



ANNO PRIMO

VICTORIÆ REGINÆ.

Cap. lxxv.

An Act for improving, enlarging, and maintaining the Pier, Harbour, and Market of *Brixham* in the County of *Devon*, and for the Formation of a Breakwater in *Torbay*. [30th *June* 1837.]

WHEREAS an Act was passed in the Thirty-ninth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to enable the Lords of the Manor of Brixham in the County of Devon to repair and enlarge or rebuild the Pier or Quay at Brixham Quay within the said Manor; to improve the Harbour there; to regulate the Moorings of Vessels therein, and to establish a Market there*: And whereas by the said Act the Lords and Ladies of the said Manor were authorized and empowered to borrow the Sum of Six thousand Pounds on the Credit of the Tolls for the Purposes set forth in the said Act, Part of which Sum is still due and owing: And whereas the whole of the said Sum of Six thousand Pounds was expended in improving the said Harbour, and in building a new Pier from the Northern Shore, and in establishing a Market and in building a Market-house: And whereas since the passing of the said Act the Population, Trade, and Shipping of *Brixham* have greatly increased, and the Harbour is now insufficient for the Accommodation and Protection of the Ships, Vessels, and Fishing Boats belonging to the said Harbour, and for affording
[Local.] 29 K Shelter

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Shelter to Vessels constantly putting into *Torbay*: And whereas the Fisheries have greatly increased, and the Place for exposing to Sale the Produce thereof requires to be greatly enlarged and improved: And whereas it would be of great Advantage, as well to the Inhabitants, Shipowners, and Fishermen of *Brixham* aforesaid, as to the Shipping and Commercial Interests at large, if a new Pier or Piers and other Works were built to enable Vessels to run in at all Times of the Tide with any Wind for Safety, and also if the Fish Market and Agricultural Produce Market were enlarged and improved: And whereas the Fundus or Soil below Low-water Mark whereupon it is proposed and intended to erect such new Pier or Piers and other Works as aforesaid is claimed to be Part and Parcel of and within the Water Bailiwick of *Dart* otherwise *Dartmouth*, and the Ports, Liberties, and Precincts thereof, (whereof *Brixham* aforesaid is one and is Parcel, as it is alleged,) and the said Water Bailiwick and the Office of Water Bailiff thereof is and are alleged to be Part and Parcel of the Possessions of the Duchy of *Cornwall* in the County of *Devon*, and His said Majesty or other the Personage for the Time being entitled to the Revenues of the said Duchy, or the Lessees thereof for the Time being, claim to be entitled to demand and take certain Dues and Duties for various Goods and Merchandize landed or shipped within the Ports, Liberties, and Precincts aforesaid: And whereas His Majesty is or claims to be entitled, in right of His said Duchy, and as Part and Parcel thereof, and of the said Water Bailiwick, to the Shore between High and Low Water Mark, (whereupon it is purposed and intended to erect other Part or Parts of the said new Pier or Piers and Works as aforesaid,) and to the Fundus or Soil below High-water Mark, as being Lands subject to the Flux and Reflux of the Tide within the Water or Water Bailiwick of *Dart* otherwise *Dartmouth* aforesaid: And whereas certain other Persons also claim to be entitled to the said Shore and Fundus or Soil between High and Low Water Mark as adjoining to their respective Manors or Lands or otherwise: And whereas the said Improvements cannot be effectually made unless the Powers and Provisions contained in the said recited Act are enlarged, and the Tolls, Rates, and Dues thereby imposed are altered, varied, and increased, and other Tolls, Rates, and Dues granted; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Powers, Authorities, Provisions, Directions, Penalties, Forfeitures, Payments, Exemptions, Remedies, Regulations, Clauses, Matters, and Things contained in the said recited Act (except such as are hereby repealed, varied, altered, or otherwise provided for,) shall extend and be construed to extend to this Act, and to the several Works and Things hereby authorized and required to be made and done, and shall operate and be in force in respect to the Objects and Purposes of this Act and of the said recited Act as fully and effectually to all Intents and Purposes whatsoever as if the same Powers, Authorities, Provisions, Directions, Penalties, Forfeitures, Payments, Exemptions, Remedies, Regulations, Clauses,

Powers of
recited Act
extended to
this Act,
except as
hereby
altered.

Clauses, Matters, and Things were repeated and re-enacted in this Act.

II. And be it further enacted, That where in this Act or the said recited Act any Word shall be or may have been used importing the Singular Number or the Masculine Gender only, the same shall be understood to include several Matters as well as one Matter, several Persons as well as one Person, and Females as well as Males; and where the Word "Lands" shall be or may have been used, the same shall be understood to include Messuages, Tenements, and Hereditaments, as well Leasehold and Copyhold as Freehold; and where the Word "Corporation" shall be or may have been used, the same shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and where the Word "Vessel" shall be or may have been used, the same shall be understood to mean any Ship, Lighter, Keel, Barge, Boat, or Craft, and any other Kind of Vessel whatsoever; and where the Word "Master" in relation to any Vessel shall be used, the same shall be understood to mean any Person, whether the Master or Owner or other Person lawfully or wrongfully having or taking the Command, Charge, or Management of the Vessel at the Time; and where the Word "Owner" (in relation to any Goods or Articles on board any Vessel) shall be used, the same shall be understood to include any Consignee or Shipper of such Goods or Articles (as well as the Owner thereof); and where the Word "*Brixham*" or "*Brixham Quay*" shall be used, the same shall be understood to mean and include in either Case the Town of *Upper and Lower Brixham*; and where the Word "Commissioners" shall be used the same shall be understood to mean and include Commissioners for improving the Harbour and Market of *Brixham*, unless in any of the Cases aforesaid it shall be otherwise specially provided, or there be something in the Context or Subject repugnant to such Construction,

Interpreta-
tion of Terms
in this Act.

III. And whereas it was enacted by the said recited Act that the Lords and Ladies of the said Manor of *Brixham* for the Time being should be authorized and empowered to put the said recited Act into execution: And whereas great Uncertainty has existed and now exists as to who are and the Number of such Lords and Ladies, it is expedient to define and fix the Number of the said Lords and Ladies to put the said recited Act and this Act into execution; and also, in consequence of the great Increase of the Trade and Shipping of the Town of *Brixham*, and the Extent of the Improvements hereby contemplated, to associate Fifteen of the Inhabitants of the Parish of *Brixham* with the said Lords and Ladies in the Execution of the said recited Act and this Act; be it therefore enacted, That the Right Honourable *Maria Ann Julia Louisa Harriett* Countess Dowager of *Sandwich*, the Right Honourable the Earl of *Sandwich*, the Right Honourable the Earl of *Darlington*, *John Henry Seale* Esquire, *Charles Hayne Seale Hayne* Esquire, *William Gillard* Esquire and *Ann* his Wife, *Elizabeth Chilcote* Widow, *Sir John Buller Yarde Buller* Baronet, *Nicholas Gillard* Esquire and *Alice* his Wife, *Edward Vittery*, *John Vittery*, *Samuel Vittery*, *William Vittery*, *Frederick Baddeley*, *Samuel Youlden*, *Elizabeth Shillabear* Widow, *John Fox Smart*, *Roger Hyne*, *John Youlden*,

Appoint-
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John Elliott, Clement Harris, Agnes the Wife of Richard Tyrer, and the Survivors of them, and such other Lords and Ladies of the said Manor as shall hereafter be possessed of or entitled to One undivided Twenty-fourth Part of the whole Manor of Brixham aforesaid, together with Charles Brooking, Thomas Lakeman, Charles Hatch, Daniel Dewdney Matthews, George Champion, Edward Pollard, Samuel Tozer Saunders, John Underhay Tozer, Christopher Ferneaux, Henry Chilcote, Edward Prior, William Green Bartlett Browse, Charles Clarke, and Stephen Lakeman, rated Inhabitants of the Parish of Brixham aforesaid, shall be and they are hereby appointed Commissioners for putting the said recited Act and this Act into execution, by the Name of "The Commissioners for improving the Harbour and Market of Brixham."

Qualification
of Commis-
sioners.

IV. And be it further enacted, That no Person except the Lords and Ladies of the said Manor of *Brixham* herein-before named, or such Lords and Ladies as may be hereafter possessed or entitled to One undivided Twenty-fourth Part of the whole Manor of *Brixham* aforesaid, shall be capable of acting as a Commissioner in the Execution of the said recited Act or this Act, unless he shall be, in his own Right or in the Right of his Wife, or in both Rights, in the actual Possession or Receipt of the Rents and Profits of Lands, Tenements, or Hereditaments of the clear yearly Value of Fifteen Pounds above Reprisals, and a rated Inhabitant of and residing in the said Parish of *Brixham*, or the Owner of Two hundred Tons of Shipping, and resident in the said Parish of *Brixham*, or in the Parish of *Churston Ferrers*, in the said County of *Devon*; and if any Person holding any Place or Office of Profit, or being in any way interested or concerned in any Contract to be made by virtue of this or the said recited Act, or not being so qualified as aforesaid, shall presume to act as Commissioner in the Execution of the said recited Act or this Act, then and in such Case every Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person or Persons who shall sue for the same, to be recovered in any of His Majesty's Courts of Record at *Westminster* by Action of Debt or on the Case, or by Bill, Suit, or Information.

Regulations
respecting
Commis-
sioners going
out of Office,
&c.

V. And be it further enacted, That the said rated Inhabitants so named and appointed as Commissioners as aforesaid shall continue in Office for the Period of One Year from the passing of this Act, and at the End or Expiration of the said Period of One Year One Third Part in Number of the said rated Inhabitants so named and appointed Commissioners shall go out of Office, to be selected in manner herein-after expressed, and to be succeeded in Office by an equal Number of rated Inhabitants, qualified as aforesaid, of the said Parish of *Brixham*, to be elected Commissioners in manner also herein-after mentioned; and the remaining Two Third Parts of the said rated Inhabitants so named and appointed Commissioners shall continue in Office for Two Years from the passing of this Act, when One Half Part of such last-mentioned Commissioners shall also go out of Office in like Manner, and be succeeded by an equal Number of rated Inhabitants, qualified as aforesaid, of the said Parish of *Brixham*, to be elected Commissioners in their Stead or Place in like Manner; and the remaining One Third Part of the said rated Inhabitants so named

and appointed Commissioners shall continue in Office for Three Years from the passing of this Act, when they shall go out of Office, and be succeeded by an equal Number of rated Inhabitants, qualified as aforesaid, of the said Parish of *Brixham*, to be appointed Commissioners in like Manner and Form; and after the Expiration of the said Period of Three Years for ever afterwards in every succeeding Year One Third Part in Number of the Commissioners elected from the rated Inhabitants of the said Parish of *Brixham* shall go out of Office in Rotation, and according to their Seniority of Duration in their Office, and be from Time to Time succeeded in their Office by Persons to be elected in manner herein-after expressed: Provided always, that each Third Part in Number of the said Commissioners elected from the rated Inhabitants of the said Parish of *Brixham* so going out or vacating their Offices shall from Time to Time be selected to go out or vacate in manner following at any Special Meeting of the Commissioners to be convened for that Purpose; (that is to say,) the Clerk of the said Commissioners shall write the Names of all the Commissioners elected from the rated Inhabitants of the said Parish of *Brixham* upon Slips of Paper of equal Size, and place the same in a Box, and from and out of the same Box draw the Number of the Names of the said last-mentioned Commissioners which at the Time of drawing are to go out or vacate their Office, and such Names so drawn shall be adjudged and declared to be the Names of the Persons who are to go out or vacate the said Office of Commissioners at such Meeting.

VI. And be it further enacted, That from Time to Time when the said One Third or One Half Part of the then existing Commissioners elected from the rated Inhabitants of the said Parish of *Brixham*, or the said Commissioners in Rotation, shall go out of Office every Year respectively in manner aforesaid, and as often as any of the said last-mentioned Commissioners or their Successors shall die, or decline or become incapable or disqualified to act in the Execution of this Act, the Clerk of the said Commissioners for the Time being shall give Ten Days public Notice, by fixing the same on the Doors of the Parish Churches and Market Place within the said Town, that a Meeting will be held at such Place as the Commissioners shall appoint (who are hereby required from Time to Time to appoint such Meeting) for the Election of Commissioners, being rated Inhabitants of the said Parish, to succeed those elected from the rated Inhabitants of the said Parish, and who at the End of the first Year and at the End of every succeeding Year for ever after shall go out of Office, or shall die, decline, become incapable or disqualified to act; and at such last-mentioned Meeting all Persons being rated or assessed to the Value of Five Pounds a Year and upwards to the Poor of the Parish of *Brixham* shall nominate, elect, and appoint some other Person or Persons, being a rated Inhabitant or Inhabitants of the said Parish, to be a Commissioner or Commissioners in the Place or Stead of any such Commissioner or Commissioners elected from the said rated Inhabitants of the said Parish, and so going out in manner aforesaid by Rotation, dying, declining, becoming incapable or disqualified to act; and every such Commissioner or Commissioners who shall be so nominated, elected, and appointed shall

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have

have the like Power and Authority in the Execution of the said recited Act and this Act as if he or they had been hereby nominated and appointed for such Purposes, and at such last-mentioned Meeting for the Election of Commissioners as aforesaid the Person or Persons so to be elected Commissioners shall be declared by the Chairman at such Meetings either by Show of Hands or by the Poll if the same be demanded, and that at all such Meetings a Chairman shall be nominated by the Commissioners remaining in Office from among themselves: Provided always, that the said Commissioners so going out of Office at the End of every Year as aforesaid shall and each of them may be re-elected into the said Office, if the Majority of the said Electors shall deem fit; and should any Commissioner elected from the rated Inhabitants of the said Parish die, or be incapable of acting, during the Period of his Appointment, by ceasing to reside within the said Parish, then a Meeting shall and may be held in manner aforesaid for the Election of a fit and competent Person or Persons to be a Commissioner or Commissioners in the Place or Stead of such Commissioner or Commissioners so dying, becoming incapable, disqualified, or ceasing to reside as aforesaid, and in the meantime the other Commissioners shall have Power to transact all Matters required by this Act: Provided always, that no Elector for such Commissioners shall have more than One Vote at such Election.

Regulating
the Election
of Commis-
sioners in
case a Poll is
demanded.

VII. Provided always, and be it further enacted, That in case of a Poll being demanded at such Elections the same shall commence at the Expiration of One Week at Nine of the Clock in the Morning, at a Place to be appointed in open Court by the said Chairman, and the Poll shall not be kept open beyond Four of the Clock in the Afternoon of the Day appointed for holding the said Election, and shall be conducted in manner following; that is to say, every Person entitled to vote in the Election may vote for any Number of Persons not exceeding the Number of Commissioners then to be chosen, and such voting shall take place by the Delivery by the Voter to the presiding Officer of a voting Paper containing the Christian Names, Surnames, Places of Abode, and Description of the Persons for whom he votes, such Paper being previously signed by the Voter; and the said Chairman or such other Person as he may appoint for that Purpose shall preside and take the Votes at every such Election, and the said Chairman or the Person so presiding and taking the Votes shall on the next Day after such Election declare the Names of the Persons elected by affixing such Names to the Market House Door, and in case of any Equality in the Number of Votes for any Two or more Persons proposed to be elected the Officer presiding at such Election shall have a casting Vote.

First and
other Meet-
ings of Com-
missioners.

VIII. And be it further enacted, That the Commissioners shall meet at the *London Inn* or some other convenient Place in *Brixham* aforesaid, on the Third *Tuesday* next 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 shall then and there proceed to put this Act into execution; and all subsequent Meetings to be held for the Purposes of this Act or in the Execution hereof (Meetings by Adjournment only excepted), shall be convened by Notices stating

the Purposes for which and the Time and Place at which such Meeting is intended to be holden; and such Notices shall be signed by the Clerk to the said Commissioners, and affixed to the Doors of the Parish Churches of *Brixham* aforesaid, on a *Sunday* before Divine Service, and also on the Front of the Market House in *Brixham* aforesaid, at least Four Days previous to each such Meeting, and a Copy of such Notice shall be delivered or sent through the Post Office to each of the said Commissioners as aforesaid.

IX. Provided always, and be it further enacted, That an Annual Meeting of the Commissioners for improving the Harbour and Market of *Brixham* shall be held in every Year at such Place as the said Commissioners shall direct, or may at any of the Meetings appoint, such Meeting to be on the Second *Tuesday* in the Month of *December* in every Year; and at every such Meeting it shall be lawful for the said Commissioners to call before them each and every Treasurer, Collector, Receiver, Harbour Master, Quay Master, Clerk of the Market, or any other Officer or Person by them employed, and then and there to audit, examine, and state their respective Accounts, and sign the same, and to take, state, and draw up in Writing, and sign a full and true Account of every Sum of Money by virtue of this Act collected, received, and disbursed, and not before accounted for.

Annual Meetings.

X. And be it further enacted, That all Powers, Authorities, Directions, Matters, and Things by this Act given to or directed to be done or executed by or before the said Commissioners shall or may be had, examined, and done by or before any Five or more of them; and all such Matters and Things shall be of as full Power and Effect as if they were executed by or before all the said Commissioners, any thing herein contained to the contrary thereof in anywise notwithstanding; but no Act of the said Commissioners (except that of Adjournment, and also except in Cases wherein it is otherwise directed,) shall be binding or valid unless done at some Meeting to be held by virtue of this Act; and at every Meeting of the said Commissioners One of them shall be appointed Chairman, and in case of Equality of Votes of the said Commissioners so assembled, including his own Vote, such Chairman shall upon all Occasions have a decisive or casting Vote.

Five Commissioners to be a Quorum.

XI. Provided always, and be it further enacted, That, notwithstanding any thing in the said recited Act contained to the contrary, it shall not be lawful for any of the said Commissioners to vote by Proxy at any Meeting to be held under the Authority of this or the said recited Act.

Commissioners not to vote by Proxy.

XII. And be it further enacted, That it shall be lawful for the said Commissioners at any of their Meetings and they are hereby authorized from Time to Time to nominate and appoint a Treasurer, Collector or Collectors, Receiver or Receivers, and also a Clerk to the said Commissioners, and a Harbour Master, Quay Master, Clerk of the Market, Engineer, Surveyor, and such other Officers as they shall think proper, and from Time to Time to remove any such Treasurer, Collector or Receiver, Clerk, Harbour Master, Quay Master, Clerk of the Market, Engineer, Surveyor, or such other Officers as aforesaid,

Appointment of Officers.

aforesaid, or any of them ; and such first-mentioned Clerk shall attend the Meetings of the Commissioners, and shall, in proper Books to be provided by them for that Purpose make fair and regular Entries of the several Meetings, and of all Acts, Orders, and Proceedings relative to the Execution of this Act, and of the Names of the Commissioners attending such Meetings ; and the Chairman for the Time being shall subscribe his Name to the Proceedings of every such Meeting ; and all Entries in such Books, being signed as aforesaid, shall be deemed original, and shall be admitted to be read in Evidence in all Causes, Suits, and Actions touching any thing to be done in pursuance of this Act ; and in case any such Treasurer, Collector or Receiver, Clerk, Harbour Master or Quay Master, Clerk of the Market, Engineer, Surveyor, or other Officer, shall die, be removed, or resign, it shall be lawful for the said Commissioners at any Meeting to appoint any other fit Person to execute such Office in the Place of the Person so dying, being removed, or resigning ; and it shall be lawful for the said Commissioners, out of the Monies to arise by virtue of this Act, to appoint and pay such Salaries or other Allowances to the said Officers or any other Persons employed in or about the Execution of this Act as they shall judge reasonable and proper.

Clerk and
Treasurer not
to be the
same Person.

XIII. And be it further enacted, That it shall not be lawful for the said Commissioners to appoint any Person who may be appointed their Clerk, or the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, to be the Treasurer for the Purposes of this Act, or to appoint any Person who may be appointed Treasurer, or the Partner of any such Treasurer or of his Partner, to be the Clerk to the said Commissioners ; and if any Person shall accept the Office of Clerk and Treasurer for the Purposes of this Act, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, shall accept the Office of Treasurer, or shall act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer, or being the Partner of any such Treasurer or of his Partner shall accept the Office of Clerk, or shall act as Deputy of the Clerk, or in any Manner officiate for the Clerk in the Execution of this Act, or if any such Treasurer shall hold or accept any Place or Office of Trust or Profit under the said Commissioners other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person who shall sue for the same, to be recovered, with full Costs of Suit, in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than One Imparlance, shall be allowed.

Officers to
give Security,
and to
account.

XIV. Provided always, and be it further enacted, That the said Commissioners shall take good and sufficient Security from their Treasurer, Collector, Surveyor, Lessee, Harbour Master, Quay Master, Clerk of the Market, and other Officers, for the due Execution of their respective Offices and of the Trusts reposed in them ; and
all

all such Officers and Persons shall under their Hands, at such Times and in such Manner as the said Commissioners shall direct, deliver to the said Commissioners or to such Persons as they shall appoint a true and perfect Account in Writing of all Matters and Things committed to their Charge by virtue of the said recited Act or of this Act, and also of all Monies which shall have been by such Officer or Person received by virtue and for the Purposes of the said recited Act or of this Act, and how much thereof has been disbursed and paid, and for what Purpose, together with the proper Vouchers for such Payments; and every such Officer or Person shall pay all such Monies, and shall deliver all such Goods, Matters, and Things as shall remain in their respective Hands or Custody, to the said Commissioners, or to such Persons as they shall appoint; and if any such Officer or Person shall refuse or wilfully neglect to make or render such Accounts, or to produce and deliver up the Vouchers in his Custody or Possession relating to the same, or to make Payment as aforesaid, or shall refuse or wilfully neglect to produce to the said Commissioners or to such Persons as they shall appoint, within Fourteen Days next after being thereunto required by Notice in Writing signed by the Chairman for the Time being of the said Commissioners, and given to or left at the last or usual Place of Abode of such Officer or Person, all Books, Papers, and Writings, Monies, Goods, Matters, and Things, in his Custody or Power, relating to the Execution of this Act, or give Information and Satisfaction to the Commissioners or such other Persons as aforesaid respecting the same, then and in every such Case, upon Complaint being made by the said Commissioners or by such Person as they shall appoint for this Purpose of any such Refusal or wilful Neglect as aforesaid to any Justice of the Peace for the County, City, Town, Borough, or Place wherein such Officer or Person so neglecting or refusing shall be or reside, such Justice is hereby authorized and required to issue a Summons under his Hand and Seal for the Officer or Person so refusing or neglecting to appear before him, and on his appearing, or having been so summoned and not appearing without some sufficient or reasonable Excuse, or not being found, it shall be lawful for such Justice to hear and determine the Matter in a summary Way; and if upon the Confession of the Party, or upon the Testimony of any credible Witness upon Oath or Affirmation, which Oath or Affirmation such Justice is hereby empowered to administer, it shall appear to such Justice that any of the Monies which shall have been collected and received by virtue of the said recited Act or of this Act shall be in the Hands of or owing from such Officer or Person, such Justice may and is hereby authorized and required, upon Nonpayment thereof, by Warrant under his Hand and Seal to cause such Monies to be levied by Distress and Sale of the Goods and Chattels of such Officer or Person; and if sufficient Goods and Chattels of such Officer or Person shall not be found to answer and satisfy the said Money and the Charges of such Distress and Sale, or if it shall in manner aforesaid appear to such Justice that any such Officer or Person had refused or wilfully neglected to surrender and give such Account, or to produce the Vouchers relating thereto, or that any Books, Papers, or Writings, Goods, Matters, or Things, relating to the Execution of the said

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recited Act or of this Act remained in the Hands, or in the Custody, Control, or Power of any such Officer or Person, and he shall have refused or neglected to produce or give Satisfaction respecting the same as aforesaid, then and in every such Case such Justice shall commit every such Offender to the Common Gaol or House of Correction of or for the County, City, Town, Borough, or Place where such Offender shall be or reside, there to remain without Bail or Mainprize until he shall have given a true and perfect Account, or until he shall have paid such Monies as aforesaid, or until he shall have compounded with the said Commissioners for such Money, and shall have paid such Composition in such Manner as they the said Commissioners shall appoint, (which said Composition the said Commissioners are hereby empowered to make and receive,) and until he shall have delivered up all such Books, Papers, and Writings, Goods, Matters, and Things as aforesaid, or have given Satisfaction in respect thereof to the said Commissioners as aforesaid; provided that no such Officer or Person shall be committed for Want of sufficient Distress for any longer Space than Six Calendar Months.

Commitment
of Officers
not to dis-
charge their
Securities.

XV. And be it further enacted, That no Prosecution, Commitment, or other legal Proceeding under the Provisions of the said recited Act or of this Act of any Treasurer, Clerk, Collector, Receiver, Harbour Master, Quay Master, Clerk of the Market, or other Officer or Person to be appointed under the Powers of the said recited Act or of this Act, shall acquit or discharge the Person who shall have become or shall have given Security to the said Commissioners for the due and faithful Execution of any Office by the Person appointed thereto.

Actions to be
brought in
the Name of
the Treasurer
or Clerk.

XVI. And be it further enacted, That the Commissioners shall and may sue and be sued in the Name of their Treasurer or Clerk; and no Action or Suit or other Proceeding at Law or in Equity that may be brought, commenced by or against the said Commissioners or any of them, by virtue or on account of the said recited Act or of this Act, in the Name of the Treasurer or Clerk, shall abate or be discontinued by the Death, Removal, or Act of such Treasurer or Clerk without the Consent of the said Commissioners, except such Action or other Proceeding shall be prosecuted between the said Commissioners and their Treasurer or Clerk for the Time being; and the Treasurer or Clerk for the Time being shall always be deemed Plaintiff or Defendant in such Action, Suit, or other Proceeding, as the Case may be: Provided always, that such Treasurer or Clerk shall always be paid and reimbursed out of the Monies arising by virtue of this Act all such Expences as he shall be put unto or become chargeable with by his being so made Plaintiff or Defendant.

Indemnity of
Commis-
sioners and
their Officers.

XVII. And be it further enacted, That any Contract which shall be made by the Commissioners for any of the Purposes of the said recited Act or of this Act shall not be binding upon any such Commissioner as an Individual or in his private Capacity, nor shall the Commissioners or any of their Officers personally, or his or her respective Estates, be answerable for Payment of any of the Mortgages or Transfers, Bonds or Debts, granted, created, or incurred in pursuance
of

of the said recited Act, or to be granted, created, or incurred in pursuance of this Act; and all Money which shall be expended by or recovered against the said Commissioners or any of them, or any Person employed by them, by means of any Action or Suit, Prosecution, Information, Conviction, or Appeal, to be brought by or against them or any of them touching the Execution of this Act, and all Costs in respect thereof, shall be borne and defrayed by and out of the Money which shall come to the Hands of the Treasurer of the said Commissioners by virtue of this Act.

XVIII. And be it further enacted, That it shall and may be lawful for the said Commissioners and their Successors, and they are hereby authorized, by themselves, their Deputies, Agents, Officers, Surveyors, Servants, and Workmen, to enlarge, improve, alter, deepen, widen, and maintain the Harbour of *Brixham* aforesaid, and to take down or remove any Piers, Jetties, Buildings, or other Obstructions within such Harbour, and to erect, build, and complete a new Pier or Breakwater, according to the Plan herein-after referred to, and also to enlarge or extend, by appropriating the Property mentioned in Section 2. to Schedule (A.) to this Act annexed, the Place or Site for landing Fish and exposing the same for Sale, or to provide a new Site for that Purpose; and also to erect and build such Piers, Jetties, Breakwaters, Quays, Wharfs, Slips, Landing Places, Watering Places, and other Works as they shall deem necessary, and to lay down Pipes or Conduits in, under, through, or by the Sides of the said Harbour and Works, for the Purpose of supplying the Shipping resorting to the said Harbour with Water, and to enter into and upon the Lands, Tenements, and Grounds of any Person or Corporation whatsoever according to the Provisions of this Act, and to survey the same or any Part thereof, and to set out, ascertain, and appropriate such Parts thereof, and to execute and perform all such other Acts, Matters, and Things as they shall think fit, necessary, and proper for enlarging and improving and maintaining the said Harbour, Pier, and other Works; and also to make, build, and erect upon the said Lands all such Piers, Jetties, Basins, Docks, Buoys, Moorings, Reservoirs, Posts, Ropes, Chains, and such and so many Wharfs, Quays, Yards, Landing Places, Cranes, and other Machines and Weighing Houses, and such and so many Roads, Ways, and Conveniences, where and when, and at such Times and in such Manner as the said Commissioners or their Successors shall think necessary and convenient for the Improvement and Enlargement of the said Harbour and Works, and also from Time to Time to alter, repair, amend and maintain the same; they the said Commissioners, their Deputies, Agents, Surveyors, Servants, and Workmen, doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making full Satisfaction in manner herein-after mentioned to the Owners and Proprietors of and all Persons interested in any Lands which shall be taken, used, or removed or injured, for all Damage to be by them sustained in or by the Execution of all or any of the Powers hereby granted; and this Act shall be sufficient to indemnify the said Commissioners and all Persons employed by or acting under them for what they or any of them shall do by virtue of this Act, subject nevertheless to the Provisions and Restrictions herein-after mentioned.

Power to enter large Harbour, and to perform other Works.

mentioned and contained: Provided always, that nothing hereinbefore contained shall authorize the said Commissioners to take more of the Manorial Waste specified in Section 3. to the Schedule (A.) for the Purpose of constructing the said Pier or Breakwater or other Works than shall be required for the Abutments thereof, as laid down on the Plan herein-after referred to, without the Consent of the Lords and Ladies of the Manor of *Brixham* first had and obtained.

Works not to be constructed below High-water Mark without Consent of Commissioners of the Admiralty.

XIX. And whereas the Conservation of the several Ports, Harbours, Creeks, Estuaries, and navigable Rivers of the United Kingdom is by Law vested in the Commissioners for executing the Office of Lord High Admiral of the said Kingdom; be it therefore enacted and provided, That nothing in this or the said recited Act contained shall extend to authorize the Construction or Erection of any Works below the ordinary High-water Mark until the Assent of the said Commissioners for executing the said Office of Lord High Admiral shall have been obtained for that Purpose, such Assent to be signified in Writing under the Hand of the Secretary or Assistant Secretary of the Admiralty for the Time being.

Rent to be paid for Fundus or Soil taken for Purposes of the Act.

XX. And be it further enacted, That all such Fundus or Soil below Low-water Mark, so claimed to belong to the said Duchy of *Cornwall* as aforesaid, and of the Shores between High and Low Water Mark, if any, as may hereafter be established to belong to His Majesty in right and as Parcel of His said Duchy, as shall be used for the Purposes of this Act, shall from thenceforth be deemed and taken to be held of His Majesty or other the Personage for the Time being entitled to the Revenues of the said Duchy of *Cornwall*, as Part and Parcel of the said Duchy, for the Purposes of this Act only, and for no other Purpose whatsoever; and that the several Parties hereby authorized and empowered to build such new Pier or Piers and other Works as aforesaid shall, after the Establishment of such Claim, without Prejudice to the Rights of other Parties, pay or cause to be paid annually to the Bailiff of the Duchy of *Cornwall* in respect of such Water and Bailiwick aforesaid the yearly Rent or Sum of Five Shillings for erecting and maintaining such Part of the said new Pier or Piers and other Works as may be situate below Low-water Mark, and the further yearly Sum of Five Shillings to the said Bailiff or other the Person or Persons entitled to the same, for erecting and maintaining such other Part of the said Pier or Piers and other Works as may be erected between High and Low Water Mark; such Rent or Rents respectively to be paid on or within Ten Days after the Twenty-fifth Day of *March* in every Year to the Person or Persons, or Body or Bodies Politic or Corporate, holding such Office of Bailiff otherwise Water Bailiff as aforesaid for the Time being; and if the same shall not be paid on Demand, the said Rent or Rents may be recovered as any Rent of the Duchy of *Cornwall* may be recovered.

If the Pier &c. shall be omitted to be used, same to revert to such Persons

XXI. Provided always, and be it further enacted, That if the said several Persons so authorized and empowered as aforesaid to carry this Act into execution shall at any Time hereafter neglect or omit to use such Pier or Piers and other Works as aforesaid, or the said Fundus or Soil, for the Purposes of this Act, then and in such

Case

Case and upon such Non-user the said Fundus and Soil, as to such Part or Parts thereof as shall have been established to belong to the said Duchy of *Cornwall*, and shall have been used for the Purposes of this Act, shall revert to the said Duchy of *Cornwall*, and the said Rent or Rents of Five Shillings respectively shall thereupon cease and determine.

as shall be entitled thereto.

XXII. And be it further enacted, That the Limits, Boundaries, or Precincts of the said Harbour shall extend over and include the whole Coast within an imaginary Line to be drawn from the Extremity of the intended new Pier or Breakwater, or any Extention thereof, as shown by the dotted Line on the Plan or Chart deposited with the Clerk of the Parliaments, to *Fishcomb Point*.

Limits of the Harbour.

XXIII. And whereas a Map or Plan of the said Harbour, and of the said proposed new Pier and other Works, with a Book of Reference thereto, has been deposited with the Clerk of the Parliaments; be it therefore enacted, That the said Map or Plan and Book of Reference shall remain in the Office of the said Clerk of the Parliaments, and a Duplicate thereof shall within Three Months after the passing of this Act be deposited with the Clerk of the Peace for the County of *Devon*, in order that all Persons concerned may resort thereto and examine and inspect the same, and make Copies of or Extracts from the same respectively as Occasion may require, paying to the said Clerk of the Parliaments, or the said Clerk of the Peace, as the Case may be, for every Inspection the Sum of One Shilling, and for Copies of and Extracts from the said Book of Reference after the Rate of Sixpence for every One hundred Words; and the said Maps or Plans and Books of Reference, or true Copies, thereof shall be and they are hereby declared to be good Evidence in all Courts of Law or elsewhere.

Plan and Book of Reference to remain with the Clerk of the Parliaments, and a Duplicate thereof to be deposited with the Clerk of the Peace.

XXIV. And be it further enacted, That the said Commissioners in building the said Pier or Breakwater by this Act authorized shall not deviate more than Fifty Yards to the Westward from the Centre of the Base of the said Pier or Breakwater as delineated on the said Map or Plan.

Not to deviate more than 100 Yards from Plan.

XXV. And be it further enacted, That the said Commissioners may make the said Works in, into, through, across, or over the Lands or Grounds of any Person or Corporation whose Name or Description shall appear to the Satisfaction of any Two or more Justices of the Peace for the County of *Devon*, not being Commissioners under this Act, and be by them certified under their Hands, to be by Mistake omitted or inaccurately described in the said Book of Reference, or that instead thereof the Name of some other Person or Corporation, to whom such last-mentioned Lands or Grounds do not belong, hath been be Mistake inserted therein, any thing herein contained to the contrary thereof in anywise notwithstanding.

Omissions in Book of Reference not to obstruct the Works.

XXVI. And whereas the Market is now held in the Town of *Brixham*, and it is expedient either that the same should be enlarged or removed to a more convenient Site; be it therefore further enacted,

Power to remove or enlarge the Market.

[*Local.*]

29 N

That

That it shall and may be lawful for the said Commissioners either to enlarge the said present Market Place or to take down and remove or sell or otherwise dispose of the same and the Land thereof, and for the Purpose of removing the said Market to purchase, within Two Years after the passing of this Act, and afterwards to take down, use, and appropriate the several Messuages, Buildings, Lands, Tenements, and Hereditaments mentioned and expressed in Section 1. in the Schedule to this Act annexed, marked (A.); and to erect and build or cause or procure to be erected and built thereon or on the Sites thereof a Market House, with Shambles, Stalls, and other convenient Buildings in lieu of the present Shambles and Market Buildings; and also to open and make all convenient Roads and Approaches to the said Market; and when and so soon as such new Market House, Shambles, Stalls, and other Conveniences shall have been built and opened the present Market shall be discontinued; and the said Market House and Buildings so to be erected, and the said Market Place so to be provided, shall be the only Place within the said Town where any Market for the Sale of Corn, (except Corn sold by Sample,) Butcher's Meat, Poultry, Eggs, fresh Butter, Garden Stuff, Potatoes, Roots, or Vegetables shall for the future be held and kept; and if any Person shall sell or expose to Sale any Corn, except as aforesaid, Butcher's Meat, Poultry, Eggs, fresh Butter, Garden Stuff, Potatoes, Roots, or Vegetables in any of the Streets, Lanes, Entries, or other public Passages or Places, other than the Place which may be appointed by the said Commissioners as aforesaid, every such Person shall, on Conviction before any Justice of the Peace for the said County of *Devon*, for every such Offence forfeit and pay any Sum not exceeding Five Pounds: Provided nevertheless, that nothing herein contained shall extend or be construed to extend to prevent or hinder any Person from selling or exposing to Sale any of the before-mentioned Articles, Provisions, or Commodities whatsoever in his own Dwelling House or Shop in any Part of the said Town within the Limits of the said Act.

Commis-
sioners may
build Market
on any other
Site, with
Consent of
Owners.

XXVII. Provided always, and be it further enacted, That notwithstanding any thing in this Act contained it shall be lawful for the said Commissioners and they are hereby authorized and empowered to remove the said Market to, and to erect, establish, and maintain the same, with all proper and convenient Avenues and Approaches, on such other Site or Sites as they may think proper, within Half a Mile of the present existing Market House, and for that Purpose to purchase and take any Lands, Hereditaments, and Premises with the Consent in Writing of the Owners thereof or Persons interested therein, and to exercise and enforce all and every the Powers and Authorities with respect to the said Market which they are by this Act empowered to exercise and enforce with reference to the said Market authorized to be built and erected on the Property mentioned in Section 1. Schedule (A.) hereunto annexed.

Commis-
sioners may
make Con-
tracts.

XXVIII. And be it further enacted, That the said Commissioners may and they are hereby empowered, from Time to Time as Occasion shall require, to contract with any Person or Corporation for the building, making, or doing all or any Work or Business which the
said

said Commissioners may think necessary in or about the building, improving, repairing, making, or maintaining the said Harbour of *Brixham* or the said Market, or otherwise in the Execution of this Act, which Contract shall contain the Mode and Time and when the respective Works are to be performed and completed, and the Penalty to be suffered in case of their Non-performance, and shall be signed by the Chairman of the said Commissioners at such Meeting as aforesaid, and by the Person contracting for the Performance of such Work.

XXIX. And be it further enacted, That it shall be lawful for the said Commissioners to treat, contract for, and agree with any Corporations, Tenants for Life, or in Tail, Husbands, Feoffees, Committees, Executors, Administrators, Guardians, or other Trustees whatsoever, or with any other Person or Persons whomsoever who shall be deemed to be the Owners or Proprietors of or interested in any Lands, Grounds, Messuages, Buildings, Tenements, or Hereditaments, Quarries, Stone, Soil, or other Property which may be necessary for the Purposes of this Act, for the Purchase thereof either in Fee or for a Term of Years respectively, or for any Loss or Damage such Owners or Proprietors or any of them or any other Persons shall or may sustain by reason of the Execution of any of the Powers of this Act.

Commissioners empowered to treat for Purchase of Land.

XXX. And be it further enacted, That it shall be lawful to and for the said Commissioners, or any Person acting under them, to enter into and upon any Lands, Grounds, Quarries, and Soil mentioned in Section 3. to the Schedule (A.) hereunto annexed, and to search for, dig, gather, take, and carry away any Materials for making, preserving, and protecting the said Harbour, Pier, and Breakwater, or the Embankments, Roads, Avenues, or Approaches thereto, making or tendering such Satisfaction for such Materials and for the Damage done to the Owner or Occupier of the Lands, Grounds, Quarries, and Soil where and from whence the same shall be dug, gathered, and carried away, as the said Commissioners shall judge reasonable; and in case the Owner or Occupier of such Lands, Grounds, Quarries, and Soil is not satisfied with the Satisfaction tendered, the Amount or Value thereof shall be ascertained and settled by the Verdict of a Jury, if required, as herein-after mentioned: Provided always, that before entering upon any such Lands for such temporary Purposes as aforesaid the said Commissioners shall, if required by the Owner or Occupier thereof, find Two sufficient Persons who shall enter into a Bond to such Owner or Occupier in a Penalty of the Amount of Fifty Pounds *per* Acre conditioned for the Payment of such Compensation, such Securities to be approved of by Two Justices of the County in which the same Land shall be situate in case the Parties differ about the same.

Materials for making Harbour, &c. may be taken out of Lands in Section 3. Schedule A., making Satisfaction.

XXXI. And whereas by reason of the Exercise of the Powers by this Act granted there may be Deficiencies in the Assessments for Land Tax in the Parish herein mentioned; be it therefore enacted, That for preventing the same the said Commissioners shall from and after

Provisions for Deficiencies in Land Tax.

after they shall have become seised and possessed of any Premises charged with the Land Tax, and until the Works hereby authorized shall be completed and assessed to such Land Tax, (unless the Commissioners shall think fit to redeem the same under the Powers of the Act for the Redemption of the Land Tax,) be subject and liable from Time to Time to pay or make good to or in aid of such Parish, out of the Monies to arise by virtue of this Act, all such Sums of Money as shall be deficient in the Assessments for Land Tax within such Parish by reason or means of taking down or using for the Purposes of this Act any Houses, Buildings, or Premises liable to such Assessments, according to the Rental at which the same were valued or rated at the Time of passing this Act; and the Treasurer, Collector, or Receiver to be appointed under this Act shall be and is hereby authorized and required to pay all such Assessments, on Demand thereof, to the Collector of the Land Tax Assessments.

Bodies Politic, &c. empowered to sell and convey Lands.

XXXII. And be it further enacted, That it shall be lawful for all Corporations, and all Lords of Manors, Tenants in Tail or for Life, or for any other partial or qualified Estate or Interest, Husbands, Guardians, Trustees, and Feoffees in Trust for charitable and other Purposes, Committees, Executors, Administrators, and all other Trustees and Persons whomsoever, not only for and on behalf of themselves, their Heirs, and Successors, but also for and on behalf of their Cestuique Trusts or Wards, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or who are or shall be seised, possessed of, or interested in their own Right, or entitled to any Interest therein, and for every other Person whomsoever who is or shall be seised, possessed of, or interested in any Lands or Grounds required for the Purposes of this Act or any of them, to contract for, sell, and convey the same and every or any Part thereof unto the said Commissioners; and all such Contracts, Agreements, Sales, Conveyances and Assurances shall be valid and effectual in the Law to all Intents and Purposes whatsoever, any Law, Statute, Usage, or Custom to the contrary in anywise notwithstanding; and all Corporations and Persons so conveying as aforesaid are hereby indemnified for what they shall respectively do by virtue hereof; and all such Contracts, Agreements, Sales, Conveyances, and Assurances shall be made at the Expence of the said Commissioners, and may be made in the Form or to the Effect following, or as near thereto as the Number of Parties and the Circumstances of the Case will admit; (that is to say,)

Form of Conveyance.

‘ I *A. B.* of, &c. in consideration of the
 ‘ Sum of to me paid by the Commissioners for
 ‘ improving the Harbour and Market of *Brixham*, do hereby by
 ‘ virtue of the Powers contained in an Act passed in the
 ‘ Year of the Reign of King *William* the Fourth, intituled [*here set*
 ‘ *forth the Title of this Act*], grant and release [*or assign, as the Case*
 ‘ *may require,*] to the said Commissioners all, &c. [*describing the*
 ‘ *Premises to be conveyed*] with the Appurtenances, and all my
 ‘ Right, Title, and Interest in and to the same, and every Part
 ‘ thereof, to hold the same to the said Commissioners and their
 ‘ Successors for ever, by virtue and according to the true Intent and
 Meaning

‘ 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 .’

And all such Conveyances and Assignments respectively shall be kept by the said Commissioners, and the Clerk to the said Commissioners shall from Time to Time, when requested, deliver attested Copies thereof to any Person requiring the same, and shall have and receive the Sum of Sixpence for every One hundred Words contained therein.

XXXIII. And be it further enacted, That all Corporations and Persons herein-before enabled to sell or convey Lands, Tenements, or Hereditaments, and any other Owner and the Occupier of any Lands required for the Purposes of this Act, may accept and receive Satisfaction for the Value of such Lands, Tenements, or Hereditaments, and also Compensation for the Damages to be sustained by making and completing the Works hereby authorized to be made, such Satisfaction and Compensation to be made and given in gross Sums; and in case the said Commissioners and the Parties interested in such Lands as the said Commissioners are by this Act empowered to take and use for the Purposes thereof cannot agree as to the Amount or Value of such Satisfaction and Compensation, the same shall be ascertained and settled by the Verdict of a Jury, if required, as herein-after directed.

Satisfaction to be made for Lands taken.

XXXIV. And be it further enacted, That any Person or Corporation who shall have any Mortgage on any Messuages, Buildings, Lands, Tenements, or Hereditaments to be required for the Purposes of this Act, not being in Possession of the said Premises by virtue of such Mortgage, shall, on Tender of the Mortgage Money and Interest due thereon, together with the Amount of Six Calendar Months Interest on the Principal Money, by the Treasurer for the Time being to be appointed by virtue of this Act on behalf of the Commissioners, or in case such Mortgagee shall have Notice in Writing that the Treasurer for the Time being will out of the Money arising by virtue of this Act pay off and discharge the Principal Money and Interest which shall be due on the said Mortgage at the End of Six Calendar Months, then, on Payment of the Principal Money and Interest so due on such Mortgage, according to such Notice, such Mortgagee shall convey, assign, and transfer the said Mortgage and his Interest in the Premises to the said Commissioners, but in case such Mortgagee shall refuse to convey or assign on such Tender or Payment as aforesaid, then all Interest on such Mortgage shall from the Time of such Tender or Expiration of such Notice cease and determine: Provided always, that in case the Sum due on any such Mortgage, with all Interest due thereon, shall amount to more than the real Value of the Messuages, Lands, Tenements, and Hereditaments which shall be taken for the Purposes of this Act, then the said Commissioners shall not be liable out of the Monies arising by virtue of this Act to pay the Mortgagee any more than the real Value of such Premises, which Value in case the Parties cannot agree upon the same shall be ascertained and settled

Mortgagees not in possession to assign.

by a Jury in like Manner as other Values are by this Act directed to be ascertained and settled.

Differences
respecting
Price of
Lands or
Damages
to be settled
by Jury.

XXXV. And be it further enacted, That in case of any Difference or Dispute between the Commissioners or their Agents, and any Corporation, Trustee, or Person interested in or entitled to any Lands authorized to be taken or used for the Purposes of this Act, relative to the Price or Value, Damages, or Recompence to be given for the same, or relative to the Amount of Compensation Money to be paid for any Messuages, Lands, or Hereditaments damaged or injured by or in taking down of any Messuages or Buildings in the Execution of this Act, and in case such Price or Value, Damages, Recompence, or Compensation cannot be settled, adjusted, and agreed for by and between the said Commissioners and such Proprietors of or Persons interested in the said Lands, or if such Corporation, Trustee, or any other Person interested or entitled as aforesaid shall refuse to receive, upon due Tender thereof made, such Purchase Money, Recompence, or Compensation as shall be offered to be paid by the said Commissioners, or shall for the Space of Twenty-one Days next after Notice in Writing given to the Principal Officer of any such Corporation, or to such Trustee or Person respectively, or left at the last or usual Place of Abode, or with the Tenant or Occupier of any Lands required for the Purposes of this Act, neglect or refuse to treat, or if any Person shall by Absence or otherwise be prevented from treating, and shall not within the before-mentioned Space of Twenty-one Days produce and fully disclose the State of the Title to the Premises which he is or shall be in possession of, and to the Interest which he claims therein, then and in every such Case the said Commissioners or any Five of them shall and they are hereby empowered and required to issue a Warrant under their Hands to the Sheriff of the said County, or in case such Sheriff or his Under Sheriff shall be one of the said Commissioners, or enjoy any Office of Trust or Profit under them, or shall be in anywise interested in the Matter in question, then to some one of the Coroners of the said County who shall not be interested as aforesaid, commanding such Sheriff or Coroner to impanel, summon, and return a Jury, and the said Sheriff or Coroner is hereby required accordingly to impanel, summon, and return a Jury of at least Eighteen sufficient and indifferent Men, qualified according to the Laws of this Realm to be returned for Trials of Issues in His Majesty's Courts of Record at *Westminster*, to appear before such Sheriff or Coroner at such Time and Place as in such Warrant shall be appointed; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed such Sheriff or Coroner shall return other honest and indifferent Men of the Standers-by or that can speedily be procured to attend that Service (being so qualified as aforesaid) to make the said Jury to the Number of Twelve; and all Parties concerned may have their lawful Challenges against any of the said Jurymen, but shall not challenge the Array; and the said Sheriff or Coroner is hereby empowered and required to summon or call before him every Person who shall be thought necessary to be examined as a Witness touching the Matters in question; and may order and authorize the said Jury, or any Six or more of them, to

view the Place or Matter in controversy; and such Jury upon their Oaths (which Oaths, as well as the Oaths to such Persons as shall be called upon as Witnesses to give Evidence, the said Sheriff or Coroner is hereby empowered to administer,) shall inquire of, assess, and ascertain the Sum of Money to be paid for the Purchase of such Lands, or the Recompence or Compensation to be made for the Damages which shall or may be sustained as aforesaid; and the said Sheriff or Coroner shall accordingly give Judgment for such Purchase Money, Recompence, or Compensation so to be assessed by such Jury which said Verdict and the Judgment thereupon shall be binding and conclusive to all Intents and Purposes against all Corporations, Trustees, and all other Persons whomsoever: Provided always, that in all such Proceedings before any Jury the Person claiming Compensation shall be deemed Plaintiff and shall be entitled to all the Rights, Privileges, and Advantages to which Plaintiffs are entitled.

XXXVI. And be it further enacted, That every Jury shall and is hereby empowered to settle what Shares and Proportions of the Purchase Money and Compensation for Damages which shall be agreed on, determined, or assessed in manner aforesaid shall be allowed to any Tenant or other Person having a particular Estate, Term, or Interest in the Premises, for such his Interest therein.

Compensation Money to be apportioned by the Jury.

XXXVII. And be it further enacted, That all the said Verdicts or Judgments shall be kept by the Clerk of the Peace for the said County among the Records of the Quarter Sessions for such County, and shall be deemed Records to all Intents and Purposes, and the same, or true Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever, and all Persons shall have Liberty to inspect the same, paying for such Inspection One Shilling, and no more, and also to take and make Copies thereof, paying for each Copy after the Rate of Sixpence for every One hundred Words.

Verdicts to be recorded.

XXXVIII. And be it further enacted, That if such Sheriff or Coroner or other Person so directed to summon and return a Jury as aforesaid shall make default in the Premises, he shall for every such Offence forfeit the Sum of One hundred Pounds and if any Person so summoned and returned upon such Jury as aforesaid shall not appear without sufficient Excuse, or appearing shall refuse to be sworn and give his Verdict, or in any other Manner wilfully neglect his Duty, contrary to the true Intent and Meaning of this Act, or if any Person so to be summoned to give Evidence shall not appear without sufficient Excuse after having been paid or tendered a reasonable Sum for his Costs and Expences, or appearing shall refuse to be sworn, examined, or give Evidence, or being a Quaker shall refuse to give his solemn Affirmation or to be examined or give Evidence, then and in every such Case every Person so offending shall forfeit and pay, for the Benefit of the Party for whom or on whose Account such Jury or Witnesses shall be summoned, any Sum not exceeding Ten Pounds, to be levied, by virtue of a Warrant under the Hand and Seal of such Sheriff or Coroner or other Person, by Distress and Sale of the Goods and Chattels of the Person so offending.

Penalty on Sheriff, Jurors, or Witnesses making default.

offending, rendering to him the Overplus, after such Penalty and the Charges and Expences of such Distress and Sale, shall be deducted.

Jurors under the same Regulations as in the superior Courts.

XXXIX. And be it further enacted, That every such Jury and Juryman as aforesaid shall also be liable and subject to the same Regulations, Pains, and Penalties as if such Jury and Juryman had been returned for the Trial of any Issue joined in any of His Majesty's Courts of Record at *Westminster*; and every Person who, in any Examination to be taken by virtue of this Act, upon Oath or Affirmation, shall wilfully and corruptly give false Evidence before such Jury, Sheriff, or Coroner, or before any Justice of the Peace acting as such in the Execution of this Act, shall and may be prosecuted for the same, and upon Conviction shall be subject and liable to the same Pains and Penalties to which Persons guilty of wilful and corrupt Perjury are by the Laws in being subject and liable.

By whom Expences of Jurors are to be paid.

XL. And be it further enacted, That in every Case where a Verdict shall be given by any such Jury for the same or a greater Sum than shall have been previously offered by or on the Behalf of the said Commissioners as a Recompence, Satisfaction, or Compensation for any such Lands as aforesaid, or for any such Estate, Right, or Interest therein, or for any Damages that may have been sustained by any Person as aforesaid, all the Costs, Charges, and Expences incurred in summoning, impannelling, and returning such Jury, taking such Inquisition, and the Attendance of the Witnesses, and recording the Verdict or Judgment thereon, and of the Bond required to be given as after mentioned, shall be borne by the said Commissioners out of the Monies to be raised by virtue of this Act; and in case such Costs, Charges, and Expences shall not be paid to the Person entitled to receive the same within Twenty Days after Demand made thereof from the said Commissioners, then the same shall and may be levied and recovered by Distress and Sale of the Goods and Chattels of the Treasurer of the said Commissioners, (unless such Treasurer shall pay such Costs and Charges out of any Money received by him by virtue of this Act, which he is hereby authorized to do,) under a Warrant to be issued for that Purpose by any Justice of the Peace for the said County, which Warrant any such Justice is hereby authorized and required to issue under his Hand and Seal on Application made to him for that Purpose by the Persons entitled to receive such Costs, Charges, and Expences; and in every Case where a Verdict shall be given by any such Jury for less Money than shall have been previously offered by or on behalf of the said Commissioners as such Recompence, Satisfaction, or Compensation as aforesaid, then the said Costs, Charges, and Expences shall be borne in equal Proportions by the Person refusing or neglecting to treat or agree as before mentioned and by the said Commissioners; but in every Case where any Person shall have been prevented by Absence from treating with the said Commissioners, the Costs and Charges so incurred shall be borne by the said Commissioners; and in all Cases where any Difference shall arise touching the Amount of the Costs, Charges, and Expences, the same shall be settled and ascertained by any Justice of the Peace for the said County not interested in the Matter in question, who is hereby authorized and required to examine into and settle the same,
and

and to appoint a Time and Place for Payment of the same; and where any Costs shall be payable by the Person having had any such Disagreement or Dispute with the said Commissioners as aforesaid, the Amount having been first paid by the said Commissioners, may be deducted by them out of the Monies awarded to be paid to such Person as so much Money advanced for his Use, and the Payment or Tender of the Balance of such Money shall be deemed and taken to all Intents and Purposes whatsoever to be a Payment or Tender of the whole Money awarded and adjudged to such Person; or otherwise, if such Costs, Charges, and Expences be not paid upon Demand after being so ascertained as aforesaid, the same may be recovered by the said Commissioners from the Person liable to the Payment thereof by Action of Debt or on the Case in any of His Majesty's Courts of Record at *Westminster*, together with full Costs of Suit.

XLI. And be it further enacted, That every Person with whom the said Commissioners shall have any Difference or Dispute as aforesaid shall, before the said Commissioners shall be obliged to issue out their Warrant for the summoning of such Jury, first enter into a Bond with sufficient Sureties to the Treasurer of the Commissioners in a Penalty of One hundred Pounds to prosecute his Complaint, and to bear and pay his Proportion of the Costs and Expences of summoning and returning such Jury and taking such Inquest, and of the Attendance of Witnesses, in case such Costs and Expences shall fall upon him, to be paid according to the true Intent and Meaning of this Act.

Persons requesting Juries to enter into Bonds to prosecute.

XLII. And be it further enacted, That the said Commissioners shall not nor shall any of them be obliged or compelled by virtue of the said recited Act or this Act to receive or take notice of any Complaint to be made by any Person whomsoever, for any Injury or Damage by him sustained or supposed to be sustained by virtue or in consequence of the Execution of any of the Powers of the said recited Act or this Act, unless such Complaint shall be made to the said Commissioners within the Space of Three Calendar Months after the Time of such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have ceased.

Notice of Injury to be given to the Commissioners before Complaint made.

XLIII. And be it further enacted, That in case any Difference shall arise between the said Commissioners and any of the Owners or Occupiers of any Property to be taken, used, or injured for the Purposes of this Act, as to the Amount or Value of the Damages done by the said Commissioners, their Agents or Workmen, to such Property in the Execution of any of the Powers of this Act, and such Difference cannot be adjusted or settled between the said Parties, the same shall, in case the Amount of Damages claimed does not exceed Twenty Pounds, be ascertained and adjusted by Two or more Justices of the Peace for the said County not being Commissioners under this Act, who, upon Application made to them by both or either of the said Parties, shall examine into the Matter in dispute, and determine and settle the Amount of Compensation which shall be payable by the said Commissioners.

Damages under 20l. to be settled by Two Justices.

[*Local.*]

29 P.

XLIV. And

For settling
Damages not
provided for.

XLIV. And be it further enacted, That if any Person shall sustain any Damage in his Lands by reason of the Execution of any of the Powers given by the said recited Act or this Act, and through or by means not herein provided for, then and in every such Case such Damages shall be settled by the said Commissioners or by a Jury as herein-before mentioned; and the Amount of such Damages may be recovered and applied in manner herein directed with regard to other Damages; and in every such Case the said Commissioners are hereby empowered and required to issue a Warrant to the Sheriff of the said County, or such other Person as aforesaid, commanding him to summon a Jury in manner herein-before mentioned.

Compensa-
tion Money
exceeding
200*l.* belong-
ing to inca-
pacitated
Persons how
to be applied.

1. G. 4. c. 35.

XLV. And be it further enacted, That if any Money shall be agreed or be awarded to be paid for the Purchase of all the Damages to be done to any Lands, Tenements, or Hereditaments by virtue of the Powers of this Act, which shall belong to any Corporation, Tenant for Life or in Tail, Husband, Guardian, Trustee, Committee, or any Feme Covert, Infant, Lunatic, Idiot, Cestuique Trust, or any Person under any Disability or Incapacity whatsoever, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account "*ex parte* The Commissioners for improving the Harbour and Market of *Brixham*," pursuant to the Directions of an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the General Orders of the said Court, and without Fee or Reward; to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person who would have been entitled to the Rents and Profits of the said Lands, either in the Purchase of the Land Tax or towards the Discharge of any Debts or Incumbrances or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes; or when such Money shall not be so applied, then the same shall be laid out and invested, under and with the like Direction and Approbation of the said Court, in the Purchase of other Lands, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands in respect of which the same is to be paid as aforesaid stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing or capable of taking effect; and in the meantime, and until such Purchase shall be made, the said Money shall, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in some of the Public Funds or on Government or Real Securities; and in the meantime, and until the same Government or Real Securities shall be ordered by the said Court to be sold for the Purposes aforesaid,

the Dividends, Interest, and annual Produce thereof shall from Time to Time be paid, by Order of the said Court, to the Person who would for the Time being have been entitled to the Rents and Profits of the said Lands and Hereditaments in case such Purchase or Settlement were made.

XLVI. And be it further enacted, That if any Money so agreed or awarded to be paid to any Corporation and any Person under any Disability or Incapacity as aforesaid shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds; then and in all such Cases the same shall, at the Option of the Person for the Time being entitled to the Rents and Profits of the said Lands and Hereditaments in respect of which the same is to be paid, or of his Guardian or Committee in case of Infancy, Idiocy, Lunacy, or other Incapacity, to be signified in Writing under their respective Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the said Court of Exchequer, to be placed to his Account as aforesaid in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person making such Option and approved of by the said Commissioners. (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties,) in order that such Principal Money, and the Dividends arising thereon, may be applied in manner herein-before directed with respect to the Money so to be paid into the Bank of *England* in the Name of the said Accountant General, so far as the Case may be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court touching the Application thereof.

If less than 200*l.* and exceeding 20*l.*

XLVII. And be it further enacted, That where such Money so agreed or awarded to be paid as herein-before mentioned shall be less than Twenty Pounds, then and in every such Case the same shall be applied to the Use of the Person who would for the Time being have been entitled to the Rents and Profits of the Lands in respect of which the same is to be paid; or in case of Infancy, Idiocy, Lunacy, or Incapacity, then to his Guardian, Committee, or Trustee, to and for the Use and Benefit of such Person so entitled respectively.

Where less than 20*l.*

XLVIII. And be it further enacted, That in case the Person to whom any Sum of Money ought to be paid as aforesaid shall refuse to accept the same upon Tender being made of the same as aforesaid, or shall not be able to make out a good Title to the Premises to the Satisfaction of the said Commissioners, or in case such Person to whom such Sum of Money shall be so ordered or awarded to be paid as aforesaid cannot be found, or if the Person entitled to such Lands be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Commissioners to order the said Sum of Money so ordered or awarded as aforesaid to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account to the Credit of the Parties interested in the said Lands (describing them), subject to the Order, Control, and Disposition of the said Court; which said Court,

In case of not making out Titles.

Court, on the Application of any Person making claim to such Sum of Money or any Part thereof by Motion or Petition, shall be and is hereby empowered, in a summary Way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Public Funds, and to order Distribution thereof or Payment of the Dividends thereof according to the respective Estate, Title, or Interest of the Person making claim thereunto, and to make such Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of *England* who shall receive such Sum of Money is hereby required to give a Receipt for such Sum of Money, mentioning and specifying therein for what pay and for whose Use the same is received, to such Person as shall such Sum of Money into the Bank as aforesaid.

Commissioners to defray the Expence of making out Titles.

XLIX. And be it further enacted, That all the Costs, Charges, and Expences, on the Part as well of the Seller as of the Purchaser, of all Conveyances and Assurances of any Lands and Hereditaments which shall be purchased or taken by the said Commissioners for the Purposes of this Act, and of deducing, evidencing, and verifying such Title as the said Commissioners may require to the said Lands and Hereditaments, and of all attested Copies which the said Commissioners may require of any Deeds, Evidences, or Writings relating thereto, and all Expences whatsoever incident to the Investigation, Deduction, or Verification of such Title, shall be exclusively borne and paid by the said Commissioners; and the said Commissioners, before entering into Possession of the Lands and Hereditaments so purchased, shall pay the Amount of such Costs, Charges, and Expences; or, in case there shall be any Dispute about the same, shall deposit, for the Purpose of paying the same in such Manner as hereinafter mentioned, the Amount of the Costs, Charges, and Expences claimed by the Party from whom the Lands and Hereditaments shall be purchased: Provided always, that the said Commissioners shall not be prevented from entering into Possession of the Lands and Hereditaments so purchased by reason of the Nonpayment of the same Costs, Charges, and Expences, or by reason of the Deposit herein mentioned not having been made, unless the Party from whom such Lands and Hereditaments shall have been purchased shall, within Seven Days after Notice in Writing for that Purpose shall have been given to them by the said Commissioners, deliver a Bill of their said Costs, Charges, and Expences to the said Commissioners, with the Name of a Solicitor as their Referee for the Purposes hereinafter mentioned; and if the said Commissioners and the Party aforesaid cannot agree as to the Amount of such Costs, Charges, and Expences, the said Commissioners shall name a Solicitor as a Referee on their Part, and deposit the Amount of the Costs, Charges, and Expences claimed by such Party as aforesaid in the Hands of the said Two Referees to answer the same, and such Costs, Charges, and Expences shall be settled and determined by the said Two Referees, or in case they shall differ about the same, then by a Third Solicitor or Umpire to be named and appointed by such Two First Referees before they proceed on the Matter referred to them; and the Award and Determination of the said Two Referees or of the said Umpire, as the Case may be, shall be binding and conclusive, and shall be made within
One

One Calendar Month from the Time of making such Deposit as is herein-before mentioned; and upon such Award and Determination being made the said Two Referees shall, by and out of the Money so deposited with them, pay to the Party from whom the said Lands and Hereditaments shall be so purchased as aforesaid the Amount of the Costs, Charges, and Expences which shall be so awarded and determined, and the Remainder of the said Money so deposited shall be returned to the said Commissioners: Provided also, that the Expence of determining such Costs, Charges, and Expences as aforesaid shall be paid and borne by the said Commissioners, unless One Sixth of the said Costs, Charges, and Expences shall be disallowed, in which Case the Expence of determining the same shall be paid and borne by the said Sellers, and the Amount thereof may then be deducted by the said Commissioners from the Sum payable by them under the Award and Determination of the said Two Referees or of the said Umpire.

L. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, in pursuance of this Act, for the Purchase of or for any Damage to be done to any Lands or of any Estate or Interest therein, or to any Bank Annuities to be purchased with any such Money, or to the Interest or Dividends of any such Bank Annuities, the Person who shall have been in Possession of any such Lands at the Time of such Purchase or at the Time when such Loss or Damage shall arise, and all Persons claiming under such Person or under the Possession of such Person, shall be deemed and taken to have been lawfully entitled to such Lands according to such Possession until the contrary shall be shown to the Satisfaction of the said Court of Exchequer; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, until it shall be made to appear to the said Court that such Possession was a wrongful Possession, and that some other Person was lawfully entitled to such Lands, or to some Estate or Interest therein, when the said Court shall be empowered to make such Order as to the Capital, Dividends, and Interest thereon as the said Court shall deem proper.

Where any Question shall arise, Persons in possession shall be deemed entitled.

LI. And be it further enacted, That where by reason of the Disability or Incapacity of any Person or Corporation entitled to any Lands, Tenements, or Hereditaments to be taken under or by virtue of this Act, or from any other Cause whatsoever, the Purchase Money for such Lands, Tenements, or Hereditaments, or any Money to be paid for or by way of Compensation or Satisfaction for any Injury or Damage done to the same, shall be required to be paid into the Bank of *England*, and be subject to the Orders and Directions of the Court of Exchequer under the Provisions herein contained, it shall be lawful for the said Court to order all the reasonable Costs, Charges, and Expences attending such Purchase, taking, or using of any Lands, Tenements, and Hereditaments, or which may be incurred in consequence thereof, and also the Costs, Charges, and Expences of the Investment of the Purchase or Compensation

The Court of Exchequer may order the Expences of Purchases to be paid by Commissioners.

[Local.]

29 Q

Money

Money paid in respect of such Lands, Tenements, and Hereditaments, in Real or Government Securities, and likewise the Re-investment of such Purchase or Compensation Money, or the Government and Real Securities purchased therewith, in the Purchase of Lands, Tenements, and Hereditaments as herein-before mentioned, together with the Costs, Charges, and Expences of obtaining the proper Orders and of the other Proceedings for such Purposes, and for the Payment of the Dividends and Interest of the said Government or Real Securities upon which such Purchase or Compensation Money may be invested, and for the Payment out of Court of the said Principal of the said Purchase or Compensation Money, or of the Government or Real Securities aforesaid, to be paid by the said Commissioners, and the said Commissioners shall from Time to Time pay such Sums of Money for the said Costs, Charges, and Expences as the said Court shall direct.

For taking Possession of Lands on Payment or Tender of Purchase Money.

LII. And be it further enacted, That upon Payment or legal Tender by the Commissioners of the Purchase Money agreed upon between the said Parties, or assessed by such Jury as aforesaid, for any Lands or Hereditaments to be purchased for the Purposes of this Act, or as Compensation for Damages to the Owner thereof, or to such other Person as shall be interested therein or entitled to receive such Money, or into the Bank of *England* in the several Cases herein referred to, within Thirty Days after such Purchase Money shall have been so agreed or assessed as aforesaid, it shall be lawful for the said Commissioners to enter into and upon the said Lands and Hereditaments whereof the Purchase Money shall be so paid or tendered, and thereupon the same shall thenceforth be vested in the said Commissioners for the Purposes of this Act for ever; and every such Payment or Tender shall bar all Estates, Rights, Titles, and Interests of all Persons whomsoever therein: Provided nevertheless, that before such Payment or Tender shall be made it shall not be lawful for the said Commissioners, or any Person by their Authority, to enter into and upon any Lands and Hereditaments authorized to be taken and purchased for the Purposes of this Act, without the Consent in Writing of the Owner thereof or other Person interested or entitled thereto or any Estate therein.

Compensation to be made for Damage done in pulling down Houses, &c.

LIII. And be it further enacted, That in case any Messuages, Lands, or Hereditaments shall be damaged or injured by or in the taking down of any Messuages or Buildings to be taken down for the Purposes of or otherwise in the Execution of this Act, the said Commissioners shall and they are hereby authorized, by and out of the Money to arise by virtue of this Act, to make to the Owners and Occupiers of such Messuages and Buildings, Lands, Tenements, and Hereditaments so damaged or injured such Compensation and Satisfaction for such Damage and Injury as the said Commissioners shall in their Judgment think reasonable, by Payment of a Sum of Money in Gross; and in case the Owners or Occupiers shall think the Satisfaction offered to them by the said Commissioners not sufficient, then the same shall be ascertained and settled by a Jury in manner herein provided for ascertaining the Value of Messuages,
Lands,

Lands, and Hereditaments to be purchased, taken, or required for the Purposes of this Act, or in case the same shall be under Twenty Pounds, by Two Justices for the County of *Devon* not being Commissioners under this Act.

LIV. And be it further enacted, That every Tenant at Will or Lessee for a Year, Tenant from Year to Year, or any other Person in Possession of any Lands or any Part thereof which shall be required by the said Commissioners to be taken or used for the Purposes of the said recited Act or this Act, and who shall have no greater Interest in the Premises than as Tenant at Will or Lessee for a Year or from Year to Year, shall deliver up the Possession of such Premises to the said Commissioners, or to such Person as they shall appoint to take Possession of the same, upon having Six Calendar Months Notice to quit such Possession from the said Commissioners or from the Person so authorized by them, and such Person in Possession shall, at the End of the said Six Calendar Months, whether such Notice be given with reference to the Time of such Tenant's holding or not, or so soon after as he shall be required, peaceably and quietly deliver up the Possession of the Premises to the said Commissioners, or to the Person authorized by them to take Possession thereof; and in case any such Person so in Possession as aforesaid shall refuse to give such Possession as aforesaid, it shall be lawful for the said Commissioners to issue their Precept to the Sheriff of the said County to deliver Possession of the said Premises to such Person as shall in such Precept be nominated to receive the same, and the said Sheriff is hereby required to deliver Possession of the said Premises accordingly, and to levy such Costs as shall accrue by or on account of the issuing and Execution of the Precept on the Person so refusing to give Possession as aforesaid by Distress and Sale of his Goods.

Tenants at Will or for Years to quit Lands, &c., after Notice.

LV. Provided always, and be it further enacted, That when any such Tenant or Lessee, being Tenant or Lessee from Year to Year, shall be required to deliver up the Possession of any Premises so occupied by him to the said Commissioners, or by the Person authorized by them to take Possession thereof as aforesaid, before the Expiration of the Term or Interest of such Tenant or Lessee as aforesaid in the said Premises, the said Commissioners shall and they are hereby directed to make or tender unto such Tenant or Lessee Satisfaction or Compensation for the Value of his unexpired Term or Interest in the Premises; which Satisfaction or Compensation in case of Difference, shall be settled and ascertained in manner hereinbefore directed with regard to any other Satisfaction or Compensation in and by this Act provided for and directed to be made and assessed, or in case the same shall be under Twenty Pounds, by Two Justices for the County of *Devon* not being Commissioners under this Act.

Interests of such Tenants may be settled by a Jury.

LVI. And whereas by means of the Purchases which the said Commissioners are empowered to make by virtue of this Act they may happen to be seised or possessed of more Land or Ground than may be necessary for effecting the Purposes of this Act; be it therefore

Power to sell Premises not wanted for the Purposes of this Act.

fore enacted, That it shall be lawful for the said Commissioners, and they are hereby required, within Seven Years after the passing of this Act, to sell and dispose of any Piece of such Land, either by public Auction or by private Contract, as they shall find most convenient and advantageous, to such Person as shall be willing to contract for and purchase the same, and to convey the same accordingly; and such Conveyances from the said Commissioners or any Five of them shall be valid and effectual, any thing in this Act contained or any other Law, Statute, or Custom to the contrary notwithstanding.

First Offer to whom to be made.

LVII. Provided always, and be it further enacted, That the said Commissioners, before they shall sell and dispose of any such Lands, shall first offer the same for Sale to the Person whose Lands or Premises shall immediately adjoin the Lands so proposed to be sold; and in case such Person shall not then and thereupon agree or shall refuse to purchase the same, or shall die, or cannot be found, the same shall be made to the Owner of the adjoining Land; and in every such Case a Declaration made in the Manner and Form prescribed by an Act passed in the Fifth and Sixth Year of the Reign of His present Majesty, for the more effectual Abolition of Oaths, and to substitute Declarations in lieu thereof, before a Master or a Master Extraordinary in Chancery, or before any Justice of the Peace for the said County, by some Person in no way interested in the said Lands, stating that such Offer was made by or on the Behalf of the said Commissioners, but that such Offer was then and thereupon not agreed to or was refused by the Person to whom the same was so offered, shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made and not agreed to or was refused by the Person to whom it was made, as the Case may be; and in case such Person shall be desirous of purchasing such Lands, and he and the said Commissioners shall not agree as to the Price thereof, then the Price shall be ascertained by a Jury in like Manner as disputed Value of Premises is directed to be ascertained by this Act; and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as by this Act is directed with respect to Purchases made by the said Commissioners, *mutatis mutandis*; and the Money to arise by the Sale of such Lands as aforesaid shall be applied by the said Commissioners to the Purposes of this Act, but the Purchaser or Purchasers thereof shall not be answerable or accountable for the Misapplication or Nonapplication thereof.

The Word "grant" in Conveyances made by the Commissioners to be effectual.

LVIII. And be it further enacted, That in all Conveyances to be made by the said Commissioners under or by virtue or in pursuance of the several Powers and Authorities to them hereby given, the Word "grant" shall amount to and be construed and adjudged in all Courts of Judicature to be express Covenants to Grantees or other Purchasers, their Heirs, Executors, Administrators, or Assigns, from the said Commissioners, for themselves and their Successors, that they the said Commissioners, notwithstanding any Act done by them, were at the Time of the Execution of such Conveyance seised of the Hereditaments and Premises thereby granted for an indefeasible Estate of Inheritance in Fee Simple, freed from all Incumbrances,

And all such Assignments shall be numbered commencing with Number One, and so proceeding in an arithmetical Progression ascending whereof the common Difference or Excess shall always be One; and every such Security shall be good, valid, and effectual, and shall entitle the Person to whom the same shall be made, his Executors, Administrators, and Assigns, to the Payment of the Money thereby secured, and to all Profits and Advantages thereof, according to the Intent and Meaning of this Act; and Copies of such Securities shall be entered in a Book to be kept for that Purpose by the Clerk of the said Commissioners, within Fourteen Days after such Assignment shall have been made; and all Persons to whom any such Assignments shall be made as aforesaid, or who shall be entitled to the Money thereby secured, may from Time to Time transfer their Right, Title, or Interest therein, and to the Principal Money and Interest thereby secured, to any Person whomsoever; and every such Transfer shall be by Deed duly stamped, in which the Consideration Money for such Transfer shall be truly stated, and may be in the following Words, or Words to the following Effect; (that is to say,)

Assignments may be transferred.

Form of Transfer.

‘ I [or We] of in consideration
 ‘ of paid by of in the
 ‘ County of do hereby transfer the Assignment
 ‘ within written or hereunto annexed [*as the Case may be*], with all
 ‘ my [or our] Right and Title to the Principal Money thereby
 ‘ secured, and to all the Interest now due upon the same, unto
 ‘ A. B., his [or her] Executors, Administrators, and Assigns. In
 ‘ witness whereof I [or we] have hereunto set my Hand [or our
 ‘ Hands] this Day of A. D. &c.”
 ‘ Witness

Which Transfer shall be produced and notified to the Clerk, who shall within Fourteen Days next after such Production cause an Entry or Memorial to be made thereof, containing the Date and Name of the Parties and Sums of Money, in a Book to be kept for that Purpose, for which the said Clerk shall be paid such Sum as the Commissioners shall appoint not exceeding the Sum of Five Shillings; and after such Entry made, and not until then, such Assignment shall entitle such Assignee, his Executors, Administrators, or Assigns, to the Benefit thereof and Payment thereon, and every such Assignee shall and may in like Manner from Time to Time assign again; and it shall not be in the Power of the Person making such Assignment to make void, annul, or discharge the same, or any Money thereby secured, or any Part thereof; and all Money so to be advanced and lent, and the Interest thereof, shall be and is hereby charged upon and shall be paid and payable from Time to Time out of the Tolls, Rates, and Dues hereby granted; and all Persons who shall be possessed of the said Securities shall be Creditors on the said Tolls, Rates, and Dues in an equal Degree, without Preference in respect to the Priority of their advancing the Money thereon.

Payment of Creditors by Lot,

LX. And in order that no Preference may be given to any of the Persons who shall hereafter lend Money on the Credit of the Tolls granted by this Act, be it further enacted, That the said Commissioners

missioners shall at any of their Meetings cause the Number of Assignments or Securities granted and then in force for securing the Principal Monies already due and owing upon the Credit of such Tolls, of which Part shall be then intended to be paid off, to be written upon distinct Pieces of Paper of equal Size, and all such Papers shall be rolled up in the same Form as near as may be, and be put in a Box, and the Numbers of as many of the said Assignments or Securities as are intended to be paid off shall be drawn separately out of the Box by the Clerk to the said Commissioners, or such Person as the said Commissioners may choose for that Purpose, and after every such Ballot Notice signed by the Clerk shall be given or left at the last or most usual Place of Abode of the Person who shall be entitled to the Money to be paid off pursuant to such Ballot; and where there is only One Creditor, the like Notice shall be given to such Creditor of the Intention to pay him off as aforesaid; and every such Notice shall express the Sum to be paid off, together with the Interest due thereon, and that the same will be paid on a Day and at a Place to be specified in such Notice, such Day not being sooner than Three Calendar Months after the Day of giving or leaving such Notice as aforesaid; and the Interest of the Principal Money to be paid off shall from and after the Day to be specified cease and be no longer paid and payable, unless such Money shall be demanded pursuant to such Notice and not paid, but the Principal Money in respect whereof such Notice shall be given, and also the Interest to the Day so specified, shall nevertheless be payable on Demand: Provided always, that when and so soon as the said Commissioners shall have paid off and discharged the several Principal Sums of Money which may have been borrowed under the said recited Act it shall and may be lawful for the said Commissioners and they are hereby empowered, whenever they shall think fit so to do, to proceed in the like Manner and under the same Rules and Regulations to pay off and discharge the several Principal Sums of Money which may hereafter be borrowed under the Authority of this Act.

LXI. Provided always, and be it further enacted, That in case the said Commissioners can at any Time borrow or take up any Money at a lower Rate of Interest than any Securities which shall then be in force by virtue of the said recited Act or this Act shall bear, it shall be lawful for the said Commissioners from Time to Time to charge the said respective Rates or other Funds or Property, or any Part thereof, in such Manner and with such Restriction as herein mentioned, with such Sums of Money as they shall think proper, and the Interest thereof at such lower Rate as aforesaid, to pay off and discharge any Securities bearing a higher Rate of Interest, according to the Directions and Regulations herein prescribed for paying off Securities.

Commissioners may borrow Money at a lower Rate of Interest to pay off Securities of a higher Rate.

LXII. And be it further enacted, That in Cases where it shall appear by satisfactory Evidence adduced at any Meeting of the said Commissioners (or by the Books of the Lords of the Manor relating to the Pier and Market Estate), that any Person is a Creditor on Security of the Tolls, Rates, and Dues granted by the said recited Act or this Act, and that the Mortgage or Assignment of the Duties

When old Securities are lost, &c., new ones may be executed.

for

for securing any such Sum of Money or the Transfer thereof has been lost or mislaid, it shall and may be lawful for the said Commissioners or any Five of them, under such Restrictions as they shall think fit, to execute, at the Expence of the Party applying for the same, an Assignment of the Tolls, Rates, and Dues by this Act granted, for the Sum of Money mentioned in such original or former Assignment as appearing on the Books of the said Lords of the Manor or of the said Commissioners; and every Assignment shall be good, valid, and effectual for the Purposes thereby intended.

Tolls collected under recited Act repealed.

LXIII. And be it further enacted, That so much of the said recited Act as relates to the Sums charged or payable as Tolls, Rates, or Dues, and Schedules thereof, (except the Tolls for providing Weights, Measures, Scales, or Steelyards, and the Schedule relating thereto,) and also so much of the said recited Act as relates to Notices to be given of Meetings, shall be and the same is hereby repealed.

Tolls or Dues.

LXIV. And be it further enacted, That from and after the passing of this Act, instead of the Tolls, Rates, and Dues now payable by virtue of the said recited Act, except as aforesaid, it shall and may be lawful for the said Commissioners, or their Successors, Collectors or Receivers, Lessees, or such Person as they shall appoint for that Purpose, and they are hereby authorized and empowered, from Time to Time and at all Times hereafter, to ask, demand, take, receive, collect, recover, and levy for all Ships, Boats, or other Vessels, of whatsoever Description, which shall come into or use the said Harbour, and for all Goods, Wares, and Merchandize and other Things that may be imported into or exported from the said Harbour, or within the Limits or Precincts thereof, the several Tolls, Rates, or Dues specified and mentioned in the several Schedules respectively marked (B.) and (C.) hereto annexed, and so in proportion for any fractional Part of the same respectively.

Power to fix Tolls on Goods not mentioned in this Act.

LXV. And be it further enacted, That it shall be lawful for the said Commissioners to fix such reasonable Tolls, Rates, or Dues upon Commodities not mentioned in the said Schedules marked (B.) and (C.) as they shall think fit, provided such Rates do not exceed One Shilling *per* Ton, Household Furniture to be computed at Forty Feet Measurement to the Ton.

Penalty on Persons evading the Payment of Tolls.

LXVI. And be it further enacted, That if any Master or other Person having the Command of any Ship, or any other Person liable to the Payment of any Tolls, Rates, or Dues by virtue of this Act, shall depart out of the said Harbour of *Brixham*, or from *Brixham* aforesaid, without having paid the Tolls, Rates, or Dues hereby imposed, or shall elude or evade the Payment thereof by any Means whatever, the same having been first legally demanded, every such Master or other Person shall pay and forfeit for every such Offence to the said Commissioners any Sum not exceeding Twenty Pounds, over and above the Tolls, Rates, or Dues imposed by this Act.

Act not to affect Vessels in His Majesty's Service.

LXVII. And be it further enacted, That nothing in this or the said recited Act contained shall extend or be construed to extend to any

any of His Majesty's Ships of War, or any Ship, Transport, or Vessel employed in or upon His Majesty's Service, in the Conveyance of any Officers or Soldiers, or any Horses, Arms, Ammunition, or Baggage to them or any of them belonging, or of any Ordnance, Barrack, or Commissariat Stores, or to any Vessel in the Service or Employ of the Ordnance, Customs, Excise, or His Majesty's Postmaster General.

LXVIII. Provided always, and be it further enacted, That if any Merchant Ship or any Coasting Vessel for which the said Tolls, Rates, or Dues shall have been paid shall depart from or leave the said Harbour during the said Voyage, and shall, either from Accident, Stress of Weather, or any other Cause, be obliged to put back or return into the same, then and in every such Case such Ship or Vessel shall not again be liable to the Payment of the said Harbour Dues in consequence of so putting back or returning, any thing in this Act contained to the contrary notwithstanding.

Ships returning during the same Voyage not again liable to Toll.

LXIX. And be it further enacted, That the Tonnage or Admeasurement of all Ships and Vessels required to be registered by any Act of Parliament, and liable to the Payment of the Tolls, Rates, or Dues by this Act imposed, shall be ascertained according to the certified Tonnage in the Ship's Register; and the Master or other Person having the Command of any Ship or Vessel is hereby required to produce such Certificate of Registry, at the Time of Payment of the said Tolls, Rates, or Dues, to the Person duly authorized to collect and receive the same; and in case of any Dispute about the same, or in case of any Dispute about the Tonnage of any Ship or Vessel not required to be registered, or of any Foreign Ship or Vessel, then the Tonnage of any such Ship or Vessel shall be ascertained in the Manner and according to the Direction of any Act for the Time being in force for ascertaining the Tonnage of *British* Vessels.

To ascertain the Tonnage of Ships.

LXX. And be it further enacted, That it shall and may be lawful for the Collector and Comptroller and every other Officer of His Majesty's Customs, with the Consent of the Commissioners of His Majesty's Customs, to refuse to give or make out any Cocquet or other Discharge, or take any Report outwards or inwards, for any Ship, Vessel, or Boat using the said Harbour, until the Rates, Tolls, or Dues by this Act made payable according to the true Intent and Meaning hereof shall be paid unto the Collector or other Person from Time to Time appointed to receive the same; and such Collector or other Officer of His Majesty's Customs shall and he is hereby required to obey all such Orders and Directions as he shall from Time to Time receive from His Majesty's Commissioners of Customs relating thereto.

Officers of Customs may refuse Clearances until Tolls are paid.

LXXI. And be it further enacted, That from and after the passing of this Act there shall be paid to the said Commissioners and their Successors, or the Persons to be by them appointed to receive the same, by all Persons using or occupying any Building, Shed, Stall, Standing, Bulk, Trestle, Block, or other convenient Standing Place or Station for selling or offering or exposing to Sale any Cattle, Butcher's Meat, Poultry, Eggs, Butter, or other Commodities, or any

Market Tolls.

[Local.]

29 S

other

other Articles or Commodities or Things as aforesaid, in the said Market Place, the several Tolls, Duties, Rents, and Stallage not exceeding the respective Sums mentioned, expressed, or contained in the Schedule marked (D.) hereunto annexed, and so in proportion for any fractional Part of the same respectively.

Goods not to be offered for Sale in the Streets on Market Days.

LXXII. And be it further enacted, That from and after the passing of this Act, if any Person shall sell or expose to Sale within the Limits of this Act on any Market Day, except in the said Market Place, any Butcher's Meat, fresh Butter, Poultry, Eggs, Garden Stuff, Potatoes, Roots, or Vegetables, every Person so offending shall for every such Offence, on Conviction before One or more Justice or Justices of the Peace for the said County, forfeit and pay any Sum not exceeding Forty Shillings for the First Offence, and not exceeding Five Pounds for the Second or any subsequent Offence: Provided nevertheless, that nothing in the said recited Act or this Act contained shall extend or be construed to extend to prevent or hinder any Person from selling or exposing to Sale any marketable Goods, Commodities, Articles, Matters, or Things whatsoever in his own private Dwelling House, or in his Shop or Premises anywhere within the Limits of this Act.

List of Tolls to be affixed in conspicuous Place.

LXXIII. Provided always, and be it further enacted, That the said Commissioners shall from Time to Time cause to be painted on Boards, and affixed, and continued and renewed as often as the same shall be obliterated or defaced, in some conspicuous Part of the said Harbour and Market Place, in large and legible Characters, an Account or List of the Tolls, Rates, or Dues which the said Commissioners shall from Time to Time direct and appoint to be taken under the Authority of the said recited Act or this Act; and in case any Collector of the Rates, Tolls, or Dues aforesaid shall after such Account or List shall be affixed as aforesaid demand or take more than the Price or Sum of Money therein specified, such Collector shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence.

Power to reduce Tolls after Money borrowed has been paid off.

LXXIV. And be it further enacted, That whenever the Money borrowed under the Authority of this Act for the Purpose of improving, enlarging, and maintaining the said Piers, Harbour, and Market, and for the Formation of the said Breakwater, has been paid off, it shall and may be lawful for and the said Commissioners are hereby required from Time to Time, and as often as they shall think fit, to lessen and reduce all or any of the Tolls, Rates, or Dues by this Act authorized to be taken.

Application of Money.

LXXV. And be it further enacted, That all the Money to arise by or from the said Tolls, Rates, and Dues hereby granted, and to be received from Time to Time by virtue of the said recited Act or of this Act, and the Money which may be borrowed on the Credit thereof, shall be paid to the Treasurer of the said Commissioners, and shall be applied and disposed of, in the first place in defraying and paying the Costs, Charges, and Expences which shall be incident to and attending the obtaining and passing of this Act, and

and afterwards in paying the Interest as it shall become due on the Monies borrowed by virtue of the said recited Act of the Thirty-ninth Year of the Reign of His late Majesty King *George* the Third, and after such Payments as aforesaid the Surplus arising from the said Tolls, Rates, and Dues and other Monies to be received or borrowed as aforesaid shall be applied in paying the Interest of the Monies to be borrowed by virtue of this Act as the same shall become due, and in paying and discharging the Principal Monies borrowed and due and owing on the Credit of the said recited Act of the Thirty-ninth Year of the Reign of His late Majesty King *George* the Third, and, subject to the Proviso herein-after mentioned, in defraying the Costs, Charges, and Expences of enlarging, improving, repairing, maintaining, and supporting the said Harbour and Market, and the several Works thereto belonging, and in building, erecting, and providing a Pier or Piers, Jetty or Jetties, and other additional Works for the Maintenance and Improvement thereof, and also in extending and enlarging the Fish Market, and making a convenient and proper Approach thereto, and also in repairing and enlarging the present Market House, or in removing the said Market and building a new Market House, and in paying and defraying all Costs, Charges, and Expences which the said Commissioners or any of their Officers may sustain or be put unto in purchasing Lands or Tenements, or otherwise in carrying this Act into execution, or in prosecuting or defending any Prosecutions, Actions, or Suits for or concerning any of the Monies granted or arising by virtue of this Act, or in any Manner relating to the Execution thereof, or of any thing to be done by virtue thereof, and in paying and discharging the Principal Monies to be borrowed on the Credit of this Act, and in carrying the several other Purposes of the said recited Act or this Act into execution.

LXXVI. And be it further enacted, That the said Commissioners shall and they are hereby required to order and direct Books to be provided and kept by their Clerk for the Time being, in one of which Books such Clerk shall enter or cause to be entered true and regular Accounts of all Sums of Money received on account of the several Tolls, Rates, or Dues specified and mentioned in the Schedules hereto annexed marked (B.) and (C.), and in the other of such Books true and regular Accounts of all Sums of Money received on account of the several Tolls, Rates, Dues, or Stallage specified and mentioned in the Schedule hereto annexed marked (D.), which said Books shall be open to the Inspection at all reasonable Times of any rated Inhabitant of the Parish of *Brixham*, on Payment of the Sum of One Shilling.

Separate Account to be kept of Tolls levied.

LXXVII. Provided always, and be it further enacted, That the said Tolls, Rates, and Dues arising or payable in respect of the said Harbour or Pier shall not be applied towards the enlarging, making, repairing, maintaining, and supporting the said Market, but the said Commissioners may and they are hereby authorized to apply the Tolls, Rates, and Dues arising or payable in respect of the said Market towards the enlarging, improving, repairing, maintaining, and supporting the said Harbour or Pier, and the several Works thereto

Tolls of Pier not to be applied for the Purposes of the Market.

thereto belonging, and the Interest of the Money borrowed on the Security of the same, until the Tolls, Rates, and Dues arising from or payable in respect of the said Harbour or Pier are sufficient to pay the Interest of the Money laid out in the making or borrowed on the Security thereof.

Annual Publication of Accounts.

LXXVIII. And be it further enacted, That the said Commissioners shall cause to be prepared in the Month of *November* in every Year a full and complete Account or Balance Sheet of Receipts and Disbursements up to the Twenty-ninth Day of *September* in each Year, and that such Account or Balance Sheet shall be signed by the Treasurer and Five or more of the Commissioners in testimony of their Allowance and Approbation of the same; and a Copy of such Account or Balance Sheet shall be printed and circulated in the Parish of *Brixham* aforesaid within One Month after such Allowance; and if the Clerk to the said Commissioners shall neglect to prepare and publish such annual Account or Balance Sheet in manner aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds: Provided always, that it shall be lawful for any Elector of Commissioners to inspect the said Accounts at all reasonable Times on payment to the said Clerk of the Sum of One Shilling.

Mode of Proceeding against Persons neglecting or refusing to pay the Tolls.

LXXIX. And be it further enacted, That in case any Person holding or using or in any Manner occupying any of the said Buildings, Sheds, Stalls, Standings, Bulks, Trestles, Blocks, or other Conveniences in the said Market Place, or who shall bring, place, or expose for Sale within the Limits of this Act any Butcher's Meat, or any other Goods, Articles, or Things whatsoever, for or in respect of which any Toll or Stallage may be demanded or taken thereon, shall, upon Demand thereof made by the Collector, Farmer, or other Person authorized to receive the said several Sums, Tolls, or Stallage, neglect or refuse to pay, or shall wilfully evade the Payment of the several Sums or Tolls or Stallage due in respect thereof by virtue of this Act, or in case any Dispute shall happen about the Amount of the Tolls or Stallage due, it shall be lawful for the said Collector, Farmer, or other Person authorized and appointed to collect and receive the said Sums, Tolls, and Stallage, either by himself or by his Assistants, to seize and detain such Article, Matter, or Thing until the Amount of the Tolls and Stallage due, and the Charges of keeping such Article, Matter, or Thing, shall be ascertained by any One Justice of the Peace for the said County, not being a Creditor upon Security of the said Tolls or Commissioner under this Act, who, upon Application made to him for that Purpose, shall examine the Matter on the Oath of the Parties or other Witness or Witnesses (which Oath such Justice is hereby authorized to administer), and shall determine the Amount of the Tolls and Stallage due, and the Charges of keeping the same, and shall award such Costs and Charges to either Party as to the said Justice shall appear right and proper; all which Tolls and Stallage, Costs and Charges, shall and may be levied and recovered, in case of Nonpayment thereof forthwith, by Distress and Sale of the Goods and Chattels of the Person liable to pay the same, by Warrant under the Hand and Seal of such Justice, rendering the
Overplus

Overplus (if any) on Demand, after deducting the Costs and Charges of making such Distress and Sale, to the Person whose Goods and Chattels shall be distrained and sold.

LXXX. And be it further enacted, That the Clerk of the Market or his Deputy shall and may and he is hereby authorized and required to seize all unwholesome Flesh Meat, or Fish which shall be brought in or offered for Sale in the said Market, and all false and deficient Weights and Measures which shall be used or found in the said Market or in any Shop, Dwelling House, Court, Outhouse, or Building, wherein the saleable Matters aforesaid shall be sold or offered for Sale within the Limits of this Act, for which Purpose he is hereby authorized to enter any Shop, Dwelling House, Court, Outhouse, or Building as aforesaid; and every Person offending in either of these Cases shall forfeit and pay any Sum not exceeding Five Pounds upon being duly convicted before Two Justices of the Peace.

Power to seize and destroy unwholesome Food and false Weights.

LXXXI. And be it further enacted, That if any Lessee, Farmer, or Renter, or any Collector of the Tolls, Rates, or Dues, shall demand and take or cause to be demanded and taken from any Person any Toll not hereby authorized to be taken, or a greater Toll than authorized and directed by the said Commissioners to be taken under the Authority of this Act, such Lessee, Farmer, or Renter shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, and his Contract for renting the Tolls shall be vacated if the said Commissioners shall think fit to vacate the same; and every Collector, not being the Lessee, Farmer, or Renter, shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings: Provided always, that if the Justice, not being a Commissioner under this Act, by or before whom the Matter and Complaint shall be heard shall be of opinion that the Offender had probable Grounds for such Demand or taking, it shall be lawful for such Justice either to mitigate the said Penalty or wholly to exonerate the Offender therefrom as such Justice shall think fit.

Penalty on Collector, &c., taking greater Tolls than allowed.

LXXXII. And be it further enacted, That it shall be lawful for the said Commissioners to lease, demise, and let to farm the Tolls, Rates, and Dues by this Act made payable, or any Part or Parts thereof unto any Person for any Term or Time which they shall think proper, not exceeding Seven Years, in Possession, the Term to commence from the Day on which the Contract shall be entered into for granting such Term; and the Lessee thereof, and also such Person as such Lessee shall appoint to collect and receive the Tolls, Rates, and Dues so let, shall, during the Continuance of any such Lease, be deemed Collector thereof, and shall have the same Power and Authority for collecting or receiving the same as if he had been appointed for that Purpose by the said Commissioners: Provided always, that public Notice of the Intention to let the said Tolls, Rates, and Dues, or any Part thereof, be given by the Clerk to the said Commissioners by Advertisement published in some Newspaper usually circulated in the said County, and by public Notice affixed on the Market House at least Fourteen Days prior to the Day on which the said Tolls, Rates, and Dues, or any Part thereof, are proposed to be let.

Commissioners empowered to lease Tolls.

Power of re-
entry.

LXXXIII. And be it further enacted, That in case all or any of the Tolls, Rates, or Dues arising by virtue of this Act shall be demised or let to farm to any Person in any Manner whatsoever, and the Lessee or Farmer thereof shall neglect or refuse to perform the Terms and Conditions on which the same shall be so demised or let, or in case the Rent agreed to be paid by such Lessee or Farmer, or any Part thereof, shall be in arrear for the Space of Seven Days next after any of the Days on which the same ought to be paid pursuant to the Lease, Agreement, or Contract for demising or letting such Tolls, Rates, or Dues, or in case any such Lease, Agreement, or Contract shall in any other Manner become void, then and in any of the said Cases it shall be lawful for any One Justice of the Peace for the said County, not being a Commissioner under this Act, upon Application made by Three or more of the said Commissioners, or by the Clerk or Treasurer for the Time being, by Warrant under his Hand and Seal to order any Constable or other Peace Officer, with such Assistance as shall be necessary, to remove such Lessee, Farmer, or other Person from the Collection of such Tolls, Rates, or Dues, and to put the said Commissioners or any Three of them, or their new Lessee, Farmer, or Collector, into Possession; and thereupon it shall be lawful for the said Commissioners, if they shall see fit, to vacate and determine the Lease, Contract, or Agreement, if any, which was previously subsisting, and the same shall accordingly be utterly void to all Intents and Purposes (save as to the Covenants and Agreements for Payment of the Rent thereby reserved, or other unperformed or broken Obligations, Covenants, or Agreements on the Lessee's Part,) as if such Lease, Contract, or Agreement had never been made; and it shall be lawful for the said Commissioners in every such Case again to demise or let to farm the said Tolls, Rates, or Dues to any other Person, or cause them to be collected in such and the same Manner as if no former Demise, Contract, or Agreement had been made relative thereto.

Commission-
ers may com-
pound for
Dues on
Steam Ves-
sels.

LXXXIV. And be it further enacted, That it shall be lawful for the said Commissioners, from Time to Time as they shall see convenient to compound and agree for any Time not exceeding One Year with the Owner, Consignee, Agent, or other Person having the Charge or Management of any Steam Vessel using and resorting to the said Harbour, for the Payment of such Sum of Money on the Tonnage Rates as they may think sufficient and proper, for and in lieu of and in full Discharge of the Tolls, Rates, or Dues which would by this Act be payable on such Steam Vessels, and such Composition Money shall be recoverable, paid, and applied as the Tolls, Rates, and Dues by this Act imposed would be recoverable, payable, and applicable: Provided also, that in case any such Composition or Agreement shall be made or entered into, the same shall extend to and may be adopted by all such Owners, Consignees, Agents, or other Persons having the Charge or Management of any Steam Vessels using or resorting to the said Harbour, who shall think fit to take Advantage of such Composition, or accept the Terms thereof; and no such Composition shall either directly or indirectly be made partially or in favour of or against any particular Owner, Consignee, Agent, or other Person aforesaid, or be confined to any particular Steam Vessel, any thing to the contrary thereof in anywise notwithstanding.

LXXXV. And be it further enacted, That the Master of every Vessel coming into the said Harbour liable to pay any of the Tolls, Rates, or Dues by this Act granted shall give to the Collector of the said Tolls, Rates, or Dues, or to any other Person appointed to receive the same, a true and particular Account in Writing of any Goods or Articles which shall be embarked in each such Vessel, and of the Quantities and Weights of the Loads and Articles respectively, and of their Nature or Kind, to be loaded or discharged within the Limits of the Harbour; and in case the Master of such Vessel shall neglect or refuse to give such Account, or shall wilfully give a false Account, or do any other Act whereby the Payment of the said Tolls, Rates, or Dues, or any Part thereof, shall be avoided, or shall charge in respect of the Tolls, Rates, or Dues more than he shall have actually paid for the same, or shall refuse to give such Collector or other Person as aforesaid, when required, an Account of the Charge made by him in respect of the said Tolls, Rates, or Dues, he shall forfeit and pay any Sum not exceeding Ten Pounds over and above the Amount of the said Tolls, Rates, or Dues.

Masters of Vessels to deliver an Account of their Cargo.

LXXXVI. And be it further enacted, That every Master or Owner or other Person having the Charge or Command at the Time of any Ship or Vessel liable to pay any of the Tolls, Rates, or Dues by this Act imposed, shall, whenever required by the Receiver or Collector of the said Tolls, Rates, or Dues, produce and show or cause to be produced and shown to such Receiver or Collector the Register or Light Bill of such Vessel or other Documents relating to the Appointment of such Master or other Person, and in case such Master or other Person shall upon such Requisition refuse to produce or show to such Receiver or Collector such Registers or other Documents as aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding the Sum of Ten Pounds.

Masters of Vessels to produce their Registers.

LXXXVII. And be it further enacted, That the Owner or Master or other Person having the Command or Charge of any Ship, Vessel, Lighter, or Boat within the said Harbour shall be and is hereby made answerable and accountable to the said Commissioners for the Amount of any Damage or Mischief (other than that occasioned by Storm or Tempest or other unavoidable Accident) done by any such Ship, Vessel, Lighter, or Boat, or by any of the Mariners, Boatmen, Bargemen, Watermen, or Servants or other Persons on board of or belonging to the same, to the said Harbour, or to any of the Jetties, Piers, Quays, Walls, Wharfs, Works, Machinery, or Tackle within or about any Part of the same, or to other Vessels lying therein, or to any of the Anchors, Buoys, Beams, Moorings, Cranes, Chains, or any other of the Works made, executed, or placed in and about the said Harbour, and if the Amount of such Damage or Mischief, to be ascertained by Referees chosen as herein-after mentioned, be not forthwith paid, in case the same shall not exceed the Sum of Twenty Pounds the same shall and may be recovered as any of the Penalties and Forfeitures imposed by the said recited Act or this Act may be recovered; and it shall be lawful for the Surveyor, Harbour Master, or other

Master or Owner liable for Damage done by their Vessel or Crew.

Officer

Officer to detain any such Vessel by which or by any of the Persons belonging to which any Damage or Mischief shall have been done, until such Security shall be guaranteed or given for Payment of the Amount of the Expence of repairing such Damage or Mischief, and of the Costs of recovering the same: Provided always, that any Sum which may be recovered for Damages done to any Vessel within the Harbour shall be paid to the Owner thereof or the Person in charge of the same.

Appointment
of Arbitrators.

LXXXVIII. Provided always, and be it further enacted, That the said Arbitrators shall be appointed in manner following; that is to say, One by such Owner, Master, or other Person, and another by the said Commissioners, and the Third by the Two Arbitrators so before appointed, within Seven Days after such Damage or Injury shall have occurred, and in case of the Death or Incapacity to act of any or either of the said Arbitrators another shall be appointed in his Stead by the Party by whom or in whose Behalf he was so appointed, or by the said Two Arbitrators appointed by the Parties, as the Case may be, within Seven Days next after Notice thereof; and the said Arbitrators or any Two of them shall and they are hereby authorized and empowered, by Examination of Witnesses upon Oath, (which Oath the said Arbitrators are hereby empowered to administer,) and by other fit and proper Ways and Means, to hear, settle, and determine the Matter in question, and to make their Award therein by Writing under their Hands, or under the Hands of any Two of them; and in case either of the said Parties shall not appoint an Arbitrator for the Purposes aforesaid within Seven Days after being thereunto required by Writing to be delivered to the Party on whose Behalf any Arbitrator shall not have been appointed as aforesaid, within the Time or Times herein-before limited for that Purpose, or if the Arbitrator appointed by or on behalf of either of the said Parties shall refuse or neglect to act in the Premises, or having acted shall refuse or neglect to proceed by the Space of Ten Days, and in case no Third Arbitrator shall have been appointed by the said Two Arbitrators chosen by the said Parties, then such Matter may be settled and determined as soon as conveniently may be by the Arbitrator appointed by or on behalf of the other of the said Parties, and the Determination to be had and made by such One Arbitrator as herein-before directed shall be final and binding on all Parties; but if the Two Arbitrators shall have so far acted as to have named a Third Arbitrator, and either of such first-named Arbitrators shall neglect or refuse to act any further, then and in such Case the Matter may be settled and determined as soon as conveniently may be by the Arbitrator who shall not decline to act and such Third Arbitrator; and the Determination to be had and made by such One of the Two first-named Arbitrators and such Arbitrator shall be final and binding on all Parties, and the Costs and Charges incurred in and about such References and the making of the Awards shall be apportionable, paid, and payable, and recoverable, on such and the like Conditions and in such and the like Manner as is herein provided in case of Purchase or Compensation being settled and determined by a Jury.

Power to
settle Questions
as to
Arbitration.

LXXXIX. And

LXXXIX. And be it further enacted, That if the Owner of any such Ship, Boat, or Vessel shall be compelled to pay any Penalty or make any Satisfaction for any Damages by reason of any wilful Act, Neglect, or Default of his Seamen, Boatmen, or other Persons employed by him, then and in such case every such Seaman, Boatman, or other Person shall be liable to repay such Penalty or Satisfaction for Damages, with the Costs attending the same, to such Owner; and in case of Nonpayment thereof, on Demand, the same shall be recovered in like Manner as any Penalty can or may by virtue of the said recited Act or this Act be recovered.

Servant to repay his Master for Damages occasioned by his Neglect.

XC. And whereas it is expedient to enlarge the Powers of the Harbour Master and others employed under him; be it therefore enacted, That in case any Master, Mate, Pilot, Owner, or Commander, or the Person on board of any Ship or Vessel, shall be moored, anchored, or fastened within the said Harbour, shall at any Time refuse or neglect, upon the Demand of the Harbour Master or his Deputy, to unloose or slacken the Rope or Chain by which such Ship or Vessel shall be so moored, anchored, or fastened, or shall refuse or neglect to remove his Ship or Vessel from any one Part, Place, or Berth within the said Harbour or any Part thereof, which in the Judgment of the said Harbour Master or his Deputy shall be considered as proper and commodious; and in case there shall be no Person on board of any such Ship or Vessel so moored, anchored, or fastened, in every such Case it shall and may be lawful for the Harbour Master or his Deputy to cut the Rope or slacken the Chain by which such Ship or Vessel shall be moored or fastened as aforesaid: Provided always, that before the Harbour Master or his Deputy shall cut any Rope or slacken any Chain by which any Ship or Vessel shall be moored or fastened having no Person on board, or who shall not answer to the Call for the Purpose aforesaid of the said Harbour Master or his Deputy, the said Harbour Master or his Deputy shall and he is hereby authorized to put on board such Ship or Vessel such Person as he may think proper for the Protection and Security from Injury of such Ship or Vessel, and the reasonable Charges and Expences which shall be thereby incurred shall be forthwith paid by the Master or Owner of such Ship or Vessel; and in default of Payment of such Charges and Expences the same shall and may be levied, together with the Costs of levying the same, by Distress and Sale of the Goods and Chattels of such Master or Owner, or by Distress and Sale of the Cargo of such Ship or Vessel in manner herein-before mentioned in case of Distress for Duties.

Harbour Master authorized to cut Ropes, &c.

XCI. And be it further enacted, That if any Person not legally authorized so to do shall wilfully cut or break, or in any Manner destroy or injure, or cast loose or cut away any Rope or Chain or any other Thing by which any Ship or Vessel lying, coming in, or going out of the said Harbour shall be moored or fastened, or shall deface or take away, or cast loose or cast away, any floating Buoy or known Seemark, such Person for any such Offence shall forfeit and pay any Sum not exceeding Twenty Pounds, and the imposing of such Penalty shall not in any Manner lessen or affect the Remedy which any Person shall or may have by Action or otherwise against such Person for any Damages or Injuries which may be done.

Punishing Persons cutting away Buoys and Ropes.

[Local.]

29 U

XCII. And

Penalty for not obeying the Orders of the Harbour Master.

XCII. And be it further enacted, That the Master, Mate, Pilot, Owner, or Commander of every Ship, Vessel, Boat, or other Craft within the said Harbour or the Precincts thereof shall, after Notice or Direction given to him, either verbally or in Writing, by the said Harbour Master or his Deputy for that Purpose, moor, anchor, unmoor, place, move, or remove his Ship, Vessel, Boat, or other Craft, or take, discharge, or deliver Ballast into or from any Ship, Vessel, Boat, or other Craft, in such Manner as the said Harbour Master or his Deputy shall direct, and in default thereof it shall and may be lawful for the said Harbour Master or his Deputy to cause such Ship, Vessel, Boat, or other Craft to be moored, anchored, unmoored, placed, moved, or removed to such Place in the said Harbour as may be deemed the most convenient for any of the said Purposes; and every such Master, Owner, Pilot, or other Person having the Command, Care, or Charge of any such Ship, Vessel, Boat, or other Craft so refusing or neglecting to moor, anchor, unmoor, place, move, or remove such Ship, Vessel, Boat, or other Craft when so directed to do as aforesaid, or obstructing or disobeying the Harbour Master or his Deputy in the mooring, anchoring, unmooring, placing, moving, or removing any such Ship, Vessel, Boat, or other Craft as aforesaid, shall in every such Case forfeit any Sum not exceeding Five Shillings, besides the Costs and Charges which may be incurred by such Harbour Master or his Deputy in the mooring, anchoring, unmooring, placing, moving, or removing of such Ship, Vessel, Boat, or other Craft as aforesaid.

No Fire to be made in certain Places.

XCIII. And whereas the Ships or Vessels which belong to or come within the said Harbour lie so contiguous to each other, and so very near the Houses at *Brixham Quay*, that if a Fire should happen, not only Ships or Vessels, but also that Part of *Brixham* called *Brixham Quay*, would be in danger of being destroyed; for the Prevention of any such Mischief, be it enacted, That if any Master, Owner, or other Person shall heat, warm, or boil any Pitch, Tar, Resin, Brimstone, or other combustible Matter on board of any Ship or Vessel or at any Place or Places other than those appointed and allowed by the said Commissioners, on any Pretence whatsoever, such Master, Owner, or other Person shall forfeit and pay the Sum of Ten Shillings for the First Offence, and for every subsequent Offence the Sum of Forty Shillings.

Punishing Persons obstructing the Execution of this Act.

XCIV. And be it further enacted, That if any Person shall at any Time obstruct, hinder, or molest any of the said Commissioners, or any of their Officers or Servants, or other Person whomsoever, who is or are or shall be employed by virtue of the said recited Act or this Act, in the Performance or Execution of their Duty, every such Person so offending shall forfeit any Sum not exceeding Twenty Pounds for every such Offence.

Mode of Recovery, and Application of Penalties.

XCV. And be it further enacted, That all Offences whatsoever which by or under the Authority of the said recited Act or this Act shall be subjected to or punishable with any pecuniary Penalties, Fines, or Forfeitures, for the Recovery of which no previous Provision is herein-before made, shall and may in every Case be heard, adjudged, and determined by or before any Justice of the Peace acting

acting in and for the County of *Devon*, not being a Commissioner or Creditor under this Act, in a summary Way, upon Information or Complaint made or exhibited before him, and upon such Information or Complaint as aforesaid the said Justice shall summon the Party accused, and examine into the Matter thereof, and if upon the Confession of the Party accused, or on the Oath of any One or more credible Witness or Witnesses, which Oath the said Justice is hereby empowered and required to administer, the Party accused shall have been convicted of having committed such Offence, then and in every such Case the said Penalty, Fine, or Forfeiture hereby made payable in respect of such Offence, together with the Costs of Conviction, to be ascertained by such Justice, shall be forthwith paid by the Party so convicted as aforesaid; and in case such Party so convicted shall refuse or neglect to pay the same forthwith, then the same shall and may, by Warrant under the Hand and Seal of any such Justice, (which he is hereby authorized and empowered to grant,) be levied and recovered, together with the Costs of Conviction and Recovery, to be ascertained as aforesaid, by Distress and Sale of the Goods and Chattels of such Offender, wherever such Goods and Chattels can be found, rendering the Overplus of the Money arising by such Sale (if any) after deducting the reasonable Charges of taking, keeping, and selling such Goods and Chattels, to the Party whose Goods and Chattels shall be so distrained, and one Half of such Penalty shall be paid to the Informer, and the other Half to the Commissioners for the Time being, or to such Person as shall by them be in that Behalf authorized to receive the same, and shall go and be applied for the same Purposes as the Duties imposed by this Act are directed to be applied; and it shall and may be lawful to and for such Justice to order the Offender so convicted to be detained in safe Custody until Return can be conveniently made to such Warrant or Warrants of Distress, unless the said Offender shall give sufficient Security to the Satisfaction of such Justice for his Appearance before the said Justice on such Day as shall be appointed for the Return of such Warrant of Distress, such Day not being more than Ten Days from the Time of taking any such Security, and which Security the said Justice is hereby empowered to take by way of Recognizance or otherwise; but if upon the Return of such Warrant it shall appear that no sufficient Distress can be had whereupon to levy the said Penalty, Fine, or Forfeiture, and such Costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to such Justice, either by the Confession of the Offender or otherwise, that the Offender hath not sufficient Goods and Chattels whereon such Penalties, Fines, or Forfeitures and Costs may be levied were a Warrant of Distress issued, such Justice shall not be required to issue a Warrant of Distress; and thereupon it shall be lawful for such Justice, and he is hereby required and empowered, by Warrant under his Hand and Seal, to commit such Offender to the Common Gaol or House of Correction of the County, Town, or Place respectively in the Jurisdiction of which the Place may be situated where the Offence was committed, there to remain without Bail or Mainprize for any Time not exceeding Six Calendar Months, or until such Offender shall have paid such Penalty, Fine, or Forfeiture,

feiture, and all Costs and Charges attending such Proceedings as aforesaid, to be ascertained by such Justice, or shall otherwise be discharged by due Course of Law.

Justices may proceed by Summons for the Recovery of Penalties.

XCVI. And be it further enacted, That in all Cases in which by the said recited Acts or by this Act any Penalty or Forfeiture is made recoverable by Information before such Justice of the Peace for the County of *Devon* as aforesaid, it shall and may by lawful for any Justice as aforesaid to whom Complaint shall be made of any Offence against the said recited Act or this Act to summon the Party complained against before him, and on such Summons to hear and determine the Matter of such Complaint, and on Proof of the Offence to convict the Offender, and to adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information in Writing shall have been exhibited or taken by or before such Justice; and all such Proceedings by Summons without Information shall be as good, valid, and effectual, to all Intents and Purposes, as if an Information in Writing had been exhibited.

For securing transient Offenders.

XCVII. And be it further enacted, That it shall be lawful for any Collector, Surveyor, Harbour Master, or other Officer of the said Commissioners, and such Persons as he shall call to his Assistance, to seize and detain any Person, being unknown to such Collector, Surveyor, Harbour Master, or other Officer, who shall commit any Offence against the said recited Act or this Act, and to convey him before any Justice of the Peace or other Magistrate, not being a Commissioner or Creditor under this Act, without any other Warrant or Authority than the said recited Act and this Act for so doing, and such Justice of the Peace is hereby empowered and directed to proceed immediately to the Conviction or Acquittal of such Offender.

Tender of Amends.

XCVIII. And be it further enacted, That no Plaintiff shall recover in any Action for any Irregularity, Trespass, or other Proceeding under the said recited Act or this Act, if Tender of sufficient Amends shall be made by or on behalf of the Party who shall have committed or caused to be committed any such Irregularity, Trespass, or wrongful Proceeding, before such Action brought; and in case no such Tender shall have been made, it shall and may be lawful for the Defendant in any Action, by Leave of the Court where such Action shall depend, at any Time before Issue joined, to pay into Court such Sum of Money as he shall see fit, whereupon such Proceeding or Order and Judgment shall be had, made, or given in by such Court as in other Actions where the Defendant is allowed to pay Money into Court.

Saving the Rights of the Trinity House of Deptford Strond.

XCIX. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from any of the Rights, Privileges, Jurisdiction, or Authority of the Corporation of Trinity House of *Deptford Strond*.

C. And

C. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to or in any Manner affect any Lands, Tenements, Estates, or Property of or belonging to His Majesty, or to the principal Officers of the Ordnance in Trust for His Majesty, without the Consent of the principal Officers of the Ordnance for the Time being in Writing for the Purpose first given.

Crown Estates not to be affected by this Act.

CI. And whereas there are at *Brixham* certain Lands, Messuages, and Buildings belonging to His Majesty, and a certain Reservoir of Water and a Watering Wharf also belonging to His Majesty, which have been formed and constructed at the Public Expence for the watering or supplying with fresh Water His Majesty's Ships and Vessels in *Torbay*, and it is expedient that due Provision should be made for securing the same from all Interference which might otherwise occur therewith under the Powers of this Act; be it therefore enacted and provided, That nothing in this or the recited Act contained shall extend or be construed to extend to affect in any Manner His Majesty's Ships, Vessels, and Boats, or the said Lands, Messuages, Buildings, Reservoir, and Wharf, or to authorize any Works or other Thing to be done which may interfere with or tend to the Prejudice or Damage of the same or any of them, or of the Streams by which the said Reservoir is supplied, or of the Pipes by which the Water is conducted from the said Reservoir to the said Watering Wharf, or of any thing connected with the said Pipes or the Land through which the same pass, or that shall directly or indirectly interfere with or tend to the Injury or Prejudice of the Property of His Majesty at *Brixham*, or to the Obstruction of the Free Access of His Majesty's Ships, Vessels, and Boats, or of any Ships, Vessels, or Boats employed in His Majesty's Service, to the said Wharf, which Access shall be at all Times kept clear, open, and free from Obstruction or Interruption by reason of any Private Vessels lying at Anchor, or mooring or being within the said Pier or otherwise, nor shall any thing in this Act contained be construed to authorize the collecting or levying of any Toll or Due from any Ships, Vessels, or Boats in His Majesty's Service, or from any Person or Persons when actually engaged in His Majesty's Service landing on or passing within the Pier by this Act authorized to be made, or to authorize any Harbour Master to cut the Ropes, or Rigging of any Ship, Vessel, or Boat of His Majesty or employed in His Majesty's Service.

Saving Rights of Admiralty to the King's Watering Wharf.

CII. Saving and always reserving to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Bodies Politic and Corporate and other Person and Persons whomsoever, his, her, or their Heirs, Successors, Executors, and Administrators, all such Right, Title, Estate, and Interest (other than those meant and intended to be barred and regulated by this Act,) as they and every or any of them had and enjoyed, of, in, or out of the said Manor and Premises, or any Part thereof, before the passing of this Act, or could or might have had and enjoyed in case this Act had not been passed: Provided always, that nothing in this or the said recited Act shall be deemed or construed to exempt the Lords and Ladies of the Manor of *Brixham*, or their Lessees or Assigns, or any other Person and Persons whomsoever, or their respective Lands, from the Payment of

General Saving.

Proviso not to exempt Lords of Manor from Payment of Tolls.

the Tolls, Rates, and Dues made payable by this Act, save and except for Stone ripped in the Parish of *Brixham*, and *bonâ fide* shipped from the Cliffs within the Harbour in Stone Boats for the Purpose of being manufactured into Lime within the County of *Devon*, but they are hereby respectively made liable to the Payment thereof as any other Person is liable to or chargeable with.

Saving Rights
of the Duchy
of Cornwall.

CIII. Provided always, and be it further enacted, That neither this Act nor any thing herein contained shall extend or be deemed or construed to extend, by Implication or otherwise, to affect, alter, take away, destroy, lessen, or prejudice the Rights or Interests of His Majesty, His Heirs and Successors, in right or in respect of the said Duchy of *Cornwall*, or His or their Lessee or Lessees, in or to the several Dues, Duties, Customs, and Payments heretofore and now due and payable at *Brixham* aforesaid, and the other Ports, Precincts, and Liberties of and within the said Water and Water Bailiwick, nor at any Time or Times be admitted in any Court of Law or Equity, or otherwise considered as Evidence upon any Occasion prejudicially to affect in any Manner such Rights of His Majesty, or other the Personage for the Time being entitled to the Revenues of the said Duchy, but that all such Dues, Duties, Customs, and Payments shall be received, due, and payable, and all such Rights shall remain of the same Force and Effect as if this Act had not been made and passed; any thing herein contained to the contrary thereof in anywise notwithstanding.

Act not to
authorize His
Majesty to
levy Ancho-
rage Toll in
Torbay.

CIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed or taken to extend to authorize or empower His Majesty, His Heirs or Successors (in right or in respect of His said Duchy), or other the Personage for the Time being entitled to the Revenues of the said Duchy, or his or their Lessees or Lessee as aforesaid, to demand, collect, or levy from any Ship or Vessel whatsoever anchoring in *Torbay* aforesaid, or within the said Harbour, any Toll, Due, or Duty, in the Name or Nature of Anchorage Toll, or to demand, collect, or levy any Tolls, Dues, or Duties whatsoever at *Brixham* aforesaid other than those now payable or paid to His said Majesty, His Heirs and Successors, in right of His said Duchy, or to His or their Lessees of the Water Bailiwick of *Dart* otherwise *Dartmouth* aforesaid.

Public Act.

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

The SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Description,	Owners.	Lessees.	Occupiers.
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SECTION 1.

PROPERTY REQUIRED FOR THE PURPOSE OF THE AGRICULTURAL PRODUCE MARKET.

Printing Office	Right Honourable the Countess Dowager of Sandwich, the Earl of Sandwich, and the Right Honourable the Earl of Darlington.	Christopher Bartlett	George King.
Shop	Ditto	Ditto	John Staple.
Shop	Ditto	Ditto	(Vacant).
Shop	Ditto	Ditto	John Matthews.
Cellar	Ditto	Ditto	Thomas Bradfield.
Cellar	Ditto	Ditto	(Vacant).
Brewhouse	Ditto	Ditto	George Stone.
Cellar	Ditto	Ditto	Ditto.
Cellar	Ditto	Ditto	Richard Hamlyn.
Stable	Ditto	Ditto.	
Stable	Ditto	Ditto	Christopher Bartlett.
Stable	Ditto	Ditto	Elizabeth Rennels.
Stable	Ditto	Ditto	William Robinson.
Stable	Ditto	Ditto	Christopher Shears.
Cellar	Ditto	Ditto	William Green.
Shop	Ditto	Ditto	(Vacant).
Shop	Ditto	Ditto	Sarah Howard.
Shop	Ditto	Ditto	Edward Winsor.
Shop	Ditto	Ditto	Nicholas Ching.
Pigsty	Ditto	Ditto	Robert Wills.
Cellar	Ditto	Ditto	John Shillabear.
Sawpit	Ditto	Ditto	George Jordain.
Shop	Ditto	William Thomas	John Hamlyn.
Shop	Ditto	Ditto	John Down.
Brewhouse	Ditto	George Bartlett junior	Himself.

Description.	Owners.	Lessees.	Occupiers.
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SECTION 2.

PROPERTY PROPOSED TO BE TAKEN FOR ENLARGING THE FISH MARKET
AND THE APPROACH THERETO.

House and Shop - -	John Vittery -	- - -	Philip Burman, John Dugdall.
House in Tenements -	Thomas Lakeman -	- - -	John Pitman, William Adams, Mr. — Bray, Daniel Rennels, Mr. — Vincent, Samuel Bools.
House - - -	Richard Walter Wolston.	- - -	Unoccupied.

SECTION 3.

PROPERTY REQUIRED FOR THE BREAKWATER AND APPROACH.

Road, commencing at Baddeley's Gate on the South-west, and ending at the Boundary of the Manorial Property on the North-east.	Lords of Manor and Frederick Baddely.	- - -	Lords of Manor and Frederick Baddely.
Part of Manorial Waste known as Heath Common.	The Lords of the Manor of Brixham.	- - -	Lords of the Manor.

SCHEDULE (B.)

TABLE of RATES and DUES of HARBOUR.

	£	s.	d.
For every Ship, Boat, or Vessel the managing Owner of which resides in the Parishes of Brixham or Churston Ferrers, per Ton Register, yearly - - - - -	0	0	6
For every Ship or Vessel laid up unemployed within the said Harbour, for any Term exceeding Two Months, per Ton per Month, after the first Two Months, in addition to the yearly Payment - - - - -	0	0	1
For every Vessel laid up and employed as a Store within the said Harbour, per Ton per Month, in addition to the yearly Payment - - - - -	0	0	2
For every open Boat coming within the said Pier, not to pay more than twice in one Day - - - - -	0	1	0
For every Ship or Vessel putting into the said Pier or Harbour, each Time per Ton, for every Ton the said Vessel shall measure, for each Voyage, except Vessels belonging to Brixham aforesaid -	0	0	2
For every Ship or Vessel not belonging to the Harbour of Brixham discharging or taking in a Cargo, per Ton Register, inclusive of the above Toll for coming into the Harbour - - - - -	0	0	3
Half a Cargo to pay the same as a full Cargo.			
For less than Half a Cargo, per Ton Register - - - - -	0	0	2
For every Ship or other Vessel discharging or taking in Ballast, per Ton, for every Ton - - - - -	0	0	4
But every Ship or other Vessel discharging her Ballast, for the Purpose of being overhauled or repaired, provided a Notice in Writing to that Effect be given to the Harbour Master, only to pay on discharging, and not on taking in the same Quantity.			

SCHEDULE (C.)

TABLE of RATES and DUES of HARBOUR, to be paid on all EXPORTS and IMPORTS as QUAY DUES.

		£	s.	d.
Alum	- - - - -	0	0	1
Apples	- - - - -	0	0	0½
Ashes of all Sorts	- - - - -	0	1	0
Anchors	- - - - -	0	1	0
Barley	- - - - -	0	0	2
Bricks	- - - - -	0	1	0
Barrels (empty)	- - - - -	0	0	1
Beer, Ale, or Porter	- - - - -	0	0	2
And so in proportion for a greater or a less Quantity.				
Beans	- - - - -	0	0	3
Bottles	- - - - -	0	0	6
Bales or Packages	- - - - -	0	1	6
Brooms	- - - - -	0	0	0½
Bullocks or Oxen	- - - - -	0	1	0
Bones	- - - - -	0	1	0
Basket Rods	- - - - -	0	0	6
Barrel Staves (double)	- - - - -	0	0	9
Ditto (single)	- - - - -	0	0	5
Battens	- - - - -	0	1	6
Baskets	- - - - -	0	0	1
Chests or Trunks, the Owner not being an Inhabitant of Brixham				
		0	0	6
Calves	- - - - -	0	0	4
Chairs	- - - - -	0	0	1
Cheese	- - - - -	0	0	1
Cider	- - - - -	0	1	0
Ditto	- - - - -	0	0	6
Candles	- - - - -	0	0	1
Coals or Culm	- - - - -	0	0	6
Coopers Flags or Rushes	- - - - -	0	0	0½
Casks, packed	- - - - -	0	1	6
Carriages	- - - - -	0	1	6
Cork	- - - - -	0	0	3
Cabbage Plants	- - - - -	0	0	0½
Corpse	- - - - -	0	2	6
Copper	- - - - -	0	0	1
Ditto	- - - - -	0	1	0
Chain Cables	- - - - -	0	1	0
Deals	per 120 of 12 Feet, and in that Proportion	0	3	0
Deal Ends	Ditto	0	1	6
Dogs	- - - - -	0	0	3
Earthenware Chimney Tops	- - - - -	0	0	1

		£	s.	d.
Earthenware and Glass	per Crate	0	1	0
Eggs	per 1,000	0	0	6
Feathers	per Cwt.	0	2	6
Flour	per Sack	0	0	3
Ditto	per Barrel	0	0	2
Fish not caught on the Coast by Torbay Boats	per Ton	0	1	0
Fish (cured)	per Ton	0	1	0
Flax	per Cwt.	0	0	1½
Furniture, Household, 40 Feet to the Ton per Measurement	per Ton	0	1	6
Glass	per Crate of 12 Tables, and in that Proportion	0	0	6
Glue	per Cwt.	0	0	2
Groceries or other dry Goods not herein-before enumerated	per Cwt.	0	0	1
Hats in Case	per Ton Measurement	0	1	6
Hemp	per Cwt.	0	0	1
Herrings	per Barrel	0	0	2
Hoops	per Bundle of Two Dozen	0	0	0½
Hops	per Cwt.	0	0	6
Hogsheads, empty		0	0	1½
Hides, raw	per Ton	0	1	6
Ditto, cured	Ditto	0	2	0
Horses	per Head	0	2	6
Handspikes	per 100	0	0	6
Iron Ore	per Ton	0	0	3
Iron Metal	per Ton	0	1	0
Jars (Stone)	per Dozen	0	0	3
Kitchen Ranges	each	0	1	0
Laths	per 1,000	0	0	1
Lathwood	per Fathom	0	1	0
Lead	per Ton	0	1	0
Leather	per Ton	0	2	0
Lemons	per Chest	0	0	4
Ditto	per Box	0	0	2
Lime	per Ton	0	0	4
Lamb	for every	0	0	0½
Marble (Foreign)	per Ton of 12 Feet	0	1	0
Malt	per Quarter	0	0	2
Mules or Asses	each	0	1	0
Nails	per Cwt.	0	0	1
Nuts	per Bushel	0	0	1
Oats	per Quarter	0	0	1½
Oranges	per Chest	0	0	4
Ditto	per Box	0	0	2
Oak Timber for Shipbuilding	per Ton	0	0	6
Oakum	per Ton	0	1	0
Oil	per Tun	0	2	0

	£	s.	d.
Oil (Salad) - - - - -	0	0	6
Ores and Minerals (except Iron Ore) - - - - -	0	1	0
Pipes - - - - - empty	0	0	3
Paper - - - - - per Bundle of 4 Reams	0	0	1
Painters Colours - - - - - per Cwt.	0	0	1
Potatoes - - - - - per Ton	0	1	0
Pigs - - - - - per Head	0	0	2
Plaster of Paris - - - - - per Ton	0	1	0
Pipe Staves (double) - - - - - per 120	0	1	0
Ditto Ditto (single) - - - - - Ditto	0	0	8
Pipe Clay - - - - - per Ton	0	0	4
Pitch or Resin - - - - - per Ton	0	1	0
Rags - - - - - per Ton	0	1	0
Sheep - - - - - per Head	0	0	1
Salt - - - - - per Ton	0	1	0
Seeds - - - - - per Bushel	0	0	1
Slates (Rag) prepared - - - - - per 100 Feet	0	0	4
Ditto, cut and prepared - - - - - per 1,000 Tale	0	0	6
Ditto, common - - - - - Ditto	0	0	3
Stone (Portland) 16 Feet to the Ton - - - - - per Ton	0	1	0
Ditto (Paving) Swanage or other - - - - - per 100 Feet Superficial	0	1	0
Ditto, Blue - - - - - Ditto	0	0	2
Soap - - - - - per Cwt.	0	0	1
Sugar - - - - - per Cwt.	0	0	1
Spirits and Wine - - - - - per Pipe, Butt, or Puncheon	0	2	0
Shot - - - - - per Cwt.	0	0	1
Timber - - - - - per Load	0	0	6
Trawl Beams - - - - - each	0	0	2
Tea - - - - - per Chest	0	0	6
Ditto - - - - - per Half Ditto	0	0	3
Ditto - - - - - per Quarter Ditto	0	0	2
Tallow - - - - - per Ton	0	1	0
Tin - - - - - per Box	0	0	1
Tobacco - - - - - per Cwt.	0	0	1
Trees (Fruit) - - - - - each	0	0	2
Tar - - - - - per Barrel	0	0	2
Wool - - - - - per Pack	0	1	0
Wheat and Peas - - - - - per Quarter	0	0	3

For all other Goods, Wares, and Merchandize not herein-before particularly specified, shipped or landed on or within the said Pier or Harbour, by the Ton, Weight, or Measure, according to the Nature of such Articles, the Sum of - - - - -

0 1 0

In the Case of any of the foregoing Goods, Wares, and Merchandize being landed or discharged from any Ship or Vessel putting into the said Harbour in Distress, and being obliged to discharge her Cargo to repair Damages, the same shall only be liable to the said Tolls on landing, if re-shipped by the same Owner on board the same or any other Vessel.

SCHE-

(SCHEDULE D.)

TOLLS of the MARKET.

Live Stock.

	£	s.	d.
For every Bull, Steer, Cow, Ox, or Heifer offered for Sale alive on Market Days	0	0	6
For every Horse, Mare, Gelding, Colt, or Mule offered for Sale	0	1	0
For every Score of Sheep or Lambs offered alive for Sale	0	1	8
If not sold, and in those Proportions	0	1	4
For every Swine or Hog	0	0	3
For every Sucking Pig offered alive for Sale	0	0	1

Dead Stock.

For every inclosed Butcher's Shop or Stall, fitted up with Racks and Hooks, to be used or occupied by Butchers and to be used on every Day in the Week, any Sum not exceeding the yearly Rent or Sum of	10	0	0
For every Butcher's Stand, Stall, or Bench, for Sale of Butchers Meat, by the Week	0	3	0
For each Saturday's Market Day only	0	2	6
For every Tuesday's Market Day only	0	1	0
For any other Day in the Week, per Day	0	0	6
For the Carcase of every Bull, Steer, Ox, Cow, or Heifer exposed for Sale by any Person not occupying a Stall	0	1	0
For the Carcase of every Hog, Swine, Sheep, Lamb, or Calf exposed for Sale by any Person not occupying a Stall	0	0	6
Portions or Joints and Sausages by the Score lbs.	0	0	2
For every Cwt. of dry or cured Fish	0	0	2
For every Bag of Potatoes pitched or delivered on each Market Day	0	0	1
But no Toll for Delivery on board Ship for Exportation unless sold or contracted for in the Market.			
For every Bushel or less Quantity than a Bushel of Corn, Green Peas, or other thing usually sold by Measure, pitched in the Market	0	0	1
For every 100 of Cabbage Plants	0	0	0 $\frac{1}{4}$
For every Dozen of Cabbages	0	0	0 $\frac{1}{2}$
For every Dozen Bundles of Carrots, 12 to the Bundle	0	0	0 $\frac{1}{2}$
For every 100 Turnips	0	0	0 $\frac{1}{2}$
For every Dozen Bundles of Greens	0	0	0 $\frac{1}{2}$
For every Handbasket not exceeding 2 Feet 6 Inches long, 1 Foot deep, 1 Foot 3 Inches wide, of other Vegetables	0	0	1
For every Basket of Fruit, same Size	0	0	2
Larger or smaller Baskets in proportion.			
For every Dozen of Apple Trees or other Fruit Trees	0	1	0
For every Dozen of other Trees or Shrubs	0	0	2
For every Turkey	0	0	1
For every Goose	0	0	1
For every Couple of Fowls	0	0	1
For every Couple of Ducks	0	0	1
For every Couple of Rabbits	0	0	0 $\frac{1}{2}$
Game offered for Sale by a Licensed Dealer the same Proportion as Poultry.			
For every Roasting Pig	1	0	0

[Local.]

[29 Z]

	£	s.	d.
For every Dozen Pounds of Butter, and in that Proportion for less than a Dozen Pounds	0	0	1
For every Two Dozen Eggs, or less Quantity	0	0	0½
For every Quart of new Honey, and in that Proportion	0	0	0½
For every Score Pound of Tripe	0	0	0½
For every Stall or Standing for selling or exposing for Sale any Cheese, Butter, or any other Article usually sold by Hucksters or Grocers, or any manufactured Goods, Wares, or Merchandize, each Market Day	0	1	0
For every Pack of Wool, 240lbs. to the Pack, and in that Proportion	0	2	6
For every Hundred Weight of Leather, and in that Proportion	0	0	6
And the several Tolls and Stallage Dues before mentioned and specified to be payable and paid in respect of the Occupation, in case of any Stall, Standing, Place, or Bench, as well by the original Taker or Occupier thereof for a Part or Portion of the Day, in case he or she shall not occupy the same the Whole Day, as also by any subsequent Taker or Occupier of the same for the residue of any Part or Portion of the same Day.			

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