



ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

Cap. lxviii.

An Act for better cleansing, sewerage, and draining the Town of *Topsham* in the County of *Devon*, and for other Purposes connected therewith.

[4th July 1843.]

WHEREAS it is expedient that Powers should be granted for better cleansing, sewerage, and draining the Streets, Highways, and public Passages in the Town of *Topsham* in the County of *Devon*, and for flagging and paving the Footways and Causeways therein, and for embanking and draining a certain Piece of Waste or Low Land adjacent thereto; but the Objects aforesaid 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 *Sir John Thomas Buller Duckworth, Alexander Hamilton Hamilton, John Bowden Cresswell, Robert Davy, Robert Bussell, Francis Davy, William Yarde, George Gale, Thomas Charles Tothill, John Swale Harrison, John Stevens, Robert Drewe, Daniel Bishop Davy, John Follett, Reverend Henry Thorpe, Francis William Lock Ross, Thomas Walters, and William Willcocks* shall be the first Commissioners for carrying this Act into execution, and shall continue

First Commissioners.

[Local.]

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continue

tinue in Office until other Commissioners shall be elected in their Place in manner herein-after mentioned.

Qualification
of Commis-
sioners.

II. And be it enacted, That every Commissioner under this Act shall either be rated to the Rate made for the Relief of the Poor of the Parish of *Topsham* in the gross annual Value of Fifty Pounds or upwards, or be seised or possessed or in the Enjoyment of the Rents and Profits of Lands and Hereditaments within the said Parish of the annual Value of Forty Pounds for an Estate not less than a Life in being, or for a Term originally created of not less than Ninety-nine Years, for his own Use, or be possessed of a Personal Estate of not less than One thousand five hundred Pounds beyond what will satisfy all his Debts.

Same Pro-
perty not to
give Two
Qualifica-
tions.

III. Provided always, and be it enacted, That the same Property shall not give a Qualification to Two Commissioners at the same Time as Owner and Occupier thereof.

No Bankrupt
or Insolvent
to be a Com-
missioner.

IV. And be it enacted, That no Bankrupt or Insolvent, or Person not qualified as herein-before mentioned, shall be capable of being or continuing a Commissioner.

No Person
holding Office
or concerned
in a Contract
to be a Com-
missioner.

V. And be it enacted, That if at any Time subsequently to the Appointment or Election of any Commissioner he shall accept or continue to hold any Office or Place of Trust or Profit under this Act, or be concerned in any Contract, or participate in any Manner in any Work to be done under the Authority of this Act, such Person shall cease to be a Commissioner, and his Office shall thereupon become vacant: Provided always, that nothing herein contained shall prevent any Commissioner from becoming a Lessee or Assignee of any Lease of the Bowling Green herein-after mentioned or any Part thereof under the Provisions of this Act, nor shall such Lease or Assignment operate to disqualify any Party taking the same from acting as a Commissioner under this Act.

Shareholders
in Companies
established
under Act of
Parliament
not disquali-
fied by reason
of Contracts.

VI. Provided always, and be it enacted, That no Person, being a Shareholder or Member of any Joint Stock Company established by Act of Parliament shall be prevented from acting as a Commissioner by reason of any Contract entered into between such Company and the Commissioners; but no such Commissioner, being a Member of such Company, shall vote on any Question relating to the Execution of this Act in which such Company may be interested.

Declaration
by Commis-
sioners.

VII. And be it enacted, That no Person shall be capable of acting as a Commissioner, except in administering the Declaration herein-after mentioned, until he shall have made and signed before One of the Commissioners a Declaration to the Effect following:

‘ I *A.B.* do solemnly declare, That I will faithfully and impartially,
‘ according to the best of my Skill and Judgment, execute all the
‘ Powers and Authorities reposed in me as a Commissioner by
‘ virtue of an Act of Parliament, intituled [*here insert the Title of*
‘ *this Act*], and also that I am rated to the Rates made for the Relief
‘ of

‘ of the Poor of the said Parish in the gross annual Value of Fifty Pounds, [or that I am seised or possessed or in the Enjoyment of the Rents and Profits of Lands and Hereditaments within the said Parish of the annual Value of Forty Pounds for an Estate not less than a Life in being, or for a Term originally created of not less than Ninety-nine Years, for my own Use, or am in Possession of a Personal Estate of not less than One thousand five hundred Pounds Value beyond what will satisfy all my Debts.]’

VIII. And be it enacted, That any Person who shall falsely or corruptly make and subscribe a Declaration under this Act, knowing the same to be untrue in any Particular, shall be deemed guilty of a Misdemeanor. False Declaration a Misdemeanor.

IX. And be it enacted, That at the Meeting of Commissioners at which any Person shall first attend as One of such Commissioners, such Person shall make and subscribe the Declaration herein required; and it shall be lawful for any Person attending as One of such Commissioners, whether he shall himself have made such Declaration or not, to administer such Declaration. Declaration to be taken at the First Meeting.

X. And be it enacted, That if any Person shall act as a Commissioner, being incapacitated to act or not being duly qualified, or before he shall have made or subscribed such Declaration as aforesaid, or after having become disqualified, he shall for every such Offence forfeit the Sum of Fifty Pounds; and such Penalty may be recovered, with full Costs of Suit, in any of Her Majesty's Courts of Record at *Westminster*, by any Person who shall sue for the same by Action of Debt or on the Case; and in every Action for the Recovery of such Penalty the Person so sued shall prove that he was qualified, and had made and subscribed the Declaration aforesaid, or he shall pay the said Penalty and Costs, without any other Proof or Evidence on the Part of the Plaintiff than that such Person had acted as a Commissioner in the Execution of this Act; nevertheless all Acts and Proceedings of any Person acting as a Commissioner, being incapacitated, not duly qualified, or being disqualified, done previously to the Recovery of the Penalty, shall be as valid as if such Person had been duly qualified. Penalty on Commissioners acting not being qualified.

XI. And be it enacted, That if any Commissioner fail to act in the Execution of this Act for One Year, such Commissioner shall be deemed to have refused to act, and thereupon shall cease to be a Commissioner until he shall be re-elected as herein-after mentioned. Commissioner neglecting to act.

XII. And be it enacted, That when and as often as the Persons hereby named and appointed to act as Commissioners for carrying the Purposes of this Act into execution shall, by Death, Resignation, Disqualification, or otherwise, be reduced below the Number of Ten Commissioners, it shall be lawful to elect, in manner herein-after provided, another Person to be a Commissioner in the Place or Stead of the Commissioner so dying, resigning, or being disqualified: Provided always, that by such Election the Commissioners for executing this Act shall not, after they have been by Death, Resignation, or When Number of Commissioners reduced to Ten other Commissioners to be elected.

or otherwise reduced to the Number of Ten, ever exceed that Number.

Qualification
of Electors.

XIII. And be it enacted, That every Person who shall be rated under the Provisions of this Act to the annual Value of Ten Pounds and upwards, and who shall have paid all Rates due in respect thereof, shall be entitled to vote in the Election of Commissioners.

Manner of
Election for
supplying
periodical
Vacancies.

XIV. And be it enacted, That for the Purpose of any Election a Meeting of the Persons entitled to vote thereat shall be held at the Select Vestry Room in the said Town, or some other convenient Place within the said Town to be appointed by the Commissioners, between the Hours of Ten of the Clock in the Morning and Four of the Clock in the Afternoon; and between the Hours aforesaid the Persons by whom such Election is to be made shall respectively deliver to the Clerk of the said Commissioners, or in his unavoidable Absence to some Person authorized for that Purpose by the Commissioners, a Paper containing the Names of the Persons for whom they respectively vote to fill the Office of Commissioners, with the Signature of the Voter thereon; and the Persons, not exceeding the Number of Commissioners proper to be elected at such Meeting, having the Majority of Votes at such Election shall be Commissioners for the Purpose for carrying this Act into execution; and if at any such Election there be an Equality for Two or more Persons, the Clerk to the said Commissioners, or such Person as aforesaid, shall, if necessary to prevent an Excess in the Number of Commissioners, decide by Lot upon the Person to be elected.

Notice of
Meetings of
Electors.

XV. And be it enacted, That Seven Days Notice shall be given of every Meeting of the said Inhabitants for the Election of Commissioners for carrying this Act into execution, or for any other Purpose relating to this Act; and such Notice shall specify the Object of such Meeting, and shall be affixed on the principal outer Door of the Market Place of the said Town.

First and
other Meet-
ings.

XVI. And be it enacted, That the Commissioners for executing this Act shall hold their First General Meeting at the Select Vestry Room aforesaid, or some other convenient Place within the said Town, on the Second *Thursday* after the passing of this Act, between the Hours of Ten of the Clock in the Forenoon and Two of the Clock in the Afternoon, and proceed to put this Act into execution; and a Yearly General Meeting of the Commissioners shall be held on the Second *Thursday* in *June*, at the Place and between the Hours aforesaid, unless some other Place shall be appointed by the Commissioners; and it shall be lawful for the Commissioners present at such first or any subsequent Meeting from Time to Time to adjourn such Meeting to the same or any other Place within the said Town; and if at any such Meeting there shall not be Five Commissioners present within One Hour after the Time appointed for such Meeting, then it shall be lawful for the Commissioners present or the major Part of them, or any One Commissioner if only One be present, to adjourn such Meeting to another Day; and if the Meeting shall not be adjourned, then it shall be lawful for any Two of the
Commis-

Commissioners or the Clerk to appoint a Meeting to be held at any convenient Place within the said Town, and not less than Seven Days Notice shall be given of such intended Meeting.

XVII. And be it enacted, That it shall be lawful for the Commissioners to hold Special Meetings, and any Three or more of the Commissioners may require a Special Meeting to be held; but no such Meeting shall be held unless Three Days Notice thereof at the least shall be given. Special Meetings.

XVIII. And be it enacted, That all the Powers of this Act may be exercised by any Five or more of the Commissioners present at any Meeting holden in pursuance of this Act, and no Business shall be transacted at any Meeting of the Commissioners unless Five or more Commissioners shall be present at such Meeting. Quorum of Commissioners.

XIX. And be it enacted, That all Notices of any Meeting of the Commissioners to be held under the Authority of this Act shall be in Writing, and shall be delivered or sent by the Post to the usual Place of Abode or Place of Business of each of the Commissioners. Three Days at least previous to such Meeting; and every Notice shall specify the Time and Place of meeting, and in case of a Special Meeting shall specify the Object thereof; and no Business shall be transacted at any Special Meeting except such as is stated in the Notice thereof. How Notices of Meetings of Commissioners are to be given.

XX. And be it enacted, That at all Meetings of the Commissioners they shall defray their own Expences, except for the Use of the Room in which the Meeting is held, and Books, Paper, and Fire. Expences at Meetings.

XXI. And be it enacted, That at every Meeting of the Commissioners One of the Commissioners present shall be elected Chairman by the Majority of the Votes of the Commissioners present at such Meeting, and all Questions considered at any such Meeting shall be decided by the Votes of the Majority present, and if there be an equal Division of Votes, the Chairman, in addition to his own Vote as a Commissioner, shall have a casting Vote: Provided always, that if at any such Meeting there shall be an Equality of Votes in the Election of the Chairman, that One of the Commissioners having an equal Number of Votes whose Name would stand first if the Names of the Commissioners present were alphabetically arranged shall be Chairman of such Meeting. Order of Business at Meetings of Commissioners.

XXII. And be it enacted, That no Resolution or other Act of any Meeting of the Commissioners shall be revoked or altered at any subsequent Meeting, unless such subsequent Meeting be called expressly for such Alteration or Revocation by Notice given Fourteen Days at least previous to the holding thereof, nor unless such Revocation or Alteration be determined upon by a Majority consisting of Two Thirds of the Commissioners present at such subsequent Meeting, if the Number of the Commissioners present at such subsequent Meeting be not greater than the Number present No Resolution of Commissioners to be revoked at a subsequent Meeting, unless under certain Circumstances.

when such Resolution was made or such Act was done, or if the Number of Commissioners present at such subsequent Meeting be greater than the Number present at such former Meeting, then by a simple Majority.

For what
Contracts
may be made.

XXIII. And be it enacted, That it shall be lawful for the Commissioners to enter into Contracts with any Persons for the Execution of any Works directed or authorized by this Act to be done by the Commissioners, and for furnishing any Materials for the same, or which may be required by the Commissioners; and every such Contract shall be in Writing, and shall specify the Works to be done and the Materials to be furnished, and a Copy thereof shall be entered in a Book to be kept by the Clerk of the Commissioners for that Purpose.

How to be
signed.

XXIV. And be it enacted, That every such Contract shall be signed by any Two of the Commissioners and the said Parties thereto, and such Contracts shall be binding on the Commissioners, and Actions and Suits may be maintained thereon, and Damages and Costs recovered, by or against the Commissioners or the other Parties failing in the Execution thereof.

Materials for
Works con-
tracted for
to be con-
sidered the
Property of
the Com-
missioners.

XXV. And be it enacted, That during the Execution of any such Contract the Works in course of being done under such Contracts, and all the Materials of every Description brought upon or near such Works for the Purpose of being used in the Execution of such Contracts, shall, for the Purpose of protecting the same from Injury by Indictment as herein-after mentioned, be held to be the Property of the Commissioners.

Indictments
how to be
preferred.

XXVI. And be it enacted, That it shall be lawful for the Commissioners by their Clerk to prefer any Bill of Indictment against any Person who shall steal, take, or carry away, deface or injure, any Property, Article, or Thing belonging to the Commissioners; and in any such Bill of Indictment it shall be sufficient to state generally the Property, Article, or Thing in respect of which such Bill of Indictment shall be preferred to be the Property of the Commissioners for executing this Act, without naming the Members thereof.

Commission-
ers not to be
personally
liable.

XXVII. And be it enacted, That nothing in any Deed or Contract by this Act authorized to be made by or on behalf of the Commissioners for any of the Purposes of this Act shall extend to charge or affect the Persons of any of the Commissioners, or their Heirs, Executors, or Administrators, or their or any of their own proper Lands or Goods, with or for the Performance of any thing contained in any such Instrument; but the Amount of all Damages, Costs, and Charges recovered in any Action or Suit in consequence of any such Instrument, or which any such Commissioner shall otherwise be put to by virtue of this Act, shall respectively be discharged out of the Monies to arise by virtue of this Act, or other the Goods and Chattels vested in the Commissioners by virtue of their Office, unless such Action or Suit, or any such Damages or Charges, have arisen in consequence of wilful Neglect or Default on the Part of the Commissioners incurring the

Liability of
their Funds.

the same, or unless such Action or Suit have been defended without the Order or Direction of the Commissioners.

XXVIII. And be it enacted, That in all Actions and Suits in respect of any Matter or Thing relating to the Execution of this Act to be brought by or against the Commissioners, it shall be sufficient to state the Names of any Two of the Commissioners or the Name of their Clerk as the Party, Plaintiff or Defendant, representing the Commissioners in any such Action or Suit; and no such Action or Suit shall abate or be discontinued by the Death of any such Commissioner, or by the Death, Suspension, or Removal of such Clerk.

Actions or Suits to be brought in the Name of any Two Commissioners or their Clerk.

XXIX. And be it enacted, That Executions upon every Judgment or Decree against the Commissioners in any such Action or Suit shall be executed against the Goods and Chattels belonging to the Commissioners by virtue of their Office.

Executions against Goods of Commissioners.

XXX. And be it enacted, That every such Commissioner or Clerk in whose Name any such legal Proceedings shall be carried on, either as Plaintiff or Defendant, on behalf of the Commissioners, shall be reimbursed, out of the Monies which shall come into the Hands of the Treasurer of the Commissioners by virtue of his Office, all Damages, Costs, Charges, and Expences to which any such Commissioner or Clerk may be put or with which he may become chargeable by reason of being so made Plaintiff or Defendant; and no such Commissioner or Clerk shall be personally liable for the Payment of the same unless such Action or Suit have arisen in consequence of his own wilful Neglect or Default, or unless, if such Action or Suit have been brought by the Clerk or Two Commissioners or more as aforesaid, it have been so brought without the Order or Direction of the Commissioners.

Indemnity of Commissioners and Clerk.

XXXI. And be it enacted, That the Commissioners shall cause Notes, Minutes, or Copies, as the Case may require, of all Appointments made or Contracts entered into by them, and of the Orders and Proceedings of all Meetings, as well ordinary as special, of the Commissioners, to be duly entered in Books to be from Time to Time provided for the Purpose, which shall be kept under the Superintendence of the Commissioners; and every such Entry shall be signed by the Chairman of the Meeting at which the Matter in respect of which such Entry is made was moved or discussed; and such Entry, so signed, shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such respective Meetings having been duly convened, or of the Persons making or entering such Orders or Proceedings being Commissioners, or of the Signature of the Chairman, all of which last-mentioned Matters shall be presumed; and all such Books shall at all reasonable Times be open to the Inspection of the Commissioners, and any of the Creditors or Rate-payers, or other Parties interested.

Proceedings to be entered in a Book and be open for Inspection.

XXXII. And be it enacted, That the Commissioners shall from Time to Time appoint a Treasurer, and Clerk and Collector, and such

Commissioners to appoint Treasurer, &c.

other Officers as they shall think fit, with such Salaries and Allowances as they think reasonable, and may remove such Clerk, Treasurer, Collector, and Officers, and appoint others in their Stead.

Offices of
Clerk and
Treasurer to
be separate.

XXXIII. And be it enacted, That neither the Person who shall hold the Office of Clerk, nor the Partner of such Clerk, nor any Person in the Service or Employ of such Clerk or of his Partner, shall be eligible to be Treasurer; and that neither the Person who shall be the Treasurer, nor the Partner of such Treasurer, nor any Person in the Service or Employ of such Treasurer or of his Partner, shall be eligible to be the Clerk; and if any Person offend in any of the following Cases he shall forfeit One hundred Pounds; (that is to say,)

If any Person accept both the Office of Clerk and Treasurer;

If any Person, being the Partner of such Clerk, or in the Service or Employ of such Clerk or of his Partner, accept the Office of Treasurer, or act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer;

If any Person, being the Treasurer or the Partner of such Treasurer, or in the Service or Employ of such Treasurer or of his Partner, accept the Office of Clerk, or act as Deputy of such Clerk, or in any Manner officiate for such Clerk;

If any such Clerk or Treasurer hold any Place of Profit or Trust under the Commissioners other than that of Clerk or Treasurer (as the Case may be);

And any Person may sue for such Penalty, either by Action of Debt or on the Case, in any of Her Majesty's Superior Courts of Record at *Westminster*, and shall, on Recovery thereof, be entitled to full Costs of Suit.

Officer taking
Fees to lose
his Office
and forfeit
50*l*.

XXXIV. And be it enacted, That if any such Treasurer, Clerk, Collector, or other Officer employed by the Commissioners exact, take, or accept, on account of any thing done by virtue of his Office, or in relation to the Functions of the Commissioners, any Fee or Reward whatsoever, other than the Salaries, Rewards, or Allowances allowed by the Commissioners, or be in anywise concerned or interested in any Bargain or Contract made by the Commissioners, he shall be incapable of being afterwards employed by the Commissioners, and he shall forfeit Fifty Pounds to any Person who shall sue for the same as aforesaid.

Commis-
sioners to
take Security
from all Offi-
cers entrusted
with Money.

XXXV. And be it enacted, That the Commissioners shall take from their Treasurer, and also from all other Officers in their Employ entrusted with the Receipt or Disbursement of Money, sufficient Security for the due Execution of their respective Offices, and for answering and paying, as the Commissioners shall from Time to Time require, all Sums of Money which shall be by them respectively received, and also for their giving and making respectively true Accounts in Writing from Time to Time, when required by the Commissioners so to do, of all Monies by them respectively received or collected for the Purposes of this Act, and when, of whom, and for what the same were so received or collected.

XXXVI. And

XXXVI. And be it enacted, That every Officer appointed or Officers to
 employed by the Commissioners by virtue of this Act shall from account.
 Time to Time, when required by the Commissioners, make out and
 deliver to them, or to any Person appointed by them for that
 Purpose, true and perfect Accounts in Writing under his Hand of
 all Monies received by him on behalf of the Commissioners; and
 such Account shall state how, and to whom, and for what Purpose
 such Monies have been disposed of; and, together with such Ac-
 counts, such Officers shall deliver the Vouchers and Receipts for
 such Payments; and every such Officer shall pay to the Commis-
 sioners, or to any Person appointed by them to receive the same, all
 Monies which shall appear to be owing from him upon the Balance of
 such Accounts.

XXXVII. And be it enacted, That if any such Officer shall fail Remedy
 to render such Accounts, or to produce and deliver up all the against Offi-
 Vouchers and the Receipts relating to the same in his Possession or cers failing
 Power, or to pay the Balance thereof, when thereunto required, or to account.
 if for Three Days after being thereunto required he shall fail to
 deliver up to the Commissioners, or to any Person appointed by
 them to receive the same, all Papers and Writings, Property, Effects,
 Matters, and Things, in his Possession or Power, relating to the Exe-
 cution of this Act or belonging to the Commissioners, then, on
 Complaint thereof being made to any Justice, such Justice shall
 summon such Officer to appear before any Two or more Justices, at
 a Time and Place to be set forth in such Summons, to answer to such
 Charge; and upon the Appearance of such Officer, or in his Absence
 upon Proof that such Summons was personally served upon such
 Officer or left at his last known Residence or Place of Abode, such
 Justices may hear and determine the Matter in a summary Way, and
 may adjust and declare the Balance owing by such Officer; and if it
 appear, either upon Confession of such Officer, or upon Evidence, or
 upon Inspection of the Account, that any Monies of the Commis-
 sioners are in the Hands of such Officer or owing by him to the
 Commissioners, such Justices may order such Officer to pay the same
 forthwith; and if he shall fail to pay the Amount, it shall be lawful
 for any Justice to grant a Warrant to levy the same by Distress, or
 in default thereof to commit the Offender to Gaol, there to remain
 without Bail for any Time not exceeding Three Months; and in any
 of the following Cases, (that is to say,)

If such Officer do not appear before such Justices at the Time
 appointed; or

If such Officer appear, but fail to make out such Account in
 Writing; or

If such Officer refuse to produce and deliver to the Justices the
 several Vouchers and Receipts relating to such Account in his
 Possession or Power; or

If such Officer refuse to deliver up any Books, Papers, or Writings,
 Property, Effects, Matters, or Things, relating to the Execution
 of this Act or belonging to the Commissioners, in his Possession
 or Power;

Such Justices may lawfully commit such Offender to Gaol; and in
 every such Case of Commitment the Prisoner shall remain in Custody,

[*Local.*]

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without

without Bail, until he have made out and delivered such Accounts, and delivered up the Vouchers and Receipts, if any, relating thereto, in his Possession or Power, and have delivered up such Books, Papers, Writings, Property, Effects, Matters, and Things, if any, in his Possession or Power : Provided always, that if any One of such Commissioners shall make Oath that he has good Reason to believe and does believe that it is the Intention of such Officer to abscond, it shall be lawful for the Justice before whom Complaint is made, instead of issuing a Summons as herein-before directed, to issue his Warrant for the apprehending and bringing such Officer before such Two or more Justices as aforesaid ; but no Person directed to execute such Warrant shall keep such Officer in Custody longer than Twenty-four Hours without bringing him before Two Justices to answer to the Charge as herein-before directed.

Commitment
not to dis-
charge Sure-
ties.

XXXVIII. And be it enacted, That no such Proceedings against or Dealing with any such Officer as aforesaid shall deprive the Commissioners of any Remedy which they might otherwise have against any Surety of such Officer.

Books of
Account to
be kept, and
to be open to
Inspection.

XXXIX. And be it enacted, That the Commissioners shall cause a Book to be kept by their Clerk, in which such Clerk shall enter or cause to be entered true and regular Accounts of all Sums of Money received and expended for the Purposes of this Act, and of the several Matters for which such Sums of Money shall have been received or expended ; and such Book shall at all seasonable Times be open to the Inspection of the Commissioners, and of every Person paying such Rates or Assessments, without any Fee being demanded for such Inspection ; and it shall be lawful for any of the Commissioners or other Persons aforesaid, at seasonable Times, to take Copies of or Extracts from the said Book without paying any thing for the same ; and if, on Request for that Purpose, the Clerk shall fail to permit any of the Commissioners or Persons aforesaid to inspect such Book or to take Copies or Extracts as aforesaid, such Clerk shall for each such Default forfeit a Sum not exceeding Five Pounds.

Accounts to
be examined
and settled at
the annual
Meeting.

XL. And be it enacted, That the Accounts of the Monies received and expended by the Commissioners shall be produced at the annual Meeting of the Commissioners which shall take place on the Second *Thursday* in *June* in every Year, or at some Adjournment thereof, at which Meeting it shall be lawful for all Persons interested to be present ; and the Accounts shall be examined and settled by the Commissioners, and if the same shall be found just and true they shall be allowed by the Commissioners, and certified accordingly under the Hand of the Chairman of such Meeting ; and after such Account shall have been so allowed and signed, the same shall be final in regard to all Persons whomsoever, unless an Appeal be prosecuted against such Accounts at One of the Two then next General Quarter Sessions of the Peace for the County of *Devon*, which Appeal it shall be lawful for any Person interested in such Account to institute and prosecute, Notice in Writing of such Appeal having been given to the Clerk of the Commissioners Fourteen Days at least before the Hearing of any such Appeal.

XLI. Pro-

XLI. Provided always, and be it enacted, That Ten Days at the least previously to such Examination and Settlement as aforesaid, the Commissioners shall cause a full and true Statement and Account to be drawn out of all Rates or Assessments made, and of all Contracts entered into, and of all Monies received and expended by virtue of this Act during the preceding Year, and also of all Debts then owing by the Commissioners; and they shall allow such Statement and Account to remain for Inspection at the Office of the Commissioners; and every Person paying any such Rate or Assessment, or any Person acting on behalf of any such Rate-payer, may at all seasonable Times inspect and take Copies of or Extracts from such Statement and Account; and Fourteen Days at the least previously to the Meeting for examining and settling such Accounts, the Commissioners shall give public Notice of such intended Meeting, stating in such Notice that the said Statement and Account are at the Office of the Commissioners ready for the Inspection of the Rate-payers or other Parties interested.

Statement of
Accounts to
be prepared
and to be
open for In-
spection.

XLII. And be it enacted, That the Commissioners shall every Year cause an annual Account in Abstract to be prepared and printed, showing the total Receipt and Expenditure of all Funds levied by virtue of this Act for the Year ending on the Twenty-fifth Day of *March* or some other convenient Day in each Year, under the several distinct Heads of Receipts and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Clerk for the Time being of the Commissioners, and shall transmit a Copy of the said Account, free of Charge, to the Clerk of the Peace for the County of *Devon*, on or before the Twenty-ninth Day of *September* then next, which Account shall be open to the Inspection of the Public at all seasonable Times: Provided always, that if the Commissioners shall omit to prepare and transmit such Account as aforesaid they shall forfeit for every such Omission the Sum of Twenty Pounds.

Annual Ac-
count to be
transmitted
to the Clerk
of the Peace.

XLIII. And be it enacted, That any Summons, Notice, or Writ, or other Proceeding at Law or in Equity requiring to be served upon the Commissioners may lawfully be served by delivering the same personally to the Clerk of the Commissioners, or to some Inmate at his usual Place of Abode, or by leaving the same at the Office of the Commissioners, or in case there be no Clerk, or his Place of Abode shall be unknown, then by delivering the same to any One Commissioner, or to some Inmate at the Place of Abode of any such Commissioner.

Service of
Notice on
Commis-
sioners.

XLIV. And be it enacted, That every Summons, Demand, or Notice, or other such Document under this Act, may be in Writing or Print, or partly in Writing or Print; and if the same require Authentication by the Commissioners, the Signature thereof by One Commissioner or by the Clerk of the Commissioners shall be a sufficient Authentication.

Authentica-
tion of
Notices.

XLV. And be it enacted, That in all legal Proceedings under this Act it shall be lawful for any Three or more of the Commis- sioners,

Releases to
Witnesses.

sioners, by Order of the Commissioners, to grant general or other Releases for the Purpose of qualifying any Person in the Service of the Commissioners to give Evidence as a Witness; and every such Release or Discharge shall be under the Hands and Seals of the Parties giving the same.

Tender of
Amends.

XLVI. And with respect to Actions brought in respect of any Proceeding under the Provisions of this Act, be it enacted, That if before an Action be brought any Party having committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act, or by virtue of any Power or Authority thereby given, make sufficient Tender of Satisfaction, the Plaintiff shall not recover in any Action brought on account of such Irregularity, Trespass, or other wrongful Proceeding; and if no such Tender shall have been made it shall be lawful for the Party offending, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

Power to buy
Land for De-
posit of Mate-
rials, &c.

XLVII. And be it enacted, That it shall be lawful for the Commissioners to purchase or lease from any Person or Persons who shall be willing and consenting to sell or lease the same any Plot or Parcel of Land, not exceeding Half an Acre, adjoining to and abutting upon the River *Exe*, and to enclose, embank, and fence in the same, to be used as a Place of Deposit for Materials belonging to the said Commissioners, and for such other Purpose as may be deemed beneficial to the Inhabitants of the said Town.

Power to pur-
chase Lands.

XLVIII. And be it enacted, That, subject to the Provisions of this Act, it shall be lawful for the Commissioners to agree with the Owners of any Lands specified in Schedule (B.) to this Act annexed which they may require for the Purpose of making and opening a more convenient Communication, and of widening and improving the Highway or Street commencing at the North End of the Main Quay and terminating at the South Corner of the Quay or Road communicating from *Messeiurs Row's* Block Shop to the Strand, for a Lease, or for the absolute Purchase for a Consideration in Money, of any such Lands, or such Part thereof as they shall think proper, and of all subsisting Leases therein, and of all Rent-charges, Annuities, Mortgages, or Incumbrances affecting any such Lands, and all Commonable or other Rights to which such Lands may be subject, and all other Estates or Interests in such Lands, of what Kind soever.

Parties under
Disability
enabled to
sell and con-
vey.

XLIX. And be it enacted, That it shall be lawful for all or any of the following Parties, being seised, possessed of, or entitled to any such Lands, or any such Estate or Interest therein as aforesaid, to sell and dispose, and convey or release the same to the Commissioners, and to enter into all necessary Agreements for that Purpose; (that is to say,) all Corporations, Tenants for Life or in Tail, or for any other partial or qualified Estate or Interest, Married Women seised in their own Right or entitled to Dower, Guardians, Committees of

Lunatics and Idiots, Trustees or Feoffees in Trust for charitable or other Purposes, Executors and Administrators; and the Power so to sell and convey as aforesaid may lawfully be exercised by all such Parties, not only on behalf of themselves and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, unborn, or not to be found, and as to such Married Women as if they were sole, and as to such Guardians on behalf of their Wards, and as to such Committees on behalf of the Lunatics and Idiots of whom they are the Committees respectively, and that to the same Extent as such Wives, Wards, Lunatics, and Idiots respectively could have exercised the same Power under the Authority of this Act if they had respectively been under no Disability, and as to such Trustees, Executors, and Administrators on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Femmes Covert, or other Persons, and that to the same Extent as such Cestuique Trusts respectively could have exercised the same Powers under the Authority of this Act if they had respectively been under no Disability.

L. And be it enacted, That, except as herein-after mentioned, the Consideration to be paid for the Purchase of any such Lands or for any Damage done thereto shall be in a gross Sum. Consideration to be a gross Sum.

LI. And be it enacted, That the Owners of any such Lands or of any such Estate or Interest therein as aforesaid, and all Parties by this Act enabled to convey any such Lands, 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 Lands or any Interest therein to which such Party shall be entitled; and in addition to Compensation for the Value of such Lands or of the Interest therein to be so conveyed, such Parties shall be entitled to and may in like Manner accept Compensation for any Damage by them sustained by reason of the severing or dividing of such Lands, or otherwise owing to the Exercise of the Powers of this Act. Acceptance of Compensation for Price of or Damage to Lands.

LII. And with respect to the Consideration Money to be paid for any Lands 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 contained, and the Compensation Money to be paid for any permanent Damage or Injury to any such Lands, be it enacted, That such Consideration Money or Compensation shall not be less than shall 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. Amount of Compensation to be ascertained by Valuation in case of Parties under Disability.

LIII. And with respect to the Compensation Money to be paid for any Lands to be purchased from any Party who, by reason of Compensation to absent Parties to be ascer-
[Local.] 22 X Absence

tained by
Valuation.

Absence or from any other Incapacity or Accident, is prevented from treating or cannot be found, and the Compensation Money to be paid for any permanent Injury to such Lands, be it enacted, That such Consideration or Compensation shall not be less than shall be determined by the 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.

Form of Con-
veyance.

LIV. And be it enacted, That all Conveyances of Lands so to be purchased as aforesaid may be according to the Form in the Schedule (A.) 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 Lands 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 Interests so thereby conveyed, and to bar and to destroy all such Estates Tail, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever of and in the Lands 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.

Costs of Con-
veyances.

LV. And with respect to the Costs of the Conveyance of any such Lands 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 any such Lands, and of any outstanding Terms or Interests therein, and of deducing, evidencing, and verifying the Title to such Lands, Terms, or Interests, 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 Possession of the Lands 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 Notice in Writing from the Commissioners, the Parties from whom such Lands shall have been purchased do not deliver a Bill of their Costs to the Commissioners, then the Commissioners shall not be prevented from entering into the Possession of such Lands by reason of the Non-payment of such Costs, or by reason of such Order for Taxation thereof not having been obtained.

Taxation of
Costs.

LVI. 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
1 of

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 to the Court to order the Amount at which the same shall be so taxed, together with the Costs 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 Lands shall have been purchased or taken.

LVII. And for the Purpose of providing for the Deposit and Application of the Purchase Money or Compensation to be paid in respect of any such Lands which may belong to Parties under Disability, be it enacted, That if any such Purchase Money or Compensation shall be payable in respect of any such Lands, or any Interests therein, which any Corporation, Tenant for Life, or for any other partial or qualified Interest, Married Woman seised in her own Right or entitled to Dower, Guardian, Committee of Lunatic or Idiot, Trustee, Executor, or Administrator, or Person under any Disability, shall be entitled to, and shall under the Powers of this Act be enabled to convey or dispose of, the same shall, if it amount to or exceed the Sum of Two hundred Pounds, be paid into 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 *ex parte* "The Commissioners for sewerage and paving the Town of *Topsham* in the County of *Devon*," pursuant to the Method prescribed by an Act of the Twelfth Year of the Reign of His late Majesty King *George* the First, intituled *An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and Indorsements thereon, as likewise Indorsements on South Sea Bonds*, and pursuant to the general Rules and Orders of the said Court, and without Fee or Reward, according to the Act of the Twelfth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act to empower the High Court of Chancery to lay out on proper Securities any Monies, not exceeding a Sum therein limited, out of the common and general Cash in the Bank of England belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest therefrom for answering the Charges of the Office of the Accountant General of the said Court*; and such Monies shall remain so deposited until the same be applied to some One or more of the following Purposes; (that is to say,)

In the Purchase or Redemption of the Land Tax, or the Discharge of any Debt or Incumbrance affecting the Lands in respect of which such Money shall have been paid, or affecting other Lands settled therewith to the same or the like Uses, Trusts, or Purposes; or

In the Purchase of other Lands to be conveyed, limited, and settled upon the like Uses, Trusts, and Purposes, and in the same

Purchase Money payable to Parties under Disability amounting to 200*l.* to be deposited in Bank of England.

12 G. I. c. 32.

12 G. I. c. 24.

Application of Monies deposited.

same Manner, as the Lands in respect of which such Money shall have been paid stood settled; or

If such Monies shall be paid in respect of any Buildings taken under the Authority of this Act, in replacing such Buildings, or substituting others in their Stead, in such Manner as the Court of Chancery shall direct; or

In Payment to any Party becoming absolutely entitled to such Money.

Order for
Application.

LVIII. And be it enacted, That such Money may be so applied as aforesaid upon an Order of the Court of Chancery made on the Petition of the Party who would have been entitled to the Rents and Profits of the Lands in respect of which such Money shall have been deposited; and until the Money can be so applied, it may, upon the like Order, be invested by the said Accountant General in the Purchase of Three *per Centum* Consolidated or Three *per Centum* Reduced Bank Annuities, or in Government or Real Securities; and until such Annuities or Securities shall be ordered to be sold or converted into Money for the Purposes aforesaid the Interest, Dividends, and annual Proceeds thereof shall from Time to Time be paid to the Party who would for the Time being have been entitled to the Rents and Profits of the Lands; and the Order for such Investment and Application of the Interest, Dividends, and annual Proceeds thereof may be made on the like Petition.

Sums from
20*l.* to 200*l.*
to be depo-
sited or in-
vested in
Trustees.

LIX. And with respect to any such Purchase Money or Compensation which shall not amount to the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, be it enacted, That the same shall either be paid into the Bank of *England*, and applied in the Manner herein-before directed with respect to Sums amounting to or exceeding Two hundred Pounds, or the same may lawfully be paid to Two Trustees, to be nominated by the Parties entitled to the Rents or Profits of the Lands in respect whereof the same shall be payable, such Nomination to be signified by Writing under the Hands of the Parties so entitled; and in case of the Coverture, Infancy, Lunacy, or other Incapacity of the Parties entitled to such Monies, such Nomination may lawfully be made by their respective Husbands, Guardians, Committees, or Trustees; but such last-mentioned Application of the Monies shall not be made unless the Commissioners approve thereof, and of the Trustees named for the Purpose, such Approval to be signified in Writing under the Hands of any Three of the Commissioners; and the Money so paid to such Trustees, and the Produce arising therefrom, shall be by such Trustees applied in the Manner herein-before directed with respect to Money paid into the Bank of *England*, but it shall not be necessary to obtain any Order of the Court for that Purpose.

Sums not ex-
ceeding 20*l.*
to be paid
to Parties.

LX. And with respect to any such Money which shall not exceed the Sum of Twenty Pounds, be it enacted, That the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands in respect whereof the same shall be payable, for their own Use and Benefit; or in case of the Coverture,

Coverture, Infancy, Idiocy, Lunacy, or other Incapacity of any such Parties, then such Money shall be paid, for their Use, to the respective Husbands, Guardians, Committees, or Trustees of such Persons.

LXI. [And for the Purpose of providing for the Payment and Application in certain Cases of the Purchase Money or Compensation to be paid in respect of any such Lands not belonging to Parties under Disability, be it enacted, That in the following Cases, (that is to say,) if the Owner of any such Lands, or of any Interest therein, on Tender of the Purchase Money or Compensation 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 Lands in respect whereof such Purchase Money or Compensation 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 Lands as directed by the Commissioners, it shall be lawful for the Commissioners to deposit the Purchase Money or Compensation payable in respect of such Lands, 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 Lands (describing them, as 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 Lands in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Commissioners.

Where Parties refuse to convey, or do not show Title, the Purchase Money to be deposited.

LXII. And be it enacted, That upon the Application by Petition of any Party making claim to the Money so deposited as last aforesaid, or any Part thereof, or to the Lands 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.

Application of Monies so deposited.

LXIII. Provided always, and be it enacted, That where any Purchase Money or Compensation paid into the Court of Chancery under the Provisions of this Act shall have been paid in respect of any Lease for Lives or Years, or any Estate in Lands less than the whole Fee Simple thereof, or of any Reversion dependent on any such Lease or Estate, it shall be lawful for the Court of Chancery, on the Petition of any Party interested in such Money, to order that the same shall be laid out, invested, accumulated, and paid in such Manner as the said

Court of Chancery may direct Investment or Payment of Money in respect of Leases for Lives, Years, &c. or Reversions, as

they may
think just.

Court may consider will give to the Parties interested in such Money the same Benefit therefrom as they might have legally had from the Lease, Estate, or Reversion in respect of which such Money shall have been paid, or as near thereto as may be.

Party in
Possession
deemed to be
the Owner.

LXIV. And be it enacted, That if any Question arise respecting the Title of the Lands in respect whereof such Monies shall have been so paid or deposited as aforesaid, the Parties respectively in Possession or Receipt of the Rents of such Lands at the Time of such Lands being purchased or taken shall be deemed to have been lawfully entitled to such Lands until the contrary be shown to the Satisfaction of the Court; and unless the contrary be shown as aforesaid the Parties so in Possession, and all Parties claiming under them or consistently with their Possession, shall be deemed entitled to the Money so deposited, and to the Dividends or Interest of the Annuities or Securities purchased therewith, and the same shall be paid and applied accordingly.

Costs in case
of Money
deposited.

LXV. And with respect to Costs in Cases of Monies deposited in the Bank of *England*, be it enacted, That the Court of Chancery may 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 Lands 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 or of the taking or using of the Lands, 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 or Real Securities, and of the Re-investment thereof, or of the Government or Real Securities purchased therewith, in the Purchase of other Lands, and also the Costs of obtaining the proper Orders for any of the Purposes aforesaid, and of the Orders for the Payment of the Dividends and Interest of the Government or Real 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 or Real Securities whereon the same shall be invested, and of all other Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants.

Payment of
Price to be
made pre-
vious to
Entry, ex-
cept to sur-
vey, &c.

LXVI. And be it enacted, That the Commissioners shall not, except by Consent of the Owner and Occupier, enter upon any Lands which shall be required to be purchased or permanently used for the Purposes of this Act, until they shall either have paid to every Party having any Interest in such Lands, or deposited in the Bank of *England* in the Manner herein mentioned, the Purchase Money or Compensation agreed or awarded to be paid to such Parties respectively for their respective Interests therein: Provided always, that for the Purpose merely of surveying and taking Levels of such Lands it shall be lawful for the Commissioners to enter upon the same without the previous Consent of the Owners, making Compensation for

for any Damage thereby occasioned to the Owners or Occupiers of such Lands.

LXVII. And be it enacted, That if the Commissioners or any of their Contractors shall, except as aforesaid, wilfully enter upon and take possession of any Lands which shall be required to be purchased or permanently used for the Purposes of this Act, without such Consent as aforesaid, or without having made such Payment or Deposit as aforesaid, the Commissioners shall forfeit to the Party in Possession of such Lands the Sum of Ten Pounds, over and above the Amount of any Damage done to such Lands by reason of such Entry and taking possession as aforesaid, such Penalty and Damage respectively to be recovered before Two Justices; and if the Commissioners or their Contractors shall, after Conviction in such Penalty as aforesaid, or after Notice from the Party in Possession of such Lands, continue in unlawful Possession of any such Lands, the Commissioners shall be liable to forfeit the Sum of Twenty-five Pounds for every Day they or their Contractors shall so remain in Possession as aforesaid, such Penalty to be recoverable by the Party in Possession of such Lands, with full Costs of Suit, in any of the Superior Courts: Provided always, that nothing herein contained shall be held to subject the Commissioners to the Payment of any such Penalties as aforesaid if they shall *bonâ fide* and without Collusion have paid or deposited the Compensation agreed or awarded to be paid in respect of the said Lands to any Person whom the Commissioners may have reasonably believed to be entitled thereto, although such Person may not have been legally entitled thereto.

Penalty on Commissioners entering upon Lands without Consent before Payment of the Purchase Money.

LXVIII. And be it enacted, That on the Trial of any Action for any such Penalty as aforesaid the Decision of the Justices under the Provision herein-before contained shall not be held conclusive as to the Right of Entry on any such Lands by the Commissioners.

Decision of Justices not conclusive as to Commissioners Right.

LXIX. And be it enacted, That when the Commissioners shall require to purchase any of the Lands which by this Act they are authorized to purchase or take, they shall give Notice thereof to all the Parties interested in such Lands, 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 Lands, 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 Lands so required, and shall state that the Commissioners are willing to treat for the Purchase of the Interest of such Party in such Lands, and as to the Compensation to be made for the Damage that may be sustained by him by reason of the making of the Works authorized by this Act.

Notice of Intention to take Lands.

LXX. 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 any such Land, 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

Parties interested in Lands to state their Claims.

him by reason of the Execution of the said Works, 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.

LXXI. 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 required for the Purposes of this Act, if the Owner or Occupier of any such Lands 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 any Three or more of them, 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 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.

LXXII. 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 any Lands, or of any Interest in any such Lands, taken or required for or injuriously affected by the Execution of the Powers of this Act, (including among such Owners all Parties by this Act enabled to sell or convey Lands,) as to the Value of such Lands, 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 any such Lands 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 Lands, or to proceed in executing the Works authorized by this Act, or if any such Difference arise as to the Amount of the Damages occasioned to any Lands by the temporary Occupation thereof in the Execution of the said Works, or otherwise in exercise of the Powers given by this Act, and 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.

Claims not
exceeding
100*l.* to be
settled by
Two Justices.

LXXIII. Provided always, and be it enacted, That if the Compensation claimed in any of the Cases mentioned in the preceding Enactment shall not exceed One hundred Pounds the same shall be settled by Two Justices.

Notice by
Commissioners of
Intention to
have a Jury.

LXXIV. And be it enacted, That where it shall be necessary to refer any such Question to the Determination of a Jury, by reason of any such Difference as aforesaid, then, One Month at the least before issuing their Warrant for summoning a Jury, as herein-after provided,

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 Lands, and for the Damage to be sustained by him by the Execution of the said Works.

LXXV. And be it enacted, That if any Party who shall be entitled to any Compensation in respect of any Lands, or of any Interest therein, taken for or injuriously affected by the Execution of the Powers of this Act, shall desire the Amount of such Compensation to be determined by a Jury, it shall be lawful for such Party to give Notice in Writing to the Commissioners of such his Desire, and he shall in such Notice state the Nature of the Interest claimed by him in such Lands, 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.

Requisition by Party claiming Compensation, that a Jury be summoned.

LXXVI. And be it enacted, That in every Case in which any such Question of disputed Compensation shall be required to be determined by the Verdict of a Jury the Commissioners shall issue their Warrant to the Sheriff of the County of *Devon*, under the Hands of any Three or more of them, 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 in which the Lands in question, or some Part thereof, shall be situate; and if all the Coroners of such County be so interested, such Application may be made to some Person having filled the Office of Sheriff or Coroner in such 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.

Warrant for summoning Jury to be addressed to the Sheriff.

LXXVII. And be it enacted, That throughout the Enactments contained in this Act relating to the Reference to a Jury, where the Term "Sheriff" is used, the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his 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 over (on Application for that Purpose) to the Person to whom the same shall have been directed, or any Person appointed by him, the Jurors Book belonging to the said County.

Provisions applicable to Sheriff to apply to Coroner.

LXXVIII. 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,

Summoning of Jurymen.

Courts, to meet at the Time and Place named in the Warrant for that Purpose.

Impannelling
of Jury.

LXXIX. 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 Trial of Issues joined in the Superior Courts are by Law required to be drawn ; and if a sufficient Number of Jurymen do not appear in obedience to such Summons the Sheriff shall return other indifferent Men, duly qualified as aforesaid, of the Bystanders, 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.

LXXX. 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, and
summon
Witnesses.

LXXXI. 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 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.

Jurymen to
make Oath.

LXXXII. 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.

Verdict of the
Jury to be for
Purchase of
Lands and
for Damages,
assessed
separately.

LXXXIII. And be it enacted, That such Jury shall deliver their Verdict for the Sum of Money to be paid for the Purchase of the Lands required for the Purposes of this Act, or of any Interest therein, belonging to the Party with whom such Questions of disputed Compensation shall so have arisen, and also the Sum of Money to be paid for the Injury done to the Lands of any such Party by the Severance from such Lands of the Lands required by the Commissioners, and also the Sum of Money to be paid by way of Compensation for the Damage occasioned to any such Lands by the Execution of the Works, whether it be for Damage sustained before the Time of the Inquiry, or for future Damages, either temporary or permanent, or for any recurring Damage of which the Cause is then only in part obviated, and which cannot or will not be further obviated by the Commissioners ; and the Sums of Money to be paid for the Injury done by any such Severance as aforesaid, or by way of Compensation for any such Damage as aforesaid, shall in every Case be assessed separately

separately from the Value of the Lands, or the Sum to be paid for the Purchase thereof, or of any Interest therein.

LXXXIV. And be it enacted, That in assessing the Sum of Money to be paid for the Purchase of any such Lands the Value of any Interest in such Lands as shall have been heretofore rightfully purchased by the Commissioners shall be first deducted. Value of Interests previously purchased to be deducted.

LXXXV. And be it enacted, That the Sheriff before whom such Inquiry shall be held 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 of the Quarter Sessions of the County of *Devon*; 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. Verdict and Judgment to be recorded.

LXXXVI. And be it enacted, That on every such Inquiry before a Jury, where the Verdict of the Jury shall be given for the same or a 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 a 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 Owner of the Lands, 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 Owner of the Land shall have been prevented from treating with the Commissioners, all the Costs shall be borne by the Commissioners. Costs of the Inquiry.

LXXXVII. And be it enacted, That such Costs shall be settled by the Sheriff, and such Costs shall include all reasonable Costs, Charges, 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 also the Expences of the Bond, if any, given by the Party at whose Instance the Inquiry shall have been taken, for prosecuting his Claim, and securing the Costs of 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 Lands 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. Particulars of the Costs.

LXXXVIII. And

Penalty on
Sheriff and
Jury for
Default.

LXXXVIII. And be it enacted, That if the Sheriff make default in any 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 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 a Jurymen 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 Jurymen 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.

Penalty on
Witnesses
making de-
fault.

LXXXIX. 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.

Reference of
Dispute as to
Compensa-
tion to Jus-
tices.

XC. And with respect to any such Question of disputed Compensation, or other Matter of Difference by this Act authorized to be referred to the Determination of Two Justices, be it enacted, That either Party may apply to such Justices in respect of any such 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.

Parties not to
be required
to sell Part
of a House.

XCI. And be it enacted, That no Party shall at any Time be required to sell or convey to the Commissioners a Part only of any House or other Building or Manufactory, if such Party be willing to sell and convey the whole thereof.

Power to
redeem
Mortgages.

XCII. And with respect to any such Lands which shall be subject to any Mortgage, be it enacted, That the Commissioners may purchase or redeem the Interest of the Mortgagee of such Lands, and that whether they shall have previously purchased the Equity of Redemption of such Lands or not, and whether the Mortgagee thereof be entitled thereto in his own Right or in Trust for any other Party, and whether he be in Possession of such Lands by virtue of such Mortgage or not, and whether such Mortgage affect such Lands solely, or jointly with any other Lands not required for the Purposes of this Act ; and in order thereto the Commissioners may pay or tender

tender to such Mortgagee the Principal and Interest due on such Mortgage, together with his Costs and Charges, if any, and also Six Months additional Interest, and thereupon such Mortgagee shall immediately convey his Interest in the Lands comprised in such Mortgage to the Commissioners, or as they shall direct; or the Commissioners may give Notice in Writing to such Mortgagee that they will pay off the Principal and Interest due on such Mortgage at the End of Six Months, computed from the Day of giving such Notice; and if they shall have given any such Notice, or if the Party entitled to the Equity of Redemption of any such Lands shall have given Six Months Notice of his Intention to redeem the same, then at the Expiration of any such Notices, or at any intermediate Period, upon Payment or Tender by the Commissioners to the Mortgagee of the Principal Money due on such Mortgage, and the Interest which would become due at the End of Six Months from the Time of giving either of such Notices, together with his Costs and Expences, if any, such Mortgagee shall convey or release his Interest in the Lands comprised in such Mortgage to the Commissioners, or as they shall direct.

XCIII. And be it enacted, That if in either of the Cases aforesaid, upon such Payment or Tender, any Mortgagee shall fail to convey or release his Interest in such Mortgage as directed by the Commissioners, or if he fail to adduce a good Title thereto to their Satisfaction, then it shall be lawful for the Commissioners, at any Time after such Failure, to pay into the Bank of *England*, in the Manner provided by this Act in Cases of Money directed to be deposited in such Bank, the Principal and Interest, together with the Costs, if any, due on such Mortgage, and also, if such Payment be made before the Expiration of Six Months Notice as aforesaid, such further Interest as would at that Time become due; and thereupon, as well as upon such Conveyance by the Mortgagee, if any such shall be made, all the Estate and Interest of such Mortgagee, and of all Persons in Trust for him, or for whom he may be a Trustee, in such Lands, shall vest in the Commissioners, and they shall be deemed to be in the actual Possession thereof, in case such Mortgagee were himself entitled to such Possession.

Deposit of
Mortgage
Money on
Refusal to
accept Re-
demption.

XCIV. And with respect to any such mortgaged Lands which shall be of less Value than the Principal, Interest, and Costs secured thereon, be it enacted, That the Value of such Lands, or the Compensation to be made by the Commissioners in respect thereof, shall be settled by Agreement between the Mortgagee of such Lands, and the Party entitled to the Equity of Redemption thereof, on the one Part, and the Commissioners on the other Part; and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation, the same shall be determined as in other Cases of disputed Compensation; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Commissioners to the Mortgagee, in satisfaction of his Mortgage Debt, so far as the same will extend, and upon Payment or Tender thereof the Mortgagee shall convey or release all his Interest in such mortgaged Lands to the Commissioners, or as they shall direct.

Sum to be
paid when
Mortgage ex-
ceeds Value
of Lands.

[Local.]

23 A

XCv. And

Deposit of
such Money
when refused
on Tender.

XCV. And be it enacted, That if upon such Payment or Tender as aforesaid being made any such Mortgagee fail so to convey his Interest in such Mortgage, or to adduce a Title thereto, to the Satisfaction of the Commissioners, then they may pay the Amount of such Value or Compensation into the Bank of *England* in the Manner provided by this Act in the Case of Monies required to be deposited in such Bank, and every such Payment or Deposit shall be accepted by the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of such mortgaged Lands from all Money due thereon, and thereupon such Lands, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in Trust for him, shall become absolutely vested in the Commissioners, and they shall be deemed to be in the actual Possession thereof, in case such Mortgagee were himself entitled to the Possession thereof; nevertheless all Rights and Remedies possessed by the Mortgagee against the Mortgagor, by virtue of any Bond or Covenant, or other Obligation other than the Right to such Lands, shall remain in force in respect of so much of the Mortgage Debt as shall not have been satisfied by such Payment or Deposit.

Sum to be
paid where
Part only of
mortgaged
Lands taken.

XCVI. And with respect to any such mortgaged Lands of which only a Part shall be required for the Purposes of this Act, be it enacted, That if the Part so required be of less Value than the Principal Money, Interest, and Costs secured on such Lands, and the Mortgagee shall not consider the remaining Part of such Lands a sufficient Security for the Money charged thereon, or be not willing to release the Part so required, then the Value of such Part, and also the Compensation (if any) to be paid in respect of the Severance thereof, or otherwise, shall be settled by Agreement between the Mortgagee and the Party entitled to the Equity of Redemption of such Land on the one Part, and the Commissioners on the other; and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation, the same shall be determined as in other Cases of disputed Compensation; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Commissioners to such Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and thereupon such Mortgagee shall convey or release to them, or as they shall direct, all his Interest in such mortgaged Lands the Value whereof shall have been so paid; and a Memorandum of what shall have been so paid shall be indorsed on the Deed creating such Mortgage, and shall be signed by the Mortgagee; and a Copy of such Memorandum shall at the same Time (if required) be furnished by the Commissioners, at their Expence, to the Party entitled to the Equity of Redemption of the Lands comprised in such Mortgage Deed.

Deposit of
such Money
when refused
on Tender.

XCVII. And be it enacted, That if upon Payment or Tender to any such Mortgagee of the Amount of the Value or Compensation so agreed upon or determined such Mortgage shall fail to convey or release to the Commissioners, or as they shall direct, his Interest in the Lands in respect of which such Compensation shall so have been paid or tendered, or if he shall fail to adduce a good Title thereto

to the Satisfaction of the Commissioners, it shall be lawful for the Commissioners to pay the Amount of such Value or Compensation into the Bank of *England* in the Manner provided by this Act in the Case of Monies required to be deposited in such Bank, and such Payment or Deposit shall be accepted by such Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of the Portion of the mortgaged Lands so required from all Money due thereon, and thereupon such Lands shall become absolutely vested in the Commissioners as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in Trust for him, and in case such Mortgagee were himself entitled to such Possession they shall be deemed to be in the actual Possession thereof; nevertheless every such Mortgagee shall have the same Powers and Remedies for recovering or compelling Payment of the Mortgage Money, or the Residue thereof, as the Case may be, and the Interest thereof respectively, upon and out of the Residue of such mortgaged Lands, or the Portion thereof not required for the Purposes of this Act, as he would otherwise have had or been entitled to for recovering or compelling Payment thereof upon or out of the whole of the Lands originally comprised in such Mortgage.

XCVIII. And be it enacted, That every Lessee of any Lands taken for the Purposes of this Act shall be entitled to receive from the said Commissioners Compensation for the Damage done to him in his Tenancy by reason of the Severance of the Lands required from those not required, or otherwise by reason of the Execution of the Powers of this Act. Tenants to be compensated.

XCIX. And be it enacted, That the Powers of the Commissioners for the compulsory Purchase or taking of Lands for the Purposes of this Act shall not be exercised after the Expiration of Four Years from the passing of this Act. Compulsory Purchase limited to Four Years.

C. And for the Purpose of making Provision for correcting any Omission, Mis-statement, or erroneous Description of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described in the Schedule (B.) hereto annexed, be it enacted, That the Correction of any such Matter may be referred by the Commissioners to the Determination of Two Justices, and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerk of the Peace of the County, and a Copy thereof with the Churchwardens of the Parish of *Topsham*, and such Certificate and such Copy respectively shall be kept by such Clerk of the Peace and Churchwardens of the Parish respectively; and thereupon such Schedule shall be deemed to be corrected according to such Certificate, and it shall be lawful for the Commissioners to take any such Lands, and to execute the said Works in accordance with such Certificate. Errors and Omissions to be corrected.

CI. And

Lands not
wanted to be
sold.

CI. And for the Purpose of making Provision respecting the Sale of Lands acquired by the Commissioners under the Provisions of this Act, but which shall not be required for the Purposes thereof, be it enacted, That the Commissioners shall sell all such superfluous Lands in such Manner as they may deem most advantageous, and convey the same to the Purchasers thereof by Deed under the Hands and Seals of Three at least of the Commissioners; and the Receipt of the Treasurer of the Commissioners shall be a sufficient Discharge to the Purchaser of any such Lands for the Purchase Money in such Receipt expressed to be received; and such Sales and Conveyances shall take place within Five Years after the passing of this Act.

Lands not so
sold to vest
in Owners of
adjoining
Lands.

CII. And be it enacted, That if the Commissioners do not sell such superfluous Lands within the Period aforesaid, then such Lands remaining unsold at the Expiration of such Period shall thereupon vest in and become the Property of the Owners of the Land adjoining thereto in proportion to the Extent of their Lands respectively adjoining the same.

Lands to be
offered to
original or
adjoining
Owner.

CIII. Provided always, and be it enacted, That before the Commissioners dispose of any such superfluous Lands they shall first offer to sell the same to the Person then entitled to the Lands (if any) from which the same were originally severed; or if such Person refuse to purchase the same, or cannot be found, then the like Offer shall be made to the Person or to the several Persons whose Lands shall immediately adjoin the Lands so proposed to be sold, such Persons being capable of entering into a Contract for the Purchase of such Lands; and where more than One such Person shall be entitled to such Right of Pre-emption such Offer shall be made to such Persons in succession one after another in such Order as the Commissioners shall think fit.

Right of Pre-emption to be claimed within Sixty Days.

CIV. And be it enacted, That if such respective Persons be desirous of purchasing such Lands, then within Sixty Days after such Offer of Sale they shall signify their Desire in that Behalf to the Commissioners, or if they decline such Offer, or if for Sixty Days they neglect to signify their Desire to purchase such Lands, the Right of Pre-emption of every such Person so declining or neglecting, in respect of the Lands included in such Offer, shall cease; and thereupon a Declaration in Writing, made before a Justice by some Person not interested in the Matter in question, stating that the Person or all the Persons entitled to the Right of Pre-emption were out of the Country, or could not be found, or were not capable of entering into a Contract for the Purchase of such Lands, or that such Offer was made and was refused, or not accepted within Sixty Days from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence of the Facts therein stated.

Proviso as to
Sale of Lands
within a
Town.

CV. Provided always, and be it enacted, That in any Case in which the Commissioners shall have purchased or acquired any House or Land within the said Town it shall be lawful for the Commissioners absolutely to sell and dispose of all or any Part of such House or Land to such Person and in such Manner as the Commissioners shall think

think proper, without being required previously to offer to sell the same to the Persons whose Lands adjoin thereto.

CVI. And be it enacted, That if any Person entitled to such Pre-emption shall be desirous of purchasing any such Lands, and such Person and the Commissioners do not agree as to the Price thereof, then such Price shall be ascertained as in other Cases of disputed Compensation; and upon Payment or Tender to the Commissioners of the Purchase Money so agreed upon or determined they shall convey such Lands to the Party so entitled to purchase the same; and every such Conveyance shall be effectual for vesting the Lands comprised therein in the Purchaser thereof for the Estate which shall so have been purchased by him; and the Money produced by the Sale of such Lands shall be applied by the Commissioners for the Purposes of this Act.

Differences as to Price to be settled as in other Cases.

CVII. And be it enacted, That in every Conveyance of Lands to be made by the Commissioners under this Act the Word "grant" shall operate as express Covenants by the Commissioners, for themselves and their Successors, with the respective Grantees therein named, and the Successors, Heirs, Executors, Administrators, and Assigns of such Grantees, according to the Quality or Nature of such Grants, and of the Estate or Interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express Words contained in any such Conveyance; (that is to say,)

Effect of the Word "grant" in Conveyances.

A Covenant that, notwithstanding any Act or Default done by the Commissioners, they were at the Time of the Execution of such Conveyance seised or possessed of the Lands or Premises thereby granted for an indefeasible Estate of Inheritance in Fee Simple, free from all Incumbrances done or occasioned by them, or otherwise for such Estate or Interest as therein expressed to be thereby granted, free from Incumbrances done or occasioned by them :

A Covenant that the Grantee of such Lands, his Heirs, Successors, Executors, Administrators, and Assigns, (as the Case may be,) shall quietly enjoy the same against the Commissioners and their Successors, and all other Persons claiming under them, and be indemnified and saved harmless by the Commissioners and their Successors from all Incumbrances created by the Commissioners :

A Covenant for further Assurance of such Lands, at the Expence of such Grantee, his Heirs, Successors, Executors, Administrators, or Assigns, (as the Case may be,) by the Commissioners or their Successors, and all other Persons claiming under them :

And all such Grantees, and their several Successors, Heirs, Executors, Administrators, and Assigns respectively, according to their respective Quality or Nature, and the Estate or Interest in such Conveyance expressed to be conveyed, may in all Actions brought by them assign Breaches of Covenants as they might do if such Covenants were expressly inserted in such Conveyances.

Land Tax
to be made
good.

CVIII. And for the Purpose of providing against Deficiencies in the Assessment for the Land Tax occasioned by the Execution of the Powers of this Act within the said Parish, be it enacted, That if the Commissioners become possessed by virtue of this Act of any Lands charged with the Land Tax they shall from Time to Time be liable to make good the Deficiency in the Assessment for Land Tax arising within the said Parish by reason of such Lands having been taken or used for the Purposes of this Act, and such Deficiency shall be computed according to the Rental at which such Lands, with any Building thereon, were valued or rated at the Time of the passing of this Act; and on Demand of such Deficiency the Treasurer of the Commissioners shall pay all such Deficiencies to the Collector of the said Assessment; nevertheless, if at any Time the Commissioners think fit to redeem such Land Tax, they may do so in accordance with the Powers in that Behalf given for the Redemption of the Land Tax.

Limits of
the Act.

CIX. And be it enacted, That the Limits of the Town of *Topsham* for the Purposes of this Act shall be deemed and taken to comprise so much of the said Parish of *Topsham* as is situated within the Boundary Line herein-after described; (that is to say,) from the North-western Corner of the *Retreat Plantation* at *New Lane*, through and including *New Lane*, to and including the Houses at the Entrance of the said Town now belonging to *Alexander Hamilton Hamilton Esquire*, and thence across the Turnpike Road, and along the North Side of certain Fields and Gardens belonging to Mr. *James West*, to and including the *Red Cow Cottages* and the Houses there adjoining the *Exmouth Road*, and thence through *Sun Hill Lane* in a straight Line to the River *Clist*, thence by the Side of the said River to the North-east End of the *Bowling Green*, and including Lands called *Goosemoor*, thence continuing by the Side of the River *Clist* to Lands belonging to Mr. *Francis Davy* called the *Bowling Green Fields*, and thence in the Line of Low-water Mark to a Point immediately opposite to the North-west Corner of *New Lane* aforesaid: Provided always, and it is hereby declared, that (except for the Purpose of Assessment to the Rates by this Act authorized to be made and levied, and for the enforcing and recovering the same,) it shall not be lawful for the said Commissioners to use or exercise any Jurisdiction, Power, Control, Authority, or Interference whatsoever, nor shall the Powers of this Act, or any thing therein contained, (except as aforesaid,) apply or extend, or be construed to apply or extend, to, in, over, or upon any Docks, Quays, Wharfs, Shrubberies, or other Water-side Lands or Property, or any Part thereof, or to, in, over, or upon any Causeway, Wall, Fence, Pier, Slip, or Jetty, or in, to, over, or upon any Beach, Shore, Road, Embankment, Inclosure, Cliff, Path, or Way, or any Part thereof, open and subject to the Flow of the Tide or River Water, and extending the whole Distance of the Boundary Line aforesaid, between the said Lands belonging to Mr. *Francis Davy*, called the *Bowling Green Fields*, and the North-west Corner of *New Lane* aforesaid.

Footways,
&c. vested in
the Commis-
sioners.

CX. And be it enacted, That the Management of all the present and future public Footpaths and Causeways within the said Town, and the Pavement and other Materials thereof, and all Posts,
Cess-

Cesspools, Grates, Drains, Sewers, Tunnels, Gutters, Erections, or Buildings, Materials, Implements, and other Things, provided by the Commissioners for the Purposes of this Act, and also the Dust, Ashes, and Filth to be collected from the said Streets, shall be the Property of and are hereby vested in the Commissioners.

CXI. And be it enacted, That it shall be lawful for the said Commissioners to take and appropriate the present Footways and Causeways, and also so much of any public Street or Highway within the Limits of this Act, not exceeding Six Feet in Width on either Side of such Street or Highway, for the Purpose of widening and improving the existing public Footways and Causeways, and for making new and additional Footways and Causeways, and to flag, pave, or pitch the same, and to form such Gutters or other Drains by the Side thereof, with proper Gratings thereto, as to the said Commissioners shall seem meet, and thenceforth to repair, uphold, and maintain the same: Provided always, that the said Commissioners shall not take or appropriate for any such new Footway or Causeway a greater relative Proportion than One Foot for every Yard of the entire Width of any such Street or Highway, and in the same Proportion for any fractional Part of a Yard.

Commis-
sioners to
improve and
maintain the
Footways.

CXII. Provided always, and be it enacted, That in case it shall happen that in consequence of carrying any of the Powers or Authorities of this Act into execution any Alteration of any Steps, Doors, or Entrances into any Houses or Buildings, or of any Pavement, Sewer, or Drain adjoining or belonging to any Property, shall be rendered necessary, such Alteration shall be made by the said Commissioners by and with the Consent of the Owners of the said Premises.

Necessary
Alterations of
public Foot-
ways, &c. to
be made by
Commis-
sioners.

CXIII. Provided always, and be it enacted, That if any Person shall take up or make any Alteration in the Pavement, Flagging, or Curbstone of any Footway in any Street in the said Town, without the Consent in Writing of the Commissioners, except when it may be necessary for repairing any Vault or Drain under such Footway or Causeway, or other such Purpose, every Person so offending shall for every such Offence forfeit a Sum not exceeding Five Pounds; and in case the Person so taking up or altering such Pavement, Flagging, or Curbstone of any such Footway or Causeway shall not, within Three Days after Notice in Writing by the Surveyor of the Commissioners, cause the same to be reinstated as nearly as may be, the Commissioners shall cause the same to be done, and the Charges thereof shall be paid by the Person who shall have taken up or altered such Pavement, Flagging, or Curbstone.

Penalty on
Persons
altering Foot-
ways, &c.
without Con-
sent of Com-
missioners.

CXIV. Provided also, and be it enacted, That if any Question shall arise between any of the said Persons and the Commissioners relative to the proper Reinstatement, sufficient or insufficient Repair, of the Pavement, Flagging, or Curbstone, under the Provisions of this Act, of any of the said Footways or Causeways, it shall be lawful for any Two Justices of the Peace, upon Information and Complaint before them, to summon such Persons, and to hear and determine the

Justices to
settle Dis-
putes as to
Reinstatement of
Pavement,
&c.

the Matter in a summary Way, and to award and adjudge such Sum of Money by way of Damages against such Persons, together with such Costs and Charges as to such Justices shall seem proper; and the Amount of such Damages so awarded and adjudged shall be recovered from such Persons by Distress and Sale of the Goods and Chattels of the said Persons, as any other Penalty is recoverable under this Act.

Power to set up Posts for guarding Footways.

CXV. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to place such Fences and Posts on the Sides of any Footways or Carriageways within the said Town as may protect such Footways from any Carriage or Animal going on the same, and also from Time to Time to repair any such Fences or Posts, or to remove the same, or any other Obstructions on any Footway or Causeway within the said Town, as they shall think fit.

Penalty for wilful Damage.

CXVI. And be it enacted, That if any Person shall wilfully or by Negligence break up, injure, destroy, or otherwise damage any of the Flagging or Pavement of the Footways of the said Streets, or any of the Sewers, or any of the Articles or Things hereby vested in the Commissioners, or any of the Works done by the Commissioners in pursuance of this Act, every Person so offending shall for every such Offence forfeit and pay a Sum not exceeding Forty Shillings.

Commissioners liable to Indictment for Want of Repairs.

CXVII. And be it enacted, That the Commissioners shall be liable to be indicted at Common Law for the Want of the sufficient Repair of any Footways or Causeways within the said Town, in the same Manner as the Inhabitants of the said Parish of *Topsham* were before the passing of this Act.

Power to construct Common Sewers.

CXVIII. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to cause such Common Sewers, Drains, Vaults, Culverts, Watercourses, Wells, and Pumps as they may think necessary to be constructed in or under any Street or Highway within the said Town, and for the Purposes aforesaid to enter upon and break up such Street or Highway, and also to cause any of the Common Sewers, Drains, Vaults, Culverts, and Watercourses, public Wells or Pumps, which now are or hereafter shall be within the same, to be altered, repaired, cleansed, and completed, as to them shall seem necessary, and to carry and continue the same into and through any Lands within the said Town.

Compensation to be made.

CXIX. And be it enacted, That if any Person interested in any such Lands shall be injured by any such Sewer, Drain, Vault, Culvert, Watercourse, Well, or Pump being carried into or through his Lands, the Commissioners shall pay to such Person a reasonable Compensation for the Injury or Damage sustained by him.

Notice to be served before breaking up Streets.

CXX. And be it enacted, That before any Street or Highway shall be opened or broken up by the Commissioners they shall give to the Persons under whose Controul or Management such Street or Highway may be Notice in Writing of their Intention to open
or

or break up the same, Seven Days before the Commencement of such Operation.

CXXI. And be it enacted, That when the Pavement or Soil of any Street or Highway or when any Sewer or Drain shall be opened or broken up by the Commissioners, they shall with all convenient Speed complete the Work on account of which the same shall be broken up, and fill in the Ground and make good the Pavement or Soil so opened or broken up, and carry away the Rubbish occasioned thereby, and shall in the meantime cause the Place where such Pavement or Soil shall be so opened or broken up to be fenced and guarded, and shall set up and maintain upon or against the Part of the said Pavement or Soil so broken up or opened a sufficient Light during every Night that such Pavement or Soil shall be continued open or broken up.

Streets broken up to be reinstated without Delay.

CXXII. And be it enacted, That if the Commissioners shall open or break up any Street or Highway without giving such Notice as aforesaid, or if the Commissioners shall make any Delay in completing any such Works, or in filling in the Ground or making good the Pavement or Surface so opened or broken up, or in carrying away the Rubbish so occasioned as aforesaid, or in causing to be fenced, guarded, or lighted the Place where such Pavement or Surface shall have been broken up, they shall forfeit a Sum not exceeding Forty Shillings for every such Offence, and they shall forfeit an additional Sum of Forty Shillings for every Day that any such Delay as aforesaid shall continue after the Expiration of Twenty-four Hours from the Time that such Delay shall have commenced.

Penalty for Delay in re-instating the Streets.

CXXIII. And be it enacted, That if any such Delay as aforesaid shall take place it shall be lawful for the Persons having the Control or Management of the Street or Highway in which such Delay shall take place to cause the Matter or Thing so delayed to be done, and the Expence of doing the same, together with the Costs of recovering such Expence, shall be recovered from the Commissioners in the same Manner as any Damages for the Recovery of which no special Provision is made by this Act are hereby directed to be recovered; and the Money so recovered shall be applied by the Persons having the Control or Management of the Street or Highway for the Purposes of the same.

In case of Delay other Parties may reinstate, and recover the Expences.

CXXIV. And be it enacted, That the Owners or Occupiers of any Houses and Premises situated in or near any Street or Way within the said Town shall, at their own Costs and Charges, on receiving Seven Days Notice in Writing for that Purpose from the Clerk or Surveyor to the said Commissioners, make and construct, to the Satisfaction and under the Inspection of the said Surveyor, such Branch Drains and underground Sewers as the said Commissioners shall deem expedient, to communicate from such House or Premises with the Common Sewer existing in any such Street or Way; and in case any such Owner or Occupier shall neglect or refuse to make and complete any such Branch Drain or underground Sewer as aforesaid, it shall be lawful for the said Commissioners to make and form the same, and to

Branch Drains to communicate with Sewers.

recover the Costs, Charges, and Expences thereof from the Occupier or Owner of the said House and Premises: Provided always, that when in any such Case the Occupier of the said House and Premises shall pay such Costs, Charges, and Expences, he shall and may deduct the Amount so paid out of any Rent then due or thereafter to become due to the Owner of such House and Premises.

Communi-
cation of
private Drains
with common
Sewers.

CXXV. And be it enacted, That if any Person shall carry any such Branch Drain or Sewer into any Common Sewer or Drain, without the previous Consent of or in any other Manner than shall be directed by the Commissioners, he shall for every such Offence forfeit a Sum not exceeding Five Pounds; and it shall also be lawful for the said Commissioners to cut off, stop up, or prevent the Communication of such Branch Drain or Sewer with the Sewers or Drains so vested in the said Commissioners.

Occupiers to
repair private
Drains.

CXXVI. And be it enacted, That the Occupier of any House or Land to which any private Drain which now does or hereafter shall issue into any of the said public Sewers, Drains, Vaults, Culverts, or Watercourses shall belong, shall repair and cleanse the same, when required, by and according to the Direction of the Commissioners.

Vaults and
Drains to be
substantially
made.

CXXVII. And be it enacted, That all Vaults, Sewers, and Drains hereafter to be made under any Street or Way within the said Town shall be substantially made, and so as not to interfere with any Drains or Sewers under the Control of the Commissioners, without their Consent; and if any Arch, Vault, or Drain shall be made contrary to the Provisions of this Act it shall be lawful for the Commissioners to fill up the same, and to recover the Expences incurred thereby from the Persons making such Vault or Drain.

Vaults and
Drains to be
kept in
repair.

CXXVIII. And be it enacted, That all such Vaults, Sewers, or Drains shall be kept in substantial Repair to the Satisfaction of the Commissioners; and in case any such Vault or Drain shall at any Time not be in such substantial Repair, it shall be lawful for the Commissioners to put the same into substantial Repair, and to recover the Expences incurred thereby from the Occupier thereof; and such Occupier shall forfeit a Sum not exceeding Twenty Shillings for every Day such Vault or Drain shall continue out of substantial Repair after Notice shall have been given him by the Commissioners to repair the same, and a reasonable Time for completing such Repair shall have elapsed since the Service of such Notice.

Commis-
sioners may
close Streets
during Re-
pairs.

CXXIX. And be it enacted, That it shall be lawful for the Commissioners, during the making of any Sewer or Drain in any Street by the Commissioners or under their Authority, to close such Street, or any Part of the same, by such Ways or Means as they shall think fit.

In default of
the Party
liable the
Commis-

CXXX. And whereas many Works, Acts, and Things are required by this Act to be done by the Owners and Occupiers of Houses, Buildings, or Land, and other Persons, relating to the Footways, Causeways,

Causeways, and Sewers within the said Town, and for other Purposes herein mentioned, and it is necessary to provide for the Execution of all such Works, Acts, or Things, in case the same shall not be done by the Persons required to do the same; be it therefore enacted, That whenever any such Work, Act, or Thing shall not be done by the Owner or Occupier or other Person required to do the same by the Provisions of this Act, in the Manner or at the Time prescribed by this Act, or by any Notice given by the Commissioners for that Purpose, in pursuance of this Act, or if no Time shall be prescribed within a reasonable Time, it shall be lawful for the Commissioners to cause such Work, Act, or Thing to be done, and the Expences which shall be incurred by the Commissioners in respect of such Work, Act, or Thing shall be repaid to them by the Owner, Occupier, or other Person by whom the same ought to have been done.

Commissioners to execute Works, and recover.

CXXXI. And be it enacted, That in all Cases where any such Work, Act, or Thing is required by this Act to be done by the Owner or Occupier of any House, Building, or Land, (without designating by which of the said Parties the same ought to be done,) and the Occupier of such House, Building, or Land shall be the Tenant of the same at a Rent amounting to or exceeding Three Fourths of the net annual Value thereof, the Expences which shall be incurred by or recovered from the Occupier in respect of such Work, Act, or Thing shall be repaid to such Occupier by the Owner of the House, Building, or Land, and the Owner shall allow such Occupier the Amount of all such Expences out of the Rent from Time to Time becoming due to him, as if the same had been actually paid to him as Part of such Rent.

Occupiers to recover against Owners in certain Cases.

CXXXII. And be it enacted, That in all Cases, except as hereinbefore mentioned, where any Work, Act, or Thing is required by this Act to be done by the Owner or Occupier of any House, Building, or Land, (without designating, as aforesaid,) the Expences which shall be incurred by or be recovered from any such Owner or Occupier in respect of such Work, Act, or Thing shall be divided between the Owner and Occupier in the Proportion of the Value of their respective Interests in such House, Building, or Land, and in estimating the Value of such Interests the Owner shall be deemed to be entitled to such House, Building, or Land in Fee Simple, subject only to the Term or Interest of the Occupier therein; and if any such Owner or Occupier shall voluntarily or by Compulsion pay more than the Share of his Expences, estimated as aforesaid, of any such Work, Act, or Thing, the Excess shall be repaid to him by the Occupier or Owner, as the Case may be; and if the same be not so paid, on Demand, or if the Amount of the same shall be disputed, such Excess shall be ascertained and recovered in the same Manner as any Damages for the ascertaining and Recovery of which no special Provision is contained in this Act are directed to be ascertained and recovered; and if such Excess shall be payable to the Owner, he shall allow the same, or so much thereof as shall not be repaid by him to the Occupier, out of the Rent from Time to Time due or becoming due to him, as if the same had been actually paid to him as Part of such Rent.

Adjustment between Owners and Occupiers.

CXXXIII. And

Streets to be
cleansed.

CXXXIII. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to cause all or any of the Footways and Causeways, and the Gutters adjoining thereto, within the said Town, to be cleansed, and the Dirt, Ashes, and Rubbish (except any such as shall be reserved by the Occupiers for their own Use) to be removed from any House or Premises within the said Place, at such Time and in such Manner as they shall appoint.

Occupiers
allowed to
use their own
Ashes, &c.

CXXXIV. Provided always, and be it enacted, That it shall be lawful for any Occupier of any House or Premises within the said Town to keep and remove any such Dirt, Ashes, or Rubbish as shall be made on his own Premises, and shall be reserved for Manure, so as the same be not a Nuisance to the Inhabitants residing near such Premises.

Duties of the
Street Sca-
vengers to be
performed,
under Penal-
ties.

CXXXV. And be it enacted, That the Persons employed by or contracting from Time to Time with the Commissioners for cleansing the Streets within the said Town, or for removing the Dirt, Ashes, and Rubbish from any House or Premises therein, shall be called the "Scavengers;" and such Scavengers or their Servants shall, on such Days and at such Hours and in such Manner as the Commissioners shall from Time to Time appoint, collect together all Dirt, Ashes, and Rubbish from all such Streets and Houses and Premises which they shall contract or be employed to collect Dirt, Ashes, and Rubbish from, within the said Town, except such Dirt, Ashes, and Rubbish as shall be kept by the Occupiers of such Houses and Premises for their own Use, under the Provisions herein contained, and shall carry away the Dirt, Ashes, and Rubbish so collected to such Place as shall be appointed by the Commissioners for the depositing of the same; and if any such Scavenger fail to remove any Dirt, Ashes, or Rubbish which he shall contract or be employed to remove, at the Time or in the Manner prescribed by the Commissioners for that Purpose, or shall deposit any of such Dirt, Ashes, or Rubbish in any other Place than such as shall be appointed by the Commissioners for that Purpose, he shall for every such Offence forfeit a Sum not exceeding Five Pounds.

Penalty on
Occupiers
obstructing
Scavengers.

CXXXVI. And be it enacted, That every Occupier of a House or other Building within the said Town shall forfeit any Sum not exceeding Forty Shillings for every Time he shall prevent any Scavenger or his Servants from removing any Dirt, Ashes, or Rubbish which such Scavenger is hereby authorized to remove from his House or Premises.

Penalty on
other Persons
than Sca-
vengers re-
moving Dirt.

CXXXVII. And be it enacted, That if any Person, other than the Scavenger for the Time being, or some Person employed by him, shall collect or carry away any Dirt, Ashes, or Filth from any Streets within the said Town, or from any House or Building therein, (except as aforesaid,) he shall forfeit and pay for every such Offence a Sum not exceeding Forty Shillings.

Commis-
sioners may
order Nui-

CXXXVIII. And be it enacted, That if any Foundry, Candle-house, Melting-house, Melting-place, or Soap-house, or any Slaughter-house,

house, Boiling-house for Offal, Hogstye, uninclosed or uncovered Yard or Place for the Deposit or sifting of Lime, Necessary House, Dunghill, Manure Heap, or other offensive Building, Place, or Matter, in or near any Street within the Limits of this Act, shall be a Nuisance to any Inhabitant, it shall be lawful for the Commissioners, upon Complaint made by any Inhabitant, to inquire into the Matter of such Complaint, and if the Commissioners shall consider such Building, Place, or Matter of which such Complaint shall be made to be a Nuisance, it shall be lawful for them, by Notice in Writing, to order the Person by or on whose Behalf such Nuisance is carried on, kept, or made to discontinue or remedy the same.

sances to be
abated.

CXXXIX. And be it enacted, That every Person shall be liable to a Penalty of not more than Forty Shillings who in any Street within the said Town shall commit any of the following Offences ; (that is to say,)

Penalty of
40s. for
certain
Offences.

Every Person who shall lead or drive any Horse or other Animal, or draw or drive any Cart or Carriage, Sledge, Truck, or Barrow, upon any Footway or Curbstone ; or fasten any Horse or other Animal so that it may stand across or upon any Footway :

Every Person who shall place or leave any Furniture, Goods, Wares, or Merchandize, or any Cask, Boat, Tub, Net, Pole, Rope, Chain, Basket, Pail, or Bucket, or place or use any Standing-place, Stall-bench, Stall, or Showboard, on any Footway ; or shall place any Blind, Shade, Covering, or Awning over or along any such Footway, unless such Blind, Shade, Covering, or Awning shall be Eight Feet in Height at least in every Part thereof from the Surface of such Footway, and shall extend over the whole Breadth of such Footway :

Every Person who shall place, hang up, or otherwise expose to Sale any Goods, Wares, Merchandize, Matter, or Thing whatsoever, so that the same shall project into or over any Footway, or beyond the Line of any House, Shop, or Building at which the same shall be so exposed, so as to obstruct or incommode the Passage of any Person over or along such Footway :

Every Person who shall roll or carry any Cask, Tub, Hoop, or Wheel, or any Ladder, Plank, Pole, Timber, or Log of Wood, upon any Footway, except for the Purpose of loading or unloading any Cart or Carriage, or of crossing the Footway :

Every Person who shall suffer any Goods or Merchandize, or any Coal or Fuel, intended for any House, to remain in any Footway for a longer Period than shall be necessary for the housing or removing thereof.

CXL. And be it enacted, That every Person shall be liable to a Penalty of not more than Forty Shillings who within the Limits of this Act shall commit any of the following Offences ; (that is to say,)

Penalty of
40s. for cer-
tain other
Offences.

Every Person who, to the Danger of Passengers in any Footway or Causeway, shall leave open any Vault or Cellar, or the Entrance from any Footway or Causeway to any Cellar or Room under Ground, without a sufficient Fence or Handrail, or leave defective the Door, Window, or other Covering of any Vault or Cellar ; or who shall not sufficiently fence any Area, Pit, or Sewer left open

[*Local.*]

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in

in or adjoining to any Thoroughfare, or who shall leave such open Area, Pit, or Sewer without a sufficient Light after Sunset to warn and prevent Persons from falling thereinto :

Every Person who shall throw or lay any Dirt, Litter, or Ashes, or any Carrion, Fish, Offal, or Rubbish, on any Street ; or throw or cause any such Thing to fall into any Sewer, Pipe, or Drain, or into any Well, Stream, or Watercourse, Pond or Reservoir for Water ; or cause any offensive Matter to run from any Manufactory, Brewery, Slaughter-house, Butcher's Shop, or Dunghill, into any Street or other uncovered Place, whether or not surrounded by a Wall or Fence : Provided always, that it shall not be deemed an Offence to lay Sand or other Materials in any Street in Time of Frost to prevent Accidents, or Litter or other Materials to prevent the freezing of Water in Pipes, or, in case of Sickness, to prevent Noise, if the Party laying any such Things shall cause them to be removed as soon as the Occasion for them shall cease :

Every Person who shall keep any Pigstye to the Front of any Street or Way, not being shut out from such Street or Way by a sufficient Wall or Fence ; or who shall keep any Swine in or near any Street or Way, or in any Dwelling, so as to become a common Nuisance :

Every Person who shall, within the Distance of One hundred Yards from any Dwelling House, burn any Rags or any offensive Substance, so that the same shall be a common Nuisance :

Every Person who shall place or keep any offensive Matter in any inclosed or open Ground within One hundred Yards of any Dwelling House, so as the same may become a Nuisance or Annoyance to any Inhabitant.

Waterspouts
to be affixed.

CXLI. And be it enacted, That the Owner or Occupier of every House or Building in or adjoining any Street within the said Town shall, within Seven Days next after Service of any Order of the Commissioners for that Purpose, put up and for ever afterwards keep in good Condition a Shute or Trough of the whole Length of such House or Building with a Pipe or Trunk to be fixed in the Front or Side of such Building from the Roof to the Ground, to carry off the Water from the Roof thereof, in such Manner that the Water from such House shall not fall upon the Persons passing near the same.

The Bowling
Green vested
in the Com-
missioners.

CXLII. And whereas there is on the Eastern Side of the Town, and within the Parish and Limits of this Act, a Piece or Tract of Ground called the *Bowling Green*, subject to the Overflow of Spring and High Tides and Floods, and no Title to it in Severalty is or is reputed to have been at any Time claimed, and no Claim is known or reputed to have been made to the Manor of *Topsham* as a subsisting Manor : And whereas the said Piece of Ground called the *Bowling Green*, while held by no individual or ascertained Owners, is liable to be much injured by Depredators and others, and no effectual Means are taken to prevent it from Waste by the Tides and otherwise : And whereas the said Ground in its present State is unproductive, but it would be of much Benefit to the Inhabitants of the said Town if the same were vested in the Commissioners for the Purposes of this Act,
subject

subject as herein-after provided; be it therefore enacted, That the said Piece or Tract of Ground shall be the Property of and the same is hereby vested in the Commissioners for the Purposes of this Act absolutely and in Severalty, discharged from all Claims, Rights, and Privileges whatsoever therein, subject to the Provision herein-after contained.

CXLIII. And be it enacted, That it shall be lawful for the said Commissioners and they are hereby empowered from Time to Time to demise the said *Bowling Green* or any Part or Parts thereof, for Building or Improvement, or otherwise, for any Term or Terms of Years absolute, not exceeding respectively Sixty Years, in Possession, for such Fine or Fines, or for such annual or other Rent or Rents, or for both such Considerations, and subject to such Stipulations as shall absolutely and effectually provide for the Embankment and Inclosure of the said *Bowling Green* by the Lessee or Lessees thereof, and subject to such other Stipulations for the Improvement of the demised Premises or otherwise, and to such Conditions and Restrictions, as to the said Commissioners shall from Time to Time seem meet; and that all Fines and Rents which shall be received by the said Commissioners for the Grant of or under any such Lease or Leases shall be applicable by them to the general Purposes of this Act, in the same Manner as any other Monies hereby authorized to be raised by them shall or would be applicable.

Powers to
lease the
*Bowling
Green*.

CXLIV. Provided always, and be it enacted, That nothing in this Act contained shall bar, extinguish, or defeat any Right, Title, or Interest of the Lord of the Manor of *Topsham* (if any), or any other Person, in or to the said Piece or Tract of Land called the *Bowling Green*, or any Part thereof, which shall be recovered or enforced within the Time or Period assigned by Law for the Recovery or Enforcement of the same, and that any Person entitled to or claiming in right of the said Manor or otherwise the said Piece of Ground, or any Interest therein, shall and may, from Time to Time and at all Times within the said Time or Period, have and possess the same Rights and Remedies for the Recovery or Enforcement at Law or Equity, or otherwise howsoever, of such his Right, Title, or Interest to or in the said *Bowling Green* or any Part thereof, in such and the same Manner to all Intents and Purposes as he could or might have had if this Act had not been passed: Provided always, that any such Person as aforesaid who shall make and prove and substantiate at Law or in Equity any such Right, Title, or Interest in or to, or in any other Manner by any legal Means possess himself of, the said *Bowling Green* or any Part thereof, shall pay to the Commissioners acting under this Act, or to the Surveyor of Highways of the said Parish for the Time being, (as the Case may be,) the Costs and Charges of obtaining this Act, and shall also pay to the respective Lessees and Occupiers of the said *Bowling Green* or any Part thereof such Sum and Sums of Money as shall be a reasonable and adequate Recompence, Compensation, and Satisfaction to every such Lessee and Occupier respectively for the Money which they respectively shall have paid, laid out, advanced, or expended in or about or in any way relating to the Lease or Possession of so much and such

Rights of
the Lord of
the Manor
reserved.

Parts

Parts of the said *Bowling Green* as such Lord of the Manor or other Person shall recover Possession of or establish and prove a Title to, and also all such Monies as shall be the full Value at the Time of the Recovery of the said *Bowling Green* or any Part thereof by such Means as aforesaid of any Embankment, Draining, Cultivation, Inclosure, or Improvement which shall have been made by the Lessee or Occupier of the said *Bowling Green* or any Part thereof, so recovered by the said Lord of the Manor or other Person, nor shall such Lessee or Occupier or the said Commissioners be accountable for any past Profits from the said Premises.

Power to
levy Rates.

CXLV. And in order to raise Money for carrying the several Purposes of this Act into execution, be it enacted, That it shall be lawful for the Commissioners, at a Meeting whereof Notice shall have been given in manner herein-before provided with respect to Special Meetings, once in every Year after the passing of this Act, to be computed from the Second *Friday* after the passing hereof, or oftener if they shall think it necessary, to make One or more equal Rate or Rates, Assessment or Assessments, to be signed by any Five or more of the Commissioners, upon the Occupiers of all Houses, Shops, Warehouses, Coach-houses, Cellars, Buildings, Gardens, Lands, Tenements, and Hereditaments within the said Town, (save and except any Churches or Chapels,) according to the annual Value of the same in the Assessment, so as such Rates or Assessments do not exceed in any One Year the Sum of Two Shillings in the Pound, and such Rate shall be called “The *Topsham* Sewerage and Paving Rate.”

Application
of the Rates.

CXLVI. And be it enacted, That the Money which shall arise from the said Rates, and all other Money to be received by the Commissioners under this Act, shall be applied, in the first place, in paying the Expences of obtaining and passing this Act, or incident thereto, and incurred from and after the Tenth Day of *November* last past, and then in defraying the Expences of paving the said Footways and Causeways, and cleansing, sewerage, and draining the several Streets within the said Town, and afterwards in making and opening a more convenient Communication, and widening and improving the said Street or Highway, commencing at the North End of the Main Quay, and terminating at the South Corner of the Quay or Road communicating from Mess^{rs} *Row's* Block Shop to the Strand, and lastly in carrying the several Purposes of this Act into execution.

Occupiers
may deduct
One Half of
Sewerage
Rate from
Rent.

CXLVII. And be it enacted, That it shall be lawful for the several Occupiers of all Houses, Shops, Warehouses, Coach-houses, Cellars, Buildings, Gardens, Lands, Tenements, and Hereditaments, who shall be rated for the Purposes of this Act, to deduct out of their respective Rents One equal Half Part of the Amount of such Rate as may from Time to Time be assessed on them, and which Amount all Landlords, both mediate and intermediate, are hereby required to allow on Receipt of the Residue of their Rents; and the Tenants paying such One equal Half Part of the said Rate shall be acquitted and discharged of so much Money as if the same had been actually paid to the Persons to whom their Rents shall have been due and payable.

CXLVIII. And

CXLVIII. And be it enacted, That whenever no sufficient Distress can be found on the Premises of the Occupier who shall be rated for the Purposes of this Act whereon the Amount of such Rate can be levied, then and in every such Case it shall be lawful for the Commissioners to require Payment of One equal Half Part of such Rate from the Owner of such Premises, and upon Nonpayment thereof within Ten Days after a Demand in Writing shall have been left on the Premises the same shall be levied upon and the Payment thereof enforced against such Owner and his Goods and Chattels, in like Manner as any Rate made for the Purposes of this Act may be recovered and levied, and Payment thereof enforced, under the Authority of this Act, upon and against any actual Occupier to whom the same is charged; and the Person receiving or claiming to be entitled to the Rents of such Premises immediately payable by the Occupier thereof shall for the Purposes of this Act be deemed and taken to be the Owner thereof.

If no sufficient Distress on Premises of Occupier, One Half of Rate may be recovered from Owner.

CXLIX. And be it enacted, That immediately after any Rate shall be made the same shall be open to the Inspection of any Person rated in such Rate at all seasonable Times, and any such Person may take Copies of or Extracts from such Rate without paying any thing for the same; and if the Person having the Custody of such Rate shall refuse to or shall not permit any Person so rated as aforesaid to take Copies or Extracts from such Rate, he shall forfeit for every such Offence any Sum not exceeding Five Pounds.

Rates to be open to Inspection of Rate-payers.

CL. And be it enacted, That the Rate made under this Act shall be vested in the Commissioners, and shall be payable, at such Times as they shall direct, to the Collectors to be appointed by them.

Rates to be vested in the Commissioners.

CLI. And be it enacted, That the annual Value of all Property rateable under this Act shall be ascertained according to the next preceding Assessment for the Relief of the Poor within the said Parish of *Topsham*, which shall be the only Criterion of the Value of Property for the Purpose of rating under this Act.

Value of Property to be according to Poor Rate.

CLII. And be it enacted, That it shall be lawful for the Commissioners, or for any Person by them authorized, from Time to Time to inspect the Poor Rates for the said Parish, and the Assessments by which the same are made, and to take Copies of or Extracts therefrom respectively; and if any Person having the Custody of such Rates or Assessments shall not suffer the Commissioners, or any Person authorized by them, to inspect the same, or take Copies thereof or Extracts therefrom, he shall forfeit a Sum not exceeding Forty Shillings for every such Offence.

Poor Rates to be open to Inspection by Commissioners.

CLIII. And be it enacted, That in every such Valuation the Property rateable under this Act shall be computed at its net annual Value, according to the then next preceding Rate made for the Relief of the Poor of the said Parish.

Computation to be at the net annual Value.

CLIV. And be it enacted, That the Books of Rates of the Commissioners, and all Entries made therein in manner by this Act directed,

Rate Books to be Evidence.

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directed, shall be received as Evidence of the Rates imposed by virtue of this Act.

Rates may
be amended.

CLV. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to amend any Rate made by virtue of this Act, by inserting therein the Name of any Person who ought to have been rated, or by striking out the Name of any Person who ought not to have been rated, or by raising or reducing the Sum at which any Person shall have been rated, if it shall appear to them that such Person has been under-rated or over-rated, according to his Assessment to the Rate for the Relief of the Poor of the said Parish, or by making such other Amendments therein as will make such Rate conformable to this Act, and no such Amendment shall be held to avoid the Rate: Provided always, that every Person who shall be aggrieved by any such Alteration shall have the same Right of Appeal therefrom as he would have had if his Name had been, originally inserted in such Rate, and no such Alteration had been made; and every Person whose Rate shall be altered shall be entitled to Seven Days Notice of such Alteration before the Rate shall be payable by him.

Occupiers
may be rated
if they think
fit.

CLVI. Provided always, and be it enacted, That it shall be lawful for the Occupiers of any rateable Property to demand to be assessed for the same, and to pay the Rates in respect thereof made under the Authority of this Act; and the Commissioners shall assess every such Occupier so long as he shall duly pay the said Rates.

Appeal to
Petty Ses-
sions on the
Ground of
Inequality of
Rates, &c.

CLVII. And be it enacted, That if any Person shall think himself aggrieved by any Rate, he may appeal to the Justices acting in and for the Petty Sessions of the *Exeter* Division in the said County, at any Special Sessions which may be holden for the Purpose of determining any Appeals against the Poor Rates; but no such Appeal shall be entertained unless Notice of the Objection in Writing, with the Grounds thereof, shall have been given to the said Commissioners Seven Days at least before the Day appointed for such Special Session.

Determina-
tion of Petty
Sessions to
be final unless
appealed
from.

CLVIII. And be it enacted, That the Justices assembled at any Petty Sessions for which any such Notice of Appeal shall have been given, or at any Adjournment thereof, shall hear and determine all such Appeals, and the Determination of such Justices shall be final, unless the same be appealed from in manner herein-after mentioned: Provided always, that it shall not be lawful for the Justices in such Special Petty Sessions assembled to inquire into the Liability of any Property to be rated, but only into the true Value thereof, and the Fairness of the Amount at which the same may be rated; nor shall any Order of such Justices be of any Force pending an Appeal concerning the same Matter to the Court of General or Quarter Sessions, or in opposition to the Order of such Court upon any such Appeal.

Parties may
appeal to
Quarter Ses-
sions against
Rate, &c.

CLIX. And be it enacted, That if any Person shall think himself aggrieved by any Rate made under the Authority of this Act, or by any Matters included in or omitted from the same, or by any Determination

mination of the Justices in Petty Sessions assembled, he may appeal to the next General or Quarter Sessions; but no such Appeal against the Rate, or any Matter contained in or omitted from the same, shall be entertained at such General or Quarter Sessions, unless reasonable Notice in Writing of such Appeal, stating the Nature and Ground thereof, be given to the Commissioners, but the same shall be adjourned to the next General or Quarter Sessions; nor shall any Appeal against the Determination of the Justices in Petty Sessions assembled be entertained, unless the Party appealing against such Determination shall, within Fourteen Days after the same shall have been made, give Notice in Writing of such Appeal, stating the Matter or Cause thereof to the Commissioners, and within Five Days after such Notice shall enter into a Recognizance before some Justice, with sufficient Sureties, conditioned to try the same at the then next General or Quarter Sessions, and to abide the Order of such Court, and to pay such Costs as shall be awarded at such General or Quarter Sessions, or any Adjournment thereof.

CLX. And be it enacted, That at the General or Quarter Sessions for which any such Notice of Appeal shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, except when the Court are hereby directed to adjourn the same, and except when the Court shall think fit to adjourn the Appeal to the following Sessions, which they are hereby authorized to do, and in all such Cases the Court shall hear and determine the Appeal at such last-mentioned Sessions.

Court of
Quarter Ses-
sions to make
such Order
as they think
reasonable.

CLXI. And be it enacted, That the Court of Quarter Sessions and the Justices in Petty Sessions assembled respectively shall, in any Appeal against any Rate made under the Authority of this Act, have the same Powers of amending or quashing such Rates as are by Law vested in them respectively for amending or quashing the Rates for the Relief of the Poor within their several Jurisdictions upon Appeals against such Rates, and shall likewise have respectively in any Appeal against any Rate made under the Authority of this Act the same Powers of awarding Costs to be paid by or to any of the Parties to an Appeal, and of recovering such Costs, as are now vested in them respectively for awarding and recovering Costs in an Appeal against any Rate for the Relief of the Poor within their several Jurisdictions.

Quarter Ses-
sions and
Petty Ses-
sions may
amend or
quash Rates,
and award
Costs as in
Appeals
against Poor
Rates.

CLXII. And be it enacted, That no Person, although liable to the Payment of Money towards the Rates authorized to be raised under this Act, shall by reason thereof be deemed to be an incompetent Witness in any Proceeding before a Court of Justice under this Act, or be disabled to act as a Justice in the Execution of the same.

Liability to
Rates not to
disqualify
Witnesses or
Justices.

CLXIII. And be it enacted, That if any Person rated under the Authority of this Act shall not pay the said Rate due from him for the Space of Fourteen Days after Demand thereof in Writing by the Commissioners or their Collector, it shall be lawful for the Commissioners to recover the same by Action of Debt in any of Her Majesty's

Rates to be
recovered by
Action or by
Distress.

Majesty's Courts of Record at *Westminster*; or any Justice shall, on the Application of the Commissioners or their Collector, summon any such Person to appear before him, at a Time to be mentioned in the Summons, to show Cause why the Rates due from him should not be paid; and in case no sufficient Cause for the Nonpayment of such Rate shall be shown accordingly the same shall be levied by Distress, and such Justice shall issue his Warrant accordingly.

Form of
Warrant of
Distress.

CLXIV. And be it enacted, That the Warrant of Distress for the Nonpayment of any Rate may include one Person or several Persons, and may be to the Effect mentioned in Schedule (C.) to this Act annexed.

Constables
to assist in
making Dis-
tress.

CLXV. And be it enacted, That in all Cases where a Distress is hereby authorized to be made every Constable authorized by the Warrant to levy any Sum mentioned therein shall, upon being required by a Collector of the Rates, aid in making a Distress or Sale, pursuant to such Warrant; and every Constable who shall refuse to do so shall be liable to a Penalty not exceeding Five Pounds.

Power to
Commis-
sioners or
Justices to
remit Rate.

CLXVI. Provided always, and be it enacted, That it shall be lawful for the Commissioners, or any Two Justices in Petty Sessions assembled, to reduce or remit the Payment of any Rate on account of the Poverty or Sickness of any Person liable to the Payment of the Rate.

Owners to
pay the Rate
in certain
Cases.

CLXVII. And be it enacted, That the Owners of all rateable Property within the said Town the yearly Rent or Value whereof respectively shall not exceed Five Pounds, or which shall be let to weekly or monthly Tenants or in separate Apartments, shall be rated to and pay the Rates by this Act directed to be made, instead of the Occupiers thereof.

Remedy
against Per-
sons quitting
before Pay-
ment of
Rates.

CLXVIII. And be it enacted, That if any Person shall quit or be about to quit any rateable Property before he shall have paid the Rates then payable by him in respect thereof, and shall not pay the same to the Commissioners or their Collectors, on Demand, it shall be lawful for any Justice of the Peace having Jurisdiction where such Person may reside or his Goods be found to summon such Person to appear before him at a Time to be mentioned in the Summons, to show cause why the Rate should not be paid; and if no sufficient Cause for the Nonpayment of such Rates be shown accordingly the same shall be levied by Distress, and such Justice shall issue his Warrant accordingly.

Rates to be
apportioned
on Holder
quitting.

CLXIX. And be it enacted, That when any Rate shall have been made for a particular Period, and the Occupier who shall be rated to such Rate shall cease to be the Occupier of the Property in respect whereof he shall be rated before the End of such Period, such Occupier shall be liable to pay a Portion only of the Rate payable for the whole of such Period proportionate to the Time during which he continued to be Owner or Occupier; and if any Person shall become the Owner or Occupier of any Property so rated as aforesaid during
any

any Part of any Period for which any Rate shall have been made such Person shall pay a Portion of such Rate proportioned to the Time during which he shall have held or occupied the Property so rated.

CLXX. And be it enacted, That if any Property rateable under this Act shall have been unoccupied at the Time of making any Rate, and any Person shall occupy such Property during any Part of the Period for which such Rate shall have been made, it shall be lawful for the Commissioners to rate such Property; and the Person occupying the same during any Part of the Period aforesaid shall pay a Portion of the said Rate proportioned to the Time during which he shall occupy such Property.

Persons entering on unoccupied Property to pay a Portion of the Rate.

CLXXI. And be it enacted, That where any Damages or Charges are directed by this Act to be paid, in addition to any Penalty for any Offence, the Amount of such Damages or Charges, in case of Non-payment thereof, or of any Dispute concerning the same, shall be determined by the Justices before whom the Offender shall be convicted of such Offence, and shall be levied by Distress, and such Justices shall issue their Warrant accordingly.

Damages to be ascertained with the Penalty.

CLXXII. And for the Purpose of providing for the Recovery of any Compensation for any Land, or for any Injury to any Land or other Property, or Person, or for any Expences, Charges, or Damages which shall be payable under this Act, and for the Recovery of which no Method is herein provided, be it enacted, That in all such Cases the Amount of the Compensation, Charges, or Damages by this Act directed or authorized to be paid shall, in Cases of Nonpayment thereof, or of any Dispute about the same, be ascertained and determined by Two or more Justices, and the same shall be levied by Distress.

Provision for Damages not otherwise provided for.

CLXXIII. And for the Purpose of ascertaining and determining any such Compensation, Expences, Charges, or Damages, be it enacted, That any Justice of the Peace may summon any Person liable to pay the same to appear before any Two or more Justices at a Time mentioned in such Summons, and at such Time, either on the Appearance or Default of the Parties summoned to appear, such Justices shall inquire into any such Compensation, Expences, Charges, or Damages, and shall determine the same.

For ascertaining Compensation.

CLXXIV. And with respect to any Money under the Provisions of this Act adjudged to be paid by the Commissioners, for which no other Mode of Proceeding is hereby prescribed, be it enacted, That if such Money be not paid by the Commissioners to the Party entitled to receive the same within Twenty-one Days after Demand thereof in Writing, stating the Order of the Justices for the Payment of such Money, the Amount shall be recovered by Distress of the Goods and Chattels of the Commissioners vested in them by virtue of their Office; but no such Distress shall issue against the Goods and Chattels of such Commissioners unless Seven Days previous Notice

Recovery of Money from Commissioners.

in Writing, stating the Amount so due, and demanding Payment thereof, shall have been given to the Commissioners.

Penalties to
be summarily
recovered
before a Jus-
tice.

CLXXV. And for the Purpose of providing for the Recovery of Penalties or Forfeitures imposed by this Act, the Recovery of which is not otherwise provided for, be it enacted, That every such Penalty or Forfeiture may be recovered by summary Proceeding upon Complaint made before any Justice, and on the Complaint being made to any such Justice he shall issue a Summons requiring the Party complained against to appear on a Day and at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and either upon the Appearance or upon the Default to appear of the Party offending it shall be lawful for any Two or more Justices to proceed on the Hearing of the Complaint, and upon Proof of the Offence, either by Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for any Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties to
be levied by
Distress.

CLXXVI. And be it enacted, That if forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture and of such Costs as aforesaid be not paid, the Amount of such Penalty and Costs, together with the Costs of the Distress, shall be levied by Distress, and any Justice shall issue his Warrant of Distress accordingly.

Imprison-
ment in
default of
Distress.

CLXXVII. And be it enacted, That it shall be lawful for the Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture and Costs, unless the Offender give such sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justice, for his Appearance before him on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Distress it shall appear to the Justice, by the Admission of the Offender or otherwise, that no sufficient Distress can be had whereon to levy such Penalty or Forfeiture and Costs, he may, if he think fit, refrain from issuing such Warrant of Distress; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to any Justice, then such Justice shall by Warrant cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture and Costs be sooner paid and satisfied.

Application
of Penalties.

CLXXVIII. And with respect to the Application of any Penalties or Forfeitures recovered by virtue of this Act, the Application whereof is not herein otherwise provided for, be it enacted, That the
Justice

Justice by whom any such Penalty or Forfeiture shall be imposed shall award one Half thereof to the Informer, and the other Half, save as herein provided, to the said Commissioners, to be by them applied for the Purposes of this Act.

CLXXIX. And be it enacted, That no Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this Act for any Offence herein-before made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Penalties to be sued for within Six Months.

CLXXX. And be it enacted, That it shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person who shall be summoned as a Witness before any Justice touching any Offence committed against this Act, or any Matter in which such Justice shall have Jurisdiction by the Provisions of this Act, shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Penalty on Witnesses making default.

CLXXXI. And with respect to Offenders whose Names and Residences are not known, be it enacted, That any Officer or Agent of the Commissioners, and all Persons called by him to his Assistance, may seize and detain any Person who shall have committed any Offence against the Provisions of this Act, and whose Name and Residence shall be unknown to such Officer or Agent, and may convey him with all convenient Despatch before some Justice, without any Warrant or other Authority than this Act, and such Justice shall proceed with all convenient Despatch to the hearing and Determination of the Complaint against such Offender.

Transient Offenders.

CLXXXII. And be it enacted, That the Justices before whom any Person shall be convicted of any Offence against this Act may cause the Conviction to be drawn up according to the Form in the Schedule (D.) to this Act annexed.

Form of Conviction.

CLXXXIII. And be it enacted, That no Proceeding in pursuance of this Act shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts at *Westminster*.

Informalities.

CLXXXIV. And be it enacted, That where in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the

Distress how to be levied.

the same ; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expences of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not unlawful for Want of Form.

CLXXXV. And be it enacted, That no Distress levied by virtue of this Act shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Parties may appeal to Quarter Sessions on giving Security.

CLXXXVI. And be it enacted, That if any Person shall think himself aggrieved by any Order, Determination, or Adjudication of any Justice, (other than the Determination of any Justices in Petty Sessions assembled, in any Appeal against any Rate made under the Authority of this Act,) or of the Commissioners under the Provisions of this Act, he may appeal to the General or Quarter Sessions ; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Order, Determination, or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Court to make such Order as they think reasonable.

CLXXXVII. And be it enacted, That at the General or Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions ; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Order, Determination, or Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable ; and they may make such Order concerning the Costs, both of the Order, Determination, or Adjudication, and of the Appeal, as they may think reasonable.

Expences of the Act.

CLXXXVIII. And be it enacted, That all the Expences of preparing and applying for, obtaining and passing this Act, or in any way incident thereto, and incurred from and after the Tenth Day of *November* last past, shall be defrayed by the Commissioners out of the first Monies which shall come to their Hands.

Money borrowed to be repaid with Interest.

CLXXXIX. And be it enacted, That if any Person shall advance, pay, or lend, or shall have advanced, paid, or lent, any Money towards defraying the Expences of preparing, applying for, obtaining and passing this Act, or incident thereto, and incurred from and after the

the Tenth Day of *November* last past, he shall be repaid the same, together with Interest for the same, out of the first Monies to be raised by virtue of this Act.

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

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

Words importing the Masculine Gender only shall include Females:

The Word "Month" shall mean Calendar Month:

The Word "Person" shall include Corporation, whether Aggregate or Sole:

The Word "Town" shall include the Limits of this Act:

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

The Word "Justice" shall mean any Justice of the Peace acting within his Jurisdiction:

The Words "General or Quarter Sessions" shall mean the General or Quarter Sessions of the Peace for the County of *Devon*:

The Word "Street" shall include any Square, Street, Court, or Alley, Highway, Lane, Road, Thoroughfare, or public Passage or Place within the Limits of this Act:

The Word "Lands" shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure:

The Expression "the Commissioners" shall mean the Commissioners for the Time being acting by virtue of this Act.

CXCI. And be it enacted, That this Act shall commence from and immediately after the passing thereof, but that all the Powers hereby vested in the said Commissioners shall cease at the Expiration of Five Years thence next ensuing, when all unapplied Monies, if any, in the Hands of the said Commissioners, shall be paid over by them to the Surveyors of the Highways for the Parish of *Topsham*, and then also the said Piece of Ground called the *Bowling Green*, subject as aforesaid, and subject to any Leases which shall have been granted thereof by the said Commissioners, and all Rents, and the full Benefit of all Covenants and Conditions reserved to them in any such Leases, and all Rights, Privileges, and Indemnities which would be available to the said Commissioners for the Recovery of the said Rents, or enforcing the said Covenants and Conditions, or otherwise relating to the said Land, shall become vested by virtue of this Act absolutely in the said Surveyors for ever, who shall thenceforth have all the same Powers of leasing, and other Powers, Privileges, and Indemnities, relating to the said Ground, as would be vested in the Commissioners if the said Term of Five Years had not expired, and that all Rents and other Monies to be received by the said Sur-

[*Local.*]

[23 G]

veyors

veyors under the Provisions of this Act shall be applicable by them to the general Purposes to which Rates and other Monies in their Hands are or shall be applicable.

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

The SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Form of Conveyance.

I of in consideration of
the Sum of paid to me [*or, as the Case may be,*
into the Bank of England, in the Name and with the Privy of the
Accountant General of the Court of Chancery, ex parte "The Com-
missioners for sewerage and paving the Town of Topsham in the
County of Devon," or to A.B. of and C.D. of
Two Trustees appointed to receive the same, pursuant to an Act
passed, &c., intituled, &c.,] by the said Commissioners, do hereby
convey to the said Commissioners, their Successors and Assigns, all
[describing the Premises to be conveyed], together with all Ways,
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 con-
vey, to hold the Premises to the said Commissioners, their Succes-
sors 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 of in the Year of our Lord
One thousand eight hundred and .

SCHE-

SCHEDULE (B.)

OF

LANDS referred to in the foregoing Act, for widening and improving the Highway or Street commencing at the North End of the Main Quay, and terminating at the South Corner of the Quay or Road communicating with Mess^{rs} Rowe's Block Shop, to the Strand.

| Description. | Owners or reputed Owners. | Lessees or reputed Lessees. | Occupiers. |
|---|---|-----------------------------|---|
| Dwelling House - - | William Bence - - | - - - | William Bence. |
| Ditto - - | Robert Bussell - - | - - - | Robert Bussell. |
| Coal-yards and Shed - | Mary Madge - - | Robert Bussell - | Ditto. |
| Stores and Cellars - | Mayor, Aldermen, and Burgesses of Exeter. | Charles Loxton - | Charles Loxton. |
| Slaughter-house - - | Ditto - - | Thomas Walters - | Thomas Walters. |
| Lighter Public House, Cellar, Brewhouse, and Offices. | Thomas Sercombe - | - - - | Thomas Stancombe. |
| River Beach - - | Mayor, Aldermen, and Burgesses of Exeter. | | |
| Coal-yard and Cellar - | Edward T. Hurdle - | - - - | Edward T. Hurdle. |
| Timber Quay and Path to Beach. | Mary Madge - - | - - - | James Row. |
| Coal-yard and Cellar - | Robert Davy - - | - - - | Thomas Harvey. |
| Ditto - - | Thomas Harvey - - | - - - | Thomas Harvey. |
| Brewhouse, Cellar, and Coal-yard. | Robert Davy - - | - - - | John Gullock. |
| Wharf, Offices, and Store-rooms. | Ditto - - | - - - | St. George's Steam Packet Company, Mr. Howell, Agent. |
| Coach-house and Stable - | Ditto - - | - - - | William Caseley. |
| Blacksmith Shop - - | William Wish - - | - - - | Henry Jackson. |
| Cellar - - | Ditto - - | - - - | John Havill. |
| Stable - - | Ditto - - | - - - | Robert Herd. |

SCHE-

SCHEDULE (C.)

Form of Warrant of Distress.

to wit. } To one of the Collectors of the Rates
under an Act passed, &c., intituled, &c., and to all Con-
stables :

WHEREAS the under-mentioned Persons, now or late Owners or Occupiers of Premises within the have been duly rated in or are liable to the Payment of a Rate made on the Day of under the Authority of the said Act, and there are now due from them respectively the several Sums of Money against their Names herein-after respectively set down, which they have not paid, as appeareth upon Oath to me, One of Her Majesty's Justices of the Peace for the and the said several Persons having been duly summoned to appear before me to answer the Premises, and not having shown sufficient Cause why such several Sums of Money should not be paid ; These are therefore, in Her Majesty's Name, to require you or any of you forthwith to levy the said several Sums due as herein-before mentioned, by Distress and Sale of the respective Goods and Chattels of the Persons aforesaid, rendering to them respectively the Overplus (if any), the reasonable Charges of such Summons, Warrant, Distress, and Sale being first deducted, and if no sufficient Distress can be had and taken then that you certify the same to me, to the end that such further Proceedings may be had as the Law doth authorize and direct. And I do hereby strictly charge and command all and singular the Constables respectively to be aiding and assisting in all Things relating to the Premises.

Given under my Hand and Seal, this Day of in the Year of our Lord One thousand eight hundred and

| | | | | Sums due. |
|-------|---|---|---|-----------|
| | | | | £ s. . |
| A. B. | - | - | - | - |
| C. D. | - | - | - | - |

SCHEDULE (D.)

Form of Conviction.

to wit. } BE it remembered, That on the Day of
in the Year of our Lord A. B. is convicted
before me C. D., One of Her Majesty's Justices of the Peace for the County of [here describe the Offence generally, and the Time and Place when and where committed], contrary to an Act passed, &c., intituled, &c. [here insert the Title of this Act]. Given under my Hand and Seal, the Day and Year first above written.
C. D.