lawful for the said Power to Commissioners from Time to Time to borrow at Interest on the Mortgage. Credit of the Tolls by this Act granted, and the Rates and Property by this and the recited Acts vested in such Commissioners, except only the Sewerage Rate of the said Township, any Sum of Money which together with any Sum previously borrowed shall not exceed the Sum of One hundred and fifty thousand Pounds, and, in the event of any Part of such Sum of Money being repaid by the Commissioners, to re-borrow the same, and so toties quoties, but so nevertheless that there shall not be owing on the Security aforesaid any more than the Sum of One hundred and fifty thousand Pounds in the whole at any one Time; and for securing the Repayment of the Monies so borrowed, with Interest, the Commissioners, or any Three of them, may assign over the said Tolls, Rates, and Property, or any Part thereof, except the said Sewerage Rate, to the Person who shall advance or lend such Money, or his Trustee, as a Security for the Money so to be borrowed, together with Interest for the same, in

like Manner as the Sums authorized to be raised by Mortgage of the Improvement Rates by the said recited Acts: Provided always, that the said Commissioners shall not borrow or take up at Interest any Sum of Money beyond One hundred thousand Pounds without the Consent first obtained of the Rate-payers of the said Township in Vestry assembled, or the major Part of them (such Majority consisting of not less than Two Thirds of the Votes of the Persons present at such Vestry), upon Notice by the said Commissioners duly given, expressing that the Intent and Purpose of such Vestry being convened is to consider the Propriety of borrowing a further Sum of Money under the Authority of this Act.

FormerMort-Priority.

XL. And be it enacted, That all subsisting Mortgages of Rates gages to have created under the Powers of the said recited Acts shall have Priority over any Mortgages of the same Rates which may be created under this Act.

Register of Mortgages to be kept, and to be open to Inspection.

XLI. And be it enacted, That a Register of all Mortgages and Assignments made under the Powers of this or the said recited Acts shall be kept by the Clerk to the Commissioners, and within Fourteen Days after the Date of any such Mortgage or Assignment an Entry or Memorial of the Number and Date thereof, and of the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times, by any Person interested therein, without Fee or Reward.

Commissioners to state in every Rate what Portion is applicable to the Ferry.

XLII. And be it enacted, That the Commissioners shall in every Rate or Assessment which shall hereafter be made by them under the Name of "The Birkenhead Improvement Rate," and in like Manner in every Rate or Assessment which shall hereafter be made by them under the Name of "The Birkenhead Lighting and Watching Rate," under the Authority of the said recited Acts or either of them, distinguished, and in every Notice and Demand thereof distinctly state, how much and what Portion of such Rate respectively is made and is intended to be applied for the Purposes of the said recited Acts or either of them, and how much and what Portion thereof is made and is intended to be applied for the Purposes of the Ferry hereby authorized to be purchased, or on account thereof; and the Commissioners shall not apply for the Purposes of the said Ferry or of this Act any Part of the Monies which may have been or may be collected for the Purposes of the said recited Acts or either of them.

Tolls to be taken.

XLIII. And whereas it is expedient to limit the Tolls to be levied for the Use of the Ferry, when purchased by the said Commissioners; be it enacted, That the Commissioners may lawfully demand any Tolls not exceeding the Sums mentioned in the Schedule (C.) to this Act.

Tolls to be charged equally.

XLIV. And be it enacted, That the said Tolls shall be at all Times charged equally to all Persons, and after the same Rate in respect of all Passengers and Goods, Animals or Carriages, of a like Description,

Description, conveyed under the like Circumstances; and no Reduction or Advance in any such Tolls shall be made, either directly or indirectly, in favour of or against any particular Company or Person using the said Ferry.

XLV. And be it enacted, That the Commissioners shall not at Ferry to be any Time demand or take a greater Amount of Toll, or make any free on Paygreater Charge for Ferryage, than they are by this Act authorized to demand; and, upon Payment of the Tolls from Time to Time demandable, all Persons shall be entitled to use the said Ferry, subject nevertheless to the Regulations to be from Time to Time made by the Commissioners by virtue of the Powers in that Behalf herein conferred upon them.

XLVI. And with respect to the Collection of such Tolls, be it Taking and enacted, That such Tolls shall be paid to such Persons, and at such Recovery of Places upon or near to the said Ferry, not within the Borough of Tolls. Liverpool, and in such Manner and under such Regulations as the Commissioners shall, by Notice to be annexed to the Account or List of Tolls, appoint; and if, on Demand, any Person fail to pay the Tolls due in respect of any Goods, it shall be lawful for the Collector to detain and sell all or any Part of such Goods, and out of the Monies thence arising to retain the Tolls payable in respect of such Goods, and all Charges and Expences of such Detention and Sale; and such Collector shall, upon Demand, render the Overplus, if any, of the Monies arising by such Sale, and such of the Goods as shall remain unsold, to the Person entitled thereto; and if such Goods happen to be removed before the Tolls payable in respect of the same be paid, then the Commissioners may recover such Tolls by Action at Law.

XLVII. And be it enacted, That if any Dispute arise concerning Disputes as to the Amount of the Tolls due to the Commissioners, or concerning the the Amount Charges occasioned by any Distress levied with reference thereto, the of Tolls chargeable. Collector or Person distraining may detain the Goods distrained, or (if the Case so require) the Proceeds of the Sale thereof, until the Amount of the Tolls due, or until such Tolls, and the Amount of the; Costs of such Distress, have been ascertained by some Justice; and upon Application made to any such Justice for that Purpose he shall examine the Matter upon Oath of the Parties or Witnesses, and determine the Amount of the Tolls due, and also the Amount of the Costs; and it shall be lawful for such Justice to award such Costs to be paid by either of the Parties to the other of them as he shall think reasonable, and if, on Demand thereof, such Costs be not paid by the Party ordered to pay the same, they shall be levied by Distress, and such Justice shall issue his Warrant accordingly.

XLVIII. And be it enacted, That if any Difference arise between Differences as any Toll Collector or other Officer or Servant of the Commissioners to Weights, and any Owner of or Person having the Charge of any Articles conveyed by such Ferry, respecting the Weight, Quantity, or Nature of such Articles, such Collector or other Officer may lawfully detain, and examine, gauge, or otherwise measure all such Articles conveyed $\lceil Local. \rceil$ thereby;

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thereby; and if upon such measuring such Articles appear to be of greater Weight or Quantity or of other Nature than shall have been stated in the Account given thereof, then the Person who shall have given such Account shall pay, and the respective Owners of such Articles shall be liable to pay, the Costs of such measuring; but if such Articles appear to be of the same or less Weight or Quantity than shall have been stated in such Account, then the Commissioners shall pay such Costs, and they shall also pay to such Owner of or Person having Charge of such Articles such Damage (if any) as shall appear to any Justice, on a summary Application to him for that Purpose, to have arisen from such Detention.

Penalty on Passengers practising Fraud on the Commissioners.

XLIX. And for preventing Frauds on the Commissioners, be it enacted, That if any Person shall knowingly and wilfully refuse or neglect to pay his Toll or Fare for using the said Ferry when the same shall be payable by virtue of this Act, every such Person shall for every such Offence forfeit a Sum not exceeding Forty Shillings.

List of Tolls to be exhibited on a Board.

L. And be it enacted, That a List of all the Tolls authorized by this Act to be taken, and which shall be exacted by the Commissioners, shall be published by the same being painted upon One Toll Board or more in distinct Black Letters on a White Ground, or White Letters on a Black Ground, and by such Board being exhibited in some conspicuous Place on the Toll Gates or Toll Houses or Places where such Tolls shall be payable, and also on some Part of the Boats plying at the said Ferry.

Tolls to be taken only whilst Board exhibited.

LI. And be it enacted, That no Tolls shall be demanded or taken by the Commissioners for the Use of the said Ferry during any Time at which the Boards herein-before directed to be exhibited shall not be so exhibited; and if any Person wilfully pull down, deface, or destroy any such Board, he shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Regulations as to Toll Collectors.

LII. And with respect to the Collectors of such Tolls, be it enacted, That every such Toll Collector shall place in the Front or some other conspicuous Part of the Toll House or other Building where he shall be on Duty his Christian and Surname in legible Characters, and each of the Letters of such Names shall be at least Two Inches in Height, and of a Breadth in proportion, and painted either in White Letters on a Black Ground or in Black Letters on a White Ground, and he shall continue the same so placed during the whole Time he is upon Duty.

Penalties on Toll Collectors.

LIII. And be it enacted, That every such Collector who shall commit any of the following Offences shall forfeit a Sum not exceeding Ten Pounds for each such Offence; that is to say,

If he do not place such Board, and keep the same in its Place

during the whole Time he is on Duty:

If he either refuse to permit any Person to read, or in any way hinder any Person from reading, the Inscription on such Board:

5° VICTORIÆ, Sess. 2. Cap. v.

If he refuse to tell his Christian Name and Surname to any Person demanding the same, who shall have paid or tendered the Tolls demanded of him, or if he give a false Name to any such Person:

If he demand or take a greater or less Toll from any Person than he shall be authorized to do by virtue of this Act, and of the Orders of the Commissioners made in pursuance thereof:

If upon the legal Toll being paid or tendered he do unnecessarily detain or wilfully hinder any Carriage or Goods, or any Person, from passing by the said Ferry:

If he make use of any scurrilous or abusive Language to any Passenger, or to any Person lawfully using the Ferry.

LIV. And be it enacted, That if at any Time it be made to appear TollCollector to any Justice, upon the Complaint of the Commissioners, that any to be liable such Detention and measuring of any Goods as herein-before men- for wrongful Detention of tioned was without reasonable Ground, or that it was vexatious on Goods. the Part of such Collector or other Officer, then the Collector or other Officer shall himself pay the Costs of such Detention and measuring, and the Damage occasioned thereby, and in default of immediate Payment of any such Costs or Damage the same may be recovered by Distress of the Goods of such Collector, and such Justice shall issue his Warrant accordingly.

LV. And be it enacted, That the Commissioners shall cause Separate separate and distinct Accounts to be kept of all Monies received, Accounts to raised, levied, and collected for the Purposes of the same Ferry, or be kept. on account thereof, and of the Tolls arising therefrom, and of the Manner in which such Monies and Tolls shall have been applied or disposed of; and such Accounts shall be kept in separate Books, and shall not be complicated or intermixed with the Accounts of any other Monies received, collected, raised, applied, or disposed of by the Commissioners, and shall, when examined, audited, and settled in the Manner directed by the said first-recited Act with respect to the Accounts thereby directed to be kept by the Commissioners, be printed; and every Person shall be entitled to a printed Copy of such Accounts upon paying the Sum of Sixpence and no more for each Copy; and the Books in which such Accounts shall be kept shall be at all Times open to the Inspection of any Person interested therein, without Fee or Reward.

LVI. And be it enacted, That the Commissioners shall every Year Annual Accause an annual Account in Abstract to be prepared, showing the count to be total Receipts and Expenditure of all Funds levied by virtue of this a Copy trans-Act for the Year ending on the First Day of April or some other mitted to the convenient Day in each Year, under the several distinct Heads of Clerk of the Receipt and Expenditure, with a Statement of the Balance of such Peace. Account, duly audited and certified by the Commissioners, or some of them, and shall transmit a Copy of the said Account, free of Charge, to the Clerk of the Peace for the County of Chester, on or before the Thirty-first Day of January then next; which Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: Provided always,

always, that if the said Commissioners shall omit to prepare or transmit such Account as aforesaid they shall forfeit for every such Omission the Sum of Twenty Pounds.

Power to lease the Tolls.

LVII. And be it enacted, That it shall be lawful for the Commissioners, from Time to Time, by Lease, to take effect in possession within Three Months from the letting thereof, to let such Tolls or any Part thereof to any Party for any Period not exceeding Seven Years from the Commencement of any such Lease: Provided always, that no such Letting shall take place unless public Notice of the Intention to let the Tolls, or the Part thereof intended to be let, shall have been given by the Commissioners by Advertisement at least Fourteen Days prior to the Meeting of the Commissioners at which it shall be intended to let such Tolls.

Lessees makbe removed.

LVIII. And be it enacted, That if any such Lease shall have ing default to become void or voidable, according to any Stipulations therein contained for that Purpose, by reason of the Failure on the Part of the Lessee to comply with any of the Terms of such Lease, or if all or any Part of the Rent thereby reserved shall be in arrear or unpaid for Twenty-one Days after the same shall become payable, then, upon Application made by the Commissioners to a Justice, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon any Toll House, Dwelling House, Office, Weighing Machine, or other Building, with the Appurtenances thereto, belonging to the Commissioners, and remove from the same the Lessee or Collector, or other Person found therein, together with his Goods, and to take possession thereof, and of all Property found therein belonging to the Commissioners, and deliver the same to them, or any Person appointed by them for that Purpose.

Power of reletting Tolls.

LIX. And be it enacted, That upon such Possession being obtained it shall be lawful for the Commissioners to determine the Lease (if any) previously subsisting, and the same shall be accordingly utterly void, except as to the Remedies of the Lessors for Payment of the Rent due, or in respect of unperformed or broken Obligations or Conditions on the Lessee's Part, all which Remedies shall remain in full Force; and in every such Case, either during such Proceedings or on the Termination thereof, the Commissioners may again let the Tolls to the same or any other Person, or cause them to be collected, in the same Manner as if no such former Lease had been made relative thereto.

Application of Tolls, &c.

LX. And be it enacted, That all Tolls, Duties, and Monies which shall be levied and raised under this Act shall be appropriated and applicable and applied by the said Commissioners for the Purposes and in manner herein-after mentioned; (that is to say,) firstly, in Payment of the Costs, Charges, and Expences of this Act, or incident thereto; secondly, in Payment of Interest on the Money to be borrowed on the Security of the Tolls by this Act granted; thirdly, in carrying into effect the Purposes of this Act; and lastly, in aid and reduction of the Improvement Rates of the said Township of Birkenhead.

LXI. And

LXI. And for the Purpose of making Provision for regulating the Commis-Use of the said Ferry, be it enacted, That it shall be lawful for the sioners to Commissioners, from Time to Time, subject to the Provisions and Use of the Restrictions in this Act contained, to make Regulations for the Ferry. following Purposes; (that is to say,)

For regulating the Times of the Arrival and Departure of Boats

using the said Ferry;

For regulating the embarking and discharging of Passengers, and the loading and unloading of Goods and Carriages carried on board the Boats using the said Ferry;

For regulating the Delivery of Goods and other Things which are

conveyed on board such Boats;

For preventing the smoking of Tobacco and the Commission of any other Nuisance in or upon such Boats, or in any of the Premises occupied by the Commissioners;

And generally for maintaining Order and Decorum on board the Boats using the said Ferry, and for regulating the using or work-

ing of the said Ferry and Boats:

But no such Regulation shall authorize the closing of the Ferry at reasonable Times, except at any Time when in consequence of the State of the Weather, or from any other sufficient Cause, it shall be necessary to suspend the working of the Ferry Boats.

LXII. And be it enacted, That for better enforcing the Observance Power to of all or any such Regulations it shall be lawful for the Commis- make Regusioners to make Bye Laws, and from Time to Time to repeal or alter Bye Laws. such Bye Laws, and to make others, provided that such Bye Laws be not repugnant to the Laws of England or the Provisions of this Act; and such Bye Laws shall be reduced into Writing, and be signed by Three of the said Commissioners, and attested by their Clerk; and any Person offending against any such Bye Law shall forfeit for every such Offence any Sum not exceeding Five Pounds, to be imposed by the Commissioners in such Bye Laws as a Penalty for any such Offence; and if the Infraction or Non-observance of any such Bye Law, or other such Regulation as aforesaid, be attended with Danger or Annoyance to the Public, or Hindrance to the Commissioners in the lawful Use of the Ferry, it shall be lawful for the Commissioners summarily to interfere to obviate or remove such Danger, Annoyance, or Hindrance, and that without Prejudice to any Penalty incurred by the Infraction of such Bye Law.

LXIII. And be it enacted, That no such Bye Laws (except such Bye Laws to as may relate solely to the Officers or Servants of the Commissioners) be confirmed. shall come into operation until the same shall have been allowed by the Court of Quarter Sessions of the County of Chester; and it shall be incumbent on the said Court, on the Request of the Commissioners, to examine into the Bye Laws which may be tendered to them for that Purpose, and to allow of or disallow the same, as to them may seem meet; Provided always, that no such Bye Laws shall be confirmed unless Notice of the Intention to apply for a Confirmation of the same shall have been given in One or more Newspapers of the County of Chester One Month at least before the Hearing of such Application; and any Party aggrieved by any such Bye Law, on [Local.]

giving Notice of the Nature of his Objection to the Commissioners Ten Days before the Hearing of such Application, may, by himself, his Attorney or Agent, be heard thereon, but not so as to allow more than One Party to be heard upon the same Matter of Objection.

A Copy of the proposed Bye Laws to be open for Inspection.

LXIV. Provided always, and be it enacted, That for One Month at least prior to any such Application for Confirmation of such Bye Laws a Copy of such proposed Bye Laws shall be kept at the principal Office of the Commissioners; and it shall be lawful for all Persons, at all reasonable Times, to inspect such Copy, without Fee or Reward, and to be furnished by the Commissioners with a Copy thereof or of any Part thereof, on Payment of Sixpence for every One hundred Words so to be copied.

Bye Laws to be so framed that Penalties may be mitigated. LXV. And be it enacted, That the said Bye Laws shall be so framed as to allow the Justice before whom any Penalty imposed thereby may be sought to be recovered to order a Part only of such Penalty to be paid, if such Justice shall think fit.

Publication of such Bye Laws.

LXVI. And be it enacted, That the Substance of such last-mentioned Bye Laws, and the short Particulars of any Offence for the Commission of which a Penalty is imposed by this Act, shall be painted on Boards, or printed on Paper and pasted on Boards, and hung up and affixed and continued on the Front or other conspicuous Part of every Office or Toll House belonging to the Commissioners, so as to give public Notice thereof to the Parties interested therein or affected thereby; and such Boards shall from Time to Time be renewed as often as the Bye Laws thereon, or any Part thereof, shall be obliterated or destroyed; and no Penalty imposed by any such Bye Laws shall be recoverable, unless the same shall have been published or kept published in manner aforesaid.

Such Bye
Laws to be
binding on
all Parties.

LXVII. And be it enacted, That such Bye Laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Persons acting under the same; and with respect to Proof of the Publication of any such Bye Laws, it shall be sufficient to prove that a printed Paper or painted Board containing a Copy of such Bye Laws was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged then that such Paper or Board was replaced as soon as conveniently might be.

Saving the Right of the Council of Liverpool and Dock Trustees to make Bye Laws.

LXVIII. Provided always, and be it enacted, That nothing herein contained shall take away, prejudice, or affect, or be deemed or construed to take away, prejudice, or affect, the Right of the Council of the Borough of Liverpool, or any Committee of the Council appointed for the Purpose, to make Bye Laws, Rules, Orders, and Regulations for regulating the Use of the present and future Piers, Docks, Basins, Wharfs, Quays, Jetties, Slips, Stairs, or Walls belonging to the Mayor, Aldermen, and Burgesses of the said Borough, or to the Trustees of the Liverpool Docks, and the Landing Stages and other Conveniences or Contrivances for landing and embarking Passengers, Carriages, Horses

Horses and other Animals, and Goods, thereat, and the Steam and other Vessels and Boats resorting to the same respectively, and for establishing the Order and Succession in which such Steam Vessels and other Vessels and Boats shall come up to and depart from such Piers, Docks, Basins, Wharfs, Quays, Jetties, Slips, Stairs, Walls, Landing Stages, and Conveniences respectively, how long they shall remain thereat, and the Distance therefrom at which such Vessel or Boat shall be moored when not loaded, and for the Preservation of Order in the landing and embarking Passengers, Carriages, Horses and other Animals, and Goods, nor interfere with any Bye Laws, Rules, Orders, or Regulations which may have been already made by the said Council or any Committee thereof: Provided also, that no Bye Law to be made by the said Commissioners shall be inconsistent with or repugnant to any Bye Law lawfully made or to be made by the said Council or any Committee thereof, or by the Trustees of the Liverpool Docks.

LXIX. And be it enacted, That if any Person shall pull down, Defacing destroy, damage, or deface any such Board put up or affixed as Boards. required by this Act for the Purpose of publishing any Bye Law or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and he shall also defray the Expences attending the Restoration of such Board, and such Expences shall be recoverable as any Penalty by this or the said recited Acts imposed may be recovered.

LXX. And be it enacted, That no Person shall be entitled to carry, Penalty for or to require the Commissioners to carry, on board their Boats, any bringing Aquafortis, Oil of Vitriol, Gunpowder, or any other Goods which dangerous in the Judgment of the Commissioners may be of a dangerous Nature; Boats. and if any Person send or convey by the Ferry any such Goods without distinctly marking their Nature on the Outside of the Package containing the same, or otherwise giving Notice in Writing to the Book-keeper or other Servant of the Commissioners with whom the same are left, at the Time of sending, he shall forfeit Ten Pounds for every such Offence.

Goods on

LXXI. And be it enacted, That every Person having or keeping a Penalty on House, Shop, Room, Cellar, or Vault, within the Limits of the said Coffee Shop recited Acts or this Act, wherein ready-made Tea or Coffee, or Keepers har-Refreshments or Provisions of any Kind, shall be drunk, used, or orderly Perconsumed, (whether the same shall be kept or retailed therein, or sons. bought or procured elsewhere,) who shall knowingly permit or suffer common Prostitutes, reputed Thieves, or drunken or idle and disorderly Persons, to assemble at and continue in his House, Shop, Room, Cellar, or Vault, or to play at any Game with Cards or Dice therein, shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

LXXII. And be it enacted, That it shall be lawful for all Con- The Houses stables and Officers of Police appointed under the said recited Acts, or either of them, or this Act, at all Times to enter into any House, Keepers to Shop, Room, Cellar, or Vault within the Limits of the said recited be open to

of convicted Coffee Shop

Acts

Police at all Times.

Acts and this Act, where ready-made Tea or Coffee, or Refreshments or Provisions of any Kind, shall be so drunk, used, or consumed as aforesaid, the Owner or Keeper of which House, Shop, Room, Cellar, or Vault shall, within Twelve Months previous to such Entry have been convicted of knowingly permitting or suffering common Prostitutes, reputed Thieves, or drunken or idle and disorderly Persons to assemble at the same, and continue therein, or to play therein at any Game with Cards or Dice; and if any Person, having or keeping any such House, Shop, Room, Cellar, or Vault, or any Servant or other Person in his Employ or by his Direction, shall in such Case refuse to admit or shall not on Application admit such Constable or Officer into such House, Shop, Room, Cellar, or Vault, or upon such Premises, every Person so offending shall for every such Offence forfeit a Sum not exceeding Forty Shillings.

Damage to be made good,

LXXIII. And be it enacted, That if, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this Act, any Damage to the Property of the Commissioners shall have been occasioned by such Person, he shall be liable to make good such Damage, as well as to pay such Penalty.

Repeal of Limitation of Actions.

LXXIV. And whereas it was by the said first-recited Act enacted, that no Action or Suit should be commenced or prosecuted against any Person for any thing done in pursuance or under the Authority of the said Act after the Expiration of Three Calendar Months next after the Fact committed, or the Cause of Action had ceased and determined, except as was therein otherwise directed; and all such Actions and Suits should be laid and tried in the County or Place where the Cause of Action should have arisen, and not elsewhere; and the Defendant in any such Action or Suit might plead the General Issue, and give the said Act and the special Matter in Evidence, at any Trial which might be had thereupon, and that the Matter or Thing for which such Action or Suit should have been so brought was done in pursuance or by the Authority of the said Act; and if upon such Trial such Matter or Thing should appear to have been so done, and if such Action or Suit should have been brought before Thirty Days Notice thereof should have been given, or after sufficient Satisfaction should have been made or tendered as therein mentioned, or after the Time therein-before limited for bringing the same, or if the same should be brought in any other County or Place than as aforesaid, then and in any of the said Cases the Jury should find a Verdict for the Defendant; and upon such Verdict being given, or if the Plaintiff should become nonsuited, or suffer a Discontinuance of such Action after the Defendant should have appeared thereto, or if upon Demurrer or otherwise Judgment should be given against the Plaintiff, then and in every such Case the Defendant should have his Costs, and should have such and the like Remedy for recovering the same as any Defendant had for recovering Costs of Suit in other Cases by Law: And whereas it is expedient that the said Enactment should be repealed to the Extent herein-after mentioned; be it therefore enacted, That the same shall be and is hereby repealed, except so far as the same relates to the Notice thereby required to be given of any such Action or Suit: Provided always, that nothing herein contained

contained shall revive any Right already barred by the Operation of the Enactment hereby repealed.

LXXV. Provided always, and be it hereby enacted, That nothing For the Proherein contained shall extend, or be construed, deemed, or taken to extend, to take away, prejudice, lessen, or affect any of the Powers, Ferry. Privileges, Exemptions, Rights, or Authorities vested in or enjoyed by the Owners or Proprietors, Lessees, or Tenants or Occupiers of the Birkenhead Ferry.

tection of the Birkenhead

LXXVI. And be it enacted, That in this Act the following Words Interpretaand Expressions shall have the several Meanings hereby assigned to tion of Act. them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and the Words importing the Plural Number shall

include the Singular Number:

Words importing the Masculine Gender shall include Females:

The Word "Month" shall mean Calendar Month:

The Expression "Superior Courts" shall mean Her Majesty's

Courts of Record at Westminster:

The Word "Oath" shall include Affirmation in case of Quakers, or other Declaration or Solemnity lawfully substituted for an Oath in the Case of other Persons exempted by Law from the Necessity of taking an Oath:

The Word "Lands" shall extend to Messuages, Lands, Tene-

ments, and Hereditaments of any Tenure:

The Word "Sheriff" shall include Under Sheriff, or other legally competent Deputy; and where any Matter in relation to any Lands is required to be done by any Sheriff, or by any Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County of Chester:

The Word "Justice" shall mean any Justice of the Peace for the County, City, Liberty, or Place where the Matter requiring the Cognizance of any Justice shall arise, and who shall not

be interested in the Matter:

The Word "Toll" shall include any Rate or Charge or other Payment payable under this Act for any Passenger, Animal, Carriage, Goods, Merchandize, Articles, Matters, or Things conveyed by the Ferry:

The Expression "Commissioners" shall mean the Commissioners

appointed under the recited Acts.

LXXVII. And be it enacted, That this Act shall be a Public Act, Public Act. and shall be judicially taken notice of as such.

The SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

ALL that Ferry known by the Name of the Woodside Ferry, from Birkenhead in the County of Chester to Liverpool in the County of Lancaster, and all and singular the Stables, Offices, Buildings, Yards, Quays, Slips, Lands, and Appurtenances, in the County of Chester, thereunto belonging or enjoyed therewith, together with all Steam Boats and other Boats, Materials, Goods, and Chattels of or belonging to the Lessees of the said Ferry.

Also all that Piece of Land situate in Hamilton Street in Birkenhead aforesaid, containing in front thereto Sixty Yards and Six Inches, bounded on the East by the Birkenhead Market and Land of the Commissioners of Birkenhead, and on the West by Land belonging to the Executors of the late John Watson, and on the South by a back Street called Albion Street, measuring in the whole Five thousand and thirty Square Yards, or thereabouts,

SCHEDULE (B.)

Form of Conveyance.

in consideration of the of paid to me [or, as the Case may be, into the Sum of Bank of England], in the Name and with the Privity of the Accountant General of the Court of Chancery, ex parte "The Commissioners of the Township of and C.D. of Birkenhead," [or to A.B. of Two Trustees appointed to receive the same,] pursuant to an Act passed, &c., intituled, &c., by the Commissioners of the Township of Birkenhead, do hereby convey to the said Commissioners of the Township of Birkenhead, their Successors and Assigns, all [describing the Property to be conveyed], together with all Rights and Appurtenances thereto belonging, and all such Estate, Right, Title, and Interest in and to the same as I am or shall become seised or possessed of, or am by the said Act empowered to convey, to hold the same to the said Commissioners of the Township of Birkenhead, their Successors and Assigns for ever, according to the true Intent and Meaning of the said Act. In witness whereof I have hereunto set my Hand and Seal, the Day in the Year of our Lord

SCHEDULE (C.)

For carrying each Person who shall not be a Contractor, as next mentioned, from a Slip or Quay of the Commissioners in Birkenhead to a Landing Place in Liverpool, or vice versa, by the Boats of the Commissioners, a Sum not exceeding - - 2d.

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Light Four-wheeled Phaeton and Two I	Horses	•		0	6	0
Ditto, with One Horse			_	Ô	5	0
Horse	-	-	_	ŏ	1	Ô
Ditto, Gig and Man -	-	-	_	0	4.	Ô
Cow	-	-	_	0	1	ŏ
Calves, Pigs, and Sheep, each -	⇔	•	-	0	0	2
Geese, per Score	-	-	-]	0	0	6
Pocket of Hops		₩.	-	0	0	6
Sack of Salt, Flour, Wheat, Barley, Oats	s, Potatoes, o	r Beans	-	0	0	2
Hamper, ordinary Size -	•	••	-	0	0	2
Ditto, large	==	-	-	0	0	4
Butter, per Tub	-		- [0	0	2
Ditto, per Firkin		•	- }	0	Ó	3
Bacon, per Side	-	1	-	0	0	2
Ditto, per Bale	-	***	-	0	0	6
Box of Glass Ditto of Candles	•	-	-	0	0	2
Coffee, per Bag, under ½ Cwt	•		-	0	0	2
Ditto, above Ditto -	_	_	-	0	0	2
Cheese, each	-	_	-	0	0	3
Package of Furniture		_	-	0	0	1
Lead, White, per Cask, 1 Cwt.	-	_	_	0	0	6 2
Ditto Ditto 2 to 3 Cwt.	•	-		0	0	3
Ditto Ditto 3 to 5 Cwt.	•••		_	0	0	4
Ditto Ditto above -	F	=		0	0	6
Earthenware or hollow Ware, per Crate	or Hhd.	_	_	0	Ĭ	0
Cement, per Barrel	-	-	_	Õ	Ô	3
Oil or Treacle, per Barrel or Keg	=-	••	_	Õ	Ô	6
Ditto per Hogshead -	-	-	~	0	1	0
Sugar, per Bag	***		_ [0	ō	2
Sugar, per Barrel			-	0	0	3
Ditto, per Hogshead	-	-	_	0	1	0
Soap, per Box, 1 Cwt ~	—	-	-	0	0	2
Ditto 2 to 3 Cwt	-	₩	-	0	0	3
Spirits or Wine, Hamper, small -	-	-	-	.0	0	3
Ditto Ditto large -	-	-	-	0	0	6
Ditto Quarter Cask -	-	-	-	0	0	6
Ditto Hogshead -	-	-	-	0	1	6
	-	-	-	0	2	6
Cask, empty	••	-	-	0	0	6
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5° VICTORIÆ, Sess. 2. Cap. v.

		£	s.	d.
Ale or Porter, per Barrel	•	0	0	6
Ditto per Half Barrel	-	0	0	4
Ditto per Quarter Barrel	-	0	0	3
Nails, per Bag or Keg, ½ Cwt Ditto Ditto 1 to 2 Cwt	-	0	0	2
	-	0	0	3
Ditto Ditto 2 to 3 Cwt	•	Ú	0	4
Basket of Fruit, Eggs, Fish, &c	<u>.</u>	0	0	2
Cockles or Muscles, per Bag	-	0	0	1
Box or Parcel, small	-	0	0	2
Hay, per Ton	*	0.	3	0
Straw	-	0	3	0
Lead, Flags, Tiles, Iron, or other heavy Commodities, per Ton		0	3	0
Laths, per Bundle	*	0	.0	1
Luggage, Furniture, Rafts of Timber, and Articles not particula	rly			
enumerated, as per Agreement.				٠,

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