ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. xxxiii.

An Act to amend an Act passed in the Third Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for paving, lighting, watching, cleansing, and otherwise improving the Township or Chapelry of* Birkenhead *in the County Palatine of* Chester, *and for regulating the Police thereof, and for establishing a Market within the said Township.* [11th *June* 1838.]

WHEREAS an Act was passed in the Third Year of the Reign of King *William* the Fourth, intituled *An Act for* 3 W. 4. c. 68.
paving, lighting, watching, cleansing, and otherwise improving the Township or Chapelry of Birkenhead *in the County Palatine of* Chester, *and for regulating the Police thereof, and for establishing a Market within the said Township;* and it would be of great Advantage to the Inhabitants of the said Town if the said Act were altered, and the several Provisions thereof amended: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and

Repeal of certain Clauses in former Act.

Commons, in this present Parliament assembled, and by the Authority of the same, That so much of the said recited Act as relates to the Appointment of the Commissioners therein named, and to the Number and Mode of Election and Qualification of Commissioners to be hereafter appointed; and so much of the said recited Act as relates to the Notices to be given of the Meetings of Commissioners, and to the annual auditing of the Accounts of the said Commissioners, and to the Deposit of a Copy or Duplicate of such Accounts, and the Mode of giving Notice of such Copy or Duplicate having been deposited; and so much of the said recited Act as prohibits the said Commissioners from holding a Market or Fair for the Sale of Cattle, and restricts the Sale of Cattle by the Lessees of the said Commissioners; and so much of the said recited Act as relates to the Course to be pursued by the said Commissioners in declaring any Street to be a public Highway, and as relates to the making, soughing, paving, flagging, repairing, and cleansing any Streets, Ways, Roads, Passages, or Places within the Township of *Birkenhead*, and the Repayment of the Charges and Expences attending the same; and so much of the said recited Act as relates to the Seizure and impounding of Cattle or other Animals found trespassing on the Footpaths or other Places within the said Township, and the Punishment of the Persons guilty of rescuing the same; and so much of the said recited Act as requires the said Commissioners to set aside a yearly Sum sufficient to discharge the Money borrowed and to be borrowed by them on the Improvement and Watching and Lighting Rates within Twenty Years from the borrowing thereof; shall be and the same is hereby repealed.

Number of Commissioners.

II. And be it further enacted, That there shall be Twenty-four Commissioners for putting this Act and the recited Act into execution, Three of whom shall be Members of the Town Council of the Corporation of *Liverpool* for the Time being, and appointed by such Town Council, and the Remainder of whom shall be elected under the Provisions herein-after mentioned; and all the Powers, Duties, and Authorities of the Commissioners in the recited Act mentioned shall be vested in and exercised by the Commissioners to be appointed under and by virtue of this Act, as fully and effectually to all Intents and Purposes; and all Provisions in the said recited Act contained in reference to the Commissioners thereby appointed shall be held to apply to the Commissioners to be appointed under this Act and the Acts of such last-mentioned Commissioners, in the same Manner as if the same were re-enacted and repeated in this Act, (except so far as the same are repealed by or are inconsistent with the Provisions of this Act or any general Public Act,) and the recited Act and this Act shall be construed together as One Act.

Election of Commissioners.

III. And be it further enacted, That the Town Council of the Corporation of *Liverpool* shall, as soon as conveniently may be after the passing of this Act, appoint Three fit and proper Persons from their Body to be Commissioners under this Act, which said Three Commissioners shall remain in Office until the Month of *January* following; and in the Month of *January* in each Year the said Town Council shall in like Manner appoint Three Commissioners as aforesaid,

said, who shall remain in Office for One Year, and any of whom shall be eligible to be re-appointed; and on the Third *Tuesday* after the passing of this Act, and on the First *Tuesday* in the Month of *June* in every succeeding Year, the Inhabitants of the said Township, qualified as in the said recited Act mentioned, shall assemble at the Town Hall of the said Township between the Hours of Ten o'Clock in the Forenoon and Four of the Clock in the Afternoon for the Purpose of electing the remaining Twenty-one Commissioners of the said Township, or such Part of them as shall be needed to supply the Places of those who shall then go out of Office, and who shall, by any Cause whatsoever, have gone out of Office since the preceding Election: Provided always, that in case of Default on the Part of the said Town Council of *Liverpool* in the Appointment of Commissioners as aforesaid all Powers and Authorities vested in the Commissioners under this Act may be exercised by the Commissioners elected by the said Inhabitants.

Rotation of Office.

IV. And be it further enacted, That upon the First *Tuesday* in the Month of *June* One thousand eight hundred and thirty-nine, and in every succeeding Year, Seven out of the Twenty-one Commissioners to be elected as aforesaid shall go out of Office, and in the Year One thousand eight hundred and thirty-nine those who shall go out of Office shall be the Commissioners who were elected under this Act by the smallest Number of Votes in the present Year, and in the next Year, One thousand eight hundred and forty, those who shall go out of Office shall be the Commissioners who were elected under the Provisions of this Act by the next smallest Number of Votes in this present Year; the Majority of the Commissioners at a Special Meeting assembled as herein mentioned always determining, when the Votes for any such Persons shall have been equal, who shall be the Persons to go out of Office; and thereafter those who shall go out Office shall always be the Commissioners who shall have been for the longest Time in Office without Re-election: Provided always, that any Commissioner so going out of Office shall be capable of being forthwith re-elected if then qualified as herein provided.

Declaring Mode of Election of Commissioners.

V. And be it further enacted, That at every Meeting of Inhabitants for the Purpose of such Election as aforesaid the Inhabitants of the said Town, qualified as aforesaid, shall, between the said Hour of Ten of the Clock and the Hour of Four of the Clock in the Afternoon of the same Day, respectively deliver to the Clerk for the Time being to the said Commissioners, or to some Person or Persons authorized for that Purpose by him or by the said Commissioners, a Paper or Papers containing the Name or Names of the Person or Persons for whom they may respectively vote to fill the Office of Commissioners to be elected at such Meeting; and the Persons for whom or in whose Favour the Majority of Votes shall be given at such Election shall be and they are hereby declared to be Commissioners for the Purpose of carrying into execution the said recited Act and this Act: Provided always, that if an Equality of Votes shall be given for Two or more Persons at such Election the Clerk to the Commissioners shall decide by Lot upon the Person or Persons to be elected.

VI. And

Rate Collector may be summoned to attend Election.

VI. And be it further enacted, That the said Clerk to the said Commissioners may summon the Collector or Collectors of the Rates appointed by virtue of the said recited Act or this Act to attend the said Election in order to assist in ascertaining that the Persons presenting themselves to vote, or who shall have voted, are or were duly qualified to vote at the said Election.

Qualification of Commissioners.

VII. And be it further enacted, That no Person, with the Exception of the Persons to be appointed by the Town Council of the Corporation of *Liverpool* as aforesaid, shall be qualified to be elected or to act as a Commissioner in the Execution of this Act, unless at the Time of his being elected and of his acting he shall be an actual Occupier of Premises lying and being in the said Township, and be rated for the same in the Rate made for the Relief of the Poor to the yearly Value of Thirty-five Pounds, or unless he shall be rated in such Rate, and be possessed in his own Right or in Right of his late or present Wife of Property in the said Township of the Value of One thousand five hundred Pounds, above Reprises.

Commissioners to make a Declaration of Qualification.

VIII. Provided always, and be it further enacted, That no Person shall be capable of acting as a Commissioner in the Execution of this Act, except in administering the Declaration hereafter mentioned, unless he shall at some Meeting to be held by virtue of this Act have made a Declaration in the Form or to the Effect following, which Declaration any One of the said Commissioners is hereby empowered to administer; (that is to say,)

'I *A. B.* do declare, That I am *bonâ fide* in the actual Occupation of Premisessituate within the Limits of an Act passed in the Third Year of the Reign of King *William* the Fourth, intituled *An Act for paving, lighting, watching, cleansing, and otherwise improving the Township or Chapelry of* Birkenhead *in the County Palatine of* Chester, *and for regulating the Police thereof, and for establishing a Market within the said Township*, rated in the Rate made for the Relief of the Poor of the said Township at the yearly Value of Thirty-five Pounds [*or* that I am rated in the Rates made for the Relief of the Poor of the said Township, and that I am *bonâ fide*, in my own Right or in the Right of my late or present Wife, possessed of Property within the Limits of the said Act of the Value of One thousand five hundred Pounds above Reprises, *or* that I am a Member of the Town Council of the Corporation of *Liverpool, as the Case may require*]; and that I will truly and impartially, according to the best of my Judgment, execute the Powers and Authorities reposed in me as a Commissioner by virtue of the said Act and of an Act passed in the Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here insert the Title of this Act*].'

And an Entry or Minute of the making and subscribing such Declaration shall be made in the Book of Proceedings to be kept by the said Commissioners.

Disqualification.

IX. Provided always, and be it further enacted, That no Person, although otherwise qualified, shall be capable of acting as a Commissioner in the Execution of this Act during the Time he or his Partner

or

or Partners shall be concerned or interested in any Contract made or entered into under or by virtue of this Act or the recited Act; and if any Person elected or appointed a Commissioner shall refuse to act or become incapable of acting as a Commissioner, or shall be declared bankrupt, or apply to take the Benefit of any Act for the Relief of Insolvent Debtors, or shall compound with his Creditors, or shall be absent from or neglect to attend the Meeting of the Commissioners for Six Months at one and the same Time, or shall after his Election cease to possess the Qualification herein-before required, his Election to the said Office shall thereupon become null and void.

Existing Commissioners to go out of Office.

X. And be it further enacted, That immediately after the first Election of Commissioners under the Provisions of this Act all the Commissioners then in Office under the Provisions of the recited Act shall go out of Office, and their whole Powers and Duties shall cease: Provided nevertheless, that any of the Persons so going out of Office shall, if otherwise qualified, be eligible to be elected and appointed a Commissioner under the Provisions of this Act.

Notice of Meetings.

XI. And be it further enacted, That previously to any Meeting of the Inhabitants of the said Township for the Purpose of electing Commissioners Notice thereof in Writing, signed by any Three Commissioners, or by the Clerk to the said Commissioners, specifying the Number of Commissioners necessary to be elected, the Day, Place, and Hour of holding such Meeting (such Day not to be less than Seven clear Days after such Notice being given), shall be affixed on the outer Door or Gate of the Town Hall of the said Township, and of every Church, Chapel, and Place of licensed Public Worship in the said Township; and previously to any Meeting of the said Commissioners (except the monthly Meeting or any Adjournment thereof) Notice thereof in Writing, signed by any Three of the said Commissioners, or by the Clerk of the said Commissioners, specifying the Purpose of such Meeting, and the Day, Hour, and Place appointed for holding the same, shall be sent by the Post, directed to each and every Commissioner within the said Township, and also be affixed on the outer Door of the Town Hall thereof, at least Three Days before the Day appointed for such Meeting, and no other or further Notice shall in either of such Cases be necessary or sufficient.

Inspection of Minute Book.

XII. And be it further enacted, That the Clerk to the said Commissioners shall permit all Rate-payers qualified to vote at the Election of Commissioners to inspect, at all reasonable Times, the Minute Book of the said Commissioners, on paying the Sum of One Shilling, and no more, for every such Inspection; and the said Clerk shall, upon Demand, give Copies of the same, or any Part thereof, upon being paid Sixpence for every One hundred Words.

Accounts to be annually audited at the Meeting held in the Month of May in every Year.

XIII. And be it further enacted, That the Accounts of all Monies received or disbursed by the said Commissioners from the last annual Settlement thereof shall be produced and stated at the regular monthly Meeting of the said Commissioners which shall take place in *May* in every Year, or at some Adjournment thereof, and shall be examined, audited, and settled by them; and in case the same shall be found just

just and true, shall and may be allowed by them, and certified accordingly under the Hand of the Chairman of such Meetings; and after such Accounts shall have been signed the same shall be final and conclusive on all Persons whomsoever, unless an Appeal be prosecuted against such Accounts at One of the Two then next General Quarter Sessions of the Peace in and for the County of *Chester*, Notice in Writing of such Appeal having been given to the Clerk of the said Commissioners within Seven Days next after such Accounts shall have been signed.

Accounts to be made out annually, and public Notice thereof given.

XIV. Provided always, and be it further enacted, That, previously to the Examination, Audit, and Settlement by the said Commissioners in the Month of *May* in each Year of all Monies received or disbursed by them during the preceding Year, the said Commissioners shall and they are hereby required to cause a true Account to be made and written of all such Monies, and of the Amount of the Debts and Liabilities due from the said Commissioners; and a Copy or Duplicate of such Account shall be deposited at the public Office of the Commissioners; and their Clerk shall permit any Person or Persons who shall pay any Rate or Assessment to be levied and collected by virtue of this Act or the recited Act, or any Person on his, her, or their Behalf, to inspect the same, at seasonable Times, paying the Sum of One Shilling, and no more, for every such Inspection; and the said Clerk shall, upon Demand, forthwith give Copies of the same, or any Part thereof, upon being paid at the Rate of Sixpence for every One hundred Words, and so in proportion for a less Number of Words; and the said Commissioners shall, Seven Days at least previously to their Meeting in the Month of *May*, cause Notice in Writing, signed by any Three of the said Commissioners, or by the Clerk of the said Commissioners, to be affixed on the outer Gate of the Town Hall, and every Church, Chapel, and licensed Place of Public Worship in the said Township, that the Duplicate of the said Accounts has been deposited as aforesaid, to which all Rate-payers may have Access upon Payment of the Sum of One Shilling.

Repair of Party Walls.

XV. And be it further enacted, That in case any Party Wall in any Building now or hereafter to be erected shall become decayed so as to require to be taken down and rebuilt, and shall be so certified by a competent Surveyor of Buildings appointed by the said Commissioners, it shall and may be lawful to and for the Owner of either of the adjoining Buildings to take down and rebuild the same, upon giving Three Months Notice of such Intention to the Owner of the adjoining Property, who shall be compellable to pay a due Proportion of the Expence of the taking down and rebuilding of such Party Wall in a substantial Manner under the Direction of a competent Surveyor to be appointed as aforesaid.

Expences of Party Wall.

XVI. And be it further enacted, That in case any Question shall arise touching the Proportion of the Expences payable for building or taking down and rebuilding any Party Wall under the Provisions of this Act, it shall and may be lawful to and for the Person or Persons claiming the Amount of such Proportion of Expences to apply to the said Commissioners for a Certificate of the same (which Certificate

shall be signed by their Clerk, or any Three of the said Commissioners); and in case the Person or Persons liable to pay the Proportion of the Amount incurred in the building or taking down and rebuilding such Party Wall, so to be certified as aforesaid, shall not forthwith pay the same, such Amount, or any Proportion thereof, shall and may be recovered by Information before any One Justice of the Peace of the said County in the same Way as Penalties and Forfeitures under this Act are authorized to be recovered, together with such reasonable Costs as such Justice shall think proper to order.

Power to declare Streets public Highways when made, &c. upon Application of the Owners.

XVII. And be it further enacted, That when any Streets, Ways, Roads, Passages, or Places already laid out or hereafter to be laid out within the said Township, not being public or common Highways, shall be well and sufficiently made, soughed, paved, flagged, or otherwise constructed, repaired, and put into good Order, Repair, and Condition, in such Manner and with such public Drains therein as shall be satisfactory to the said Commissioners, then and in such Case, but not before, it shall be lawful for the said Commissioners, upon the Application of the Owner or Owners of the Soil of such Streets, Ways, Roads, Passages, or Places, or of the greater Part in Value of such Owners, or of the Person or Persons liable to repair the same, or of the greater Part in Value of such Persons, to declare such Streets, Ways, Roads, Passages, or Places to be public or common Highways; and from and after such Declaration made the same and every of them shall be deemed and taken to be public and common Highways, to all Intents and Purposes, and thenceforth repaired and kept in repair by the said Commissioners.

New Pavements, &c. in Streets not Highways, to be made at the Charge of Owners or Occupiers of Houses, &c.

XVIII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby required to cause all such Parts of the Streets, Ways, Roads, and Passages or Places within the said Township, not being public or common Highways, which are now in the Estimation of the said Commissioners fully built upon, but not sufficiently soughed, cleansed, paved, or otherwise put in good Order and Condition, and all such Streets, Ways, Roads, Passages, or Places as are now making or may hereafter be made within the said Township or any Part or Parts thereof, although not fully built upon, to be made, soughed, paved, flagged, repaired, and cleansed with such Soughs, Gutters, Sinks, Common or Main Sewers, Drains, or Watercourses, and with such Materials and in such Manner as to the said Commissioners shall seem meet and necessary; and the Charges and Expences attending the same shall be reimbursed to the said Commissioners by the Occupiers or Persons in the actual Possession or by the immediate Owners of the Houses, Buildings, Ground, or Land within or on the respective Sides of the said Streets, Ways, Roads, Passages, or Places so to be soughed, paved, flagged, repaired, and cleansed as aforesaid, or wherein such Soughs, Gutters, Sinks, or Common or Main Sewers, Drains, or Watercourses shall be made, repaired, and amended, scoured and cleansed as aforesaid, each such Occupier or Person in possession or Owner paying a proportionable Share thereof, such Share to be ascertained by the said Commissioners or their Surveyor; and if any such Occupier or Person in possession or Owner shall at any Time refuse or neglect to pay such Proportion of the said Charges and Expences, so to be ascertained as aforesaid,

aforesaid, the same shall be levied by Distress and Sale of the Goods and Chattels of such Occupier or Person in possession or Owner, in like Manner as the Rates herein-after directed and required to be raised and levied are authorized to be recovered, or shall and may be sued for and recovered, together with full Costs of Suit, in any of Her Majesty's Courts of Record at *Westminster*.

Power to seize Cattle, &c. on Foot-paths or in Gardens, &c.

XIX. And be it further enacted, That in case any Horse, Mule, Ass, Cow, Bull, Sheep, Pig, or other Animal shall be found upon any Footpath or Parapet, or trespassing in or upon any Garden, Field, or Land, within the said Township, with or without any Person or Persons leading, driving, using, or claiming the same, and whether any Person or Persons shall be riding upon such Horse, Mule, or Ass at the Time or not, it shall be lawful for any Officer of the said Commissioners, or any Inhabitant or Person residing in the said Township, or the Owner of the said Garden, Field, or Land, to seize and take or cause to be seized and taken such Horse, Mule, Ass, Cow, Bull, Sheep, Pig, or other Animal, and to carry, lead, or convey the same to the common Pound in the said Township; and it shall be lawful for the said Commissioners and they are hereby empowered to detain and sell the same in like Manner as in the recited Act is provided in the Case of such Horse, Mule, Ass, Cow, Bull, Sheep, Pig, or other Animal being found at large without any Person claiming the same; or instead of seizing and impounding the same, it shall be lawful for the said Commissioners to proceed against the Owner or Owners or Persons then and there leading, driving, using, or claiming the same, or riding upon such Horse, Mule, or Ass, and recover the like Penalties as in the said recited Act is provided in case of exposing the same to Sale or Hire.

Rescue.

XX. And be it further enacted, That every Person who shall release or rescue, or attempt to release or rescue, any Animal seized or taken for the Purpose of being impounded, until the same shall be discharged by due Course of Law, shall, upon Conviction thereof before any One of Her Majesty's Justices of the Peace for the said County of *Chester*, upon the Confession of the Party or Parties offending, or upon the Oath or Affirmation of One credible Witness, and which Oath and Affirmation the said Justice is hereby authorized and empowered to administer, be committed by such Justice, by Warrant under his Hand and Seal, to the Common Gaol or House of Correction for the said County of *Chester*, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months.

Casting Slates, &c. from Roofs, &c.

XXI. And be it enacted, That if any Person shall throw or cast from the Roof or any other Part of any House or other Building within the said Township into any of the Streets within the said Township any Slate, Brick, Tile, Wood, Rubbish, or other Material or Thing, every Person so offending shall for every Offence forfeit a Sum not exceeding Twenty Shillings.

Persons wilfully setting any Chimney on fire.

XXII. And be it enacted, That if any Person shall wilfully set or cause to be set on fire any Chimney within the said Township, every Person so offending shall for every Offence forfeit a Sum not exceeding

ing Five Pounds: Provided that nothing herein contained shall extend to any Case in which the Person so setting or causing to be set on fire any Chimney shall be liable to be indicted for Felony.

Penalty if Chimney on fire.

XXIII. And be it enacted, That if the Chimney of any Person shall catch or be on fire within the said Township, every Person (being the Party occupying or using such Chimney) shall, so often as the same shall occur, forfeit and pay a Sum not exceeding Ten Shillings: Provided always, that such Forfeiture shall not be incurred if such Person shall prove to the Satisfaction of a Justice of the Peace of the said Township that such Fire was in nowise owing to the Omission, Neglect, Carelessness, or Fault of himself, herself, or Servant.

Power to levy a Sewerage Rate.

XXIV. And be it enacted, That it shall be lawful for the said Commissioners and they are hereby authorized and empowered and required, from Time to Time when and so often as they shall think necessary, at any Meeting or Meetings to be holden for that Purpose, to make a just and equal Pound Rate or Assessment under the Name of "The *Birkenhead* Sewerage Rate," to be signed by the said Commissioners, or any Five or more of them, upon all and every the Tenants and Occupiers, or in case the same shall be unoccupied then upon the Owners or Landlords, of all Messuages, Houses, Shops, Workshops, Warehouses, Cellars, Vaults, Manufactories, Foundries, Iron Works, Print Works, Dye Works, Iron, Liquor, or other Chemical Works, Mills, Breweries, Coach-houses, Stables, and other Erections and Buildings already built, erected, or made, or which shall hereafter be built, erected, or made, or be situate, standing, or being, within the said Township, and upon the several Gardens, Curtilages, Yards, and other Conveniences thereunto adjoining and belonging, or therewith occupied, and upon all Gardens and Lands within the said Township, according to the annual Value of the same respectively, to be ascertained and settled as in the recited Act mentioned, not exceeding in any One Year the Sum of Sixpence in the Pound upon such annual Value; and the said Commissioners shall have the same Powers and Remedies for the Recovery thereof from the Persons so rated and assessed as are granted to the said Commissioners by the recited Act to recover the *Birkenhead* Improvement Rate from the Persons rated thereto.

Tenants may deduct from their Rent Three Fourths of Sewerage Rate.

XXV. And be it further enacted, That it shall and may be lawful for the several Tenants or Occupiers of all Houses, Warehouses, Buildings, Shops, Offices, Counting-houses, Vaults, Cellars, Stables, Lands, Tenements, or Hereditaments, who shall be rated for the Purposes of Sewerage as herein-before mentioned, to deduct out of their respective Rents Three Fourths of the Amount of such Sewerage Rate as may from Time to Time be assessed on them, and which Amount all Landlords, both mediate and intermediate, are hereby required to allow upon Receipt of the Residue of their Rents; and the Tenants paying such Three Fourths of the said Rate shall be acquitted and discharged of so much Money as if the same had been actually paid to such Person or Persons to whom their Rents shall have been due and payable.

Vesting of Rates and Tolls and other Monies in new Commissioners.

XXVI. And be it further enacted, That all the Monies to arise or be received, or authorized to be borrowed, levied, and collected, by virtue of this Act and the recited Act, and the Tolls, Duties, Rents, and Profits of the said Market Place, and of the Buildings and other Premises which are now vested in the Commissioners under the recited Act appointed, shall, from and after the Appointment of the said Commissioners under and by virtue of this Act, be vested in them, and the same shall from Time to Time and at all Times thereafter be applied and disposed of by and under the Orderof the said Commissioners.

Application of the Improvement Rate.

XXVII. And be it further enacted, That the said Commissioners, out of the Improvement Rate and the Monies to be raised and borrowed on the Credit thereof, shall, in the first place, pay, defray, and discharge all the Costs, Charges, and Expences which shall have been incurred in applying for or which shall be in any Manner incident to the obtaining and passing of this Act, with Interest for the Money which shall have been advanced for such Purposes; and in the next place, pay and discharge the annual Interest of the Principal Monies which may be borrowed by the said Commissioners on the Credit of the Improvement Rate, and the Tolls, Duties, Rents, and Profits of the Market Place and of the Buildings and other Premises vested in the said Commissioners, or any Part thereof, under the Authority of this Act and the recited Act; and afterwards, in paying all other Costs, Charges, and Expences relating or incident to the Execution of this Act and the recited Act, or any of the Directions herein or therein contained, and the Powers and Authorities hereby given and granted to the said Commissioners, (save only and except the Lighting and Watching and Sewerage of the said Township, or any Part thereof,) in the Manner hereby and thereby directed; and then in reducing, paying off, and discharging the several Principal Sums of Money which shall be borrowed on the Credit or Security of the Improvement Rate, Tolls, Duties, Rents, Profits, Market Place, Buildings, Erections, and Premises, and in and for carrying into full and complete Execution in all other respects the Intents and Purposes of this Act and the recited Act, save only and except as aforesaid.

Application of Sewerage Rate.

XXVIII. And be it further enacted, That the said Commissioners, out of the Sewerage Rate herein-before authorized to be levied, and the Monies to be raised on the Credit thereof, shall, in the first place, pay and discharge all the Costs, Charges, and Expences of making, maintaining, repairing, and amending such Common Sewers, Drains, Culverts, and Watercourses from, in, along, or across the Streets, Lanes, Highways, and other public Places within the said Township of *Birkenhead* as may be deemed by the said Commissioners necessary, and in carrying this and the said recited Act into execution in relation thereto; and in the second place, in paying the annual Interest of the Principal Monies which may be borrowed by the said Commissioners on the Security of the said last-mentioned Rates; and lastly, in paying off and discharging the said Principal Monies.

Power to mortgage the Rates.

XXIX. And whereas in and by the recited Act the said Commissioners were authorized to borrow and have accordingly borrowed a

Sum of Four thousand Pounds upon the Credit of the Improvement Rate, and the Market Place, and the Tolls and Duties, Rents and Profits thereof, and of the Buildings and Premises vested in the said Commissioners; and the more effectually to enable the said Commissioners to be appointed under the Authority of this Act to carry into effect the Purposes thereof and of the recited Act, it would be advantageous if the Commissioners to be appointed under the Provisions of this Act were authorized and empowered to borrow a further Sum of Five thousand Pounds on the Credit of the said Improvement Rate, and the Market Place, and the Tolls, Duties, Rents, and Profits thereof, and of the Buildings and Premises vested in the said Commissioners, and a further Sum of Three thousand Pounds on the Credit of the said Sewerage Rate hereby authorized to be made and levied; be it therefore enacted, That it shall be lawful for the said last-mentioned Commissioners and they are hereby authorized and empowered, from Time to Time when they shall think it expedient, to borrow and take up at Interest, in addition to the said Sum of Four thousand Pounds, a further Sum or Sums of Money, not exceeding the Sum of Five thousand Pounds, upon the Credit of the said Improvement Rate, and upon the Credit of the Market Place, and the Tolls and Duties, Rents, and Profits thereof, and of the Buildings and Premises which may be vested in the said Commissioners, and a further Sum of Three thousand Pounds on the Credit of the said Sewerage Rate hereby authorized to be made, levied, and collected, and by any Writing under the Hands and Seals of the said Commissioners, or any Five or more of them, to mortgage, grant, or assign the said Improvement Rate, Sewerage Rate, Market Place, Tolls, Duties, Rents, Profits, and Buildings, or any Part or Parts thereof respectively, to any Person or Persons who shall advance or lend such Money, or to his, her, or their Trustee or Trustees, as a Security or Securities for the Money so to be borrowed, together with such lawful Interest as the said Commissioners and the Parties lending such Money shall agree upon; and the Charges and Expences of such Security or Securities respectively shall be from Time to Time defrayed by the said Commissioners out of the Money advanced upon such Security, or out of any other Monies in their Hands: Provided always, that no Sum or Sums of Money shall be borrowed or taken up at Interest under the Authority of this Act but by the Sanction of some Special Meeting of the said Commissioners, of which Meeting, and of the Sum or Sums of Money intended or proposed to be borrowed or taken up at Interest, Seven Days Notice at the least shall be given in the Manner herein-before prescribed for giving Notices of extraordinary or special Meetings of the said Commissioners, and Fourteen Commissioners at least shall be present at such Meeting; and every such Mortgage may be in the Words or to the Effect following; (that is to say,)

Form of Mortgage.

‘ BY virtue of an Act passed in the Year of the Reign ‘ of Queen *Victoria*, intituled [*here set forth the Title of this Act*], ‘ we whose Hands and Seals are hereunto subscribed, being ‘ of the Commissioners acting in the Execution of the said Act and ‘ of the Act of the Third Year of the Reign of King *William* the Fourth ‘ therein recited, in consideration of the Sum of having ‘ been on the Day of advanced and lent by ‘ upon the Credit of and for the general Purposes of the said Acts, and

'and paid by him to the Treasurer of the said Commissioners, do 'hereby grant, bargain, sell, and assign unto the said 'Executors, Administrators, and Assigns, such Proportion of the Sewer-'age Rate, *or, as the Case may be,* of the Improvement Rate autho-'rized to be raised, levied, and collected by virtue of the said Acts, 'or either of them; and also of the Market Place, Buildings, and Pre-'mises thereby vested in the said Commissioners, and the Tolls, Duties, 'Rents, and Profits arising therefrom, as the said Sum of 'doth or shall bear to the whole Sum borrowed and to be bor-'rowed and which shall from Time to Time be owing upon the Credit 'of the said Sewerage Rate, *or, as the Case may be,* of the said Im-'provement Rate, Tolls, Duties, Rents, Profits, and Premises, to be had 'and holden from the Day of the Date of these Presents until the 'said Sum of with Interest for the same after the Rate 'of *per Centum per Annum,* to be paid half yearly, shall be 'fully repaid and satisfied. In witness whereof we have hereunto set our 'Hands and Seals the Day of in the Year 'of our Lord One thousand eight hundred and thirty- .'

And every such Mortgage shall be valid and effectual in the Law; and all such Mortgages shall be numbered, commencing with No. 1, and so proceeding in arithmetical Progression ascending, whereof the common Excess or Difference shall always be One.

No Preference in Payment of Mortgages.

XXX. And be it further enacted, That the several Persons to whom any such Mortgages shall have been made shall be respectively entitled to their respective Proportion of the said Improvement Rate, Sewerage Rate, Buildings, Tolls, Duties, Rents, Profits, and Premises, as the Case may be, in proportion to the annual Amount of the Interest of the Monies borrowed on Mortgage, without any Preference by reason of the Priority of Date of any such Mortgage, or on any other Account whatsoever.

Register Book to be kept of Mortgages.

XXXI. And be it further enacted, That a Book shall be provided by the said Commissioners and kept by their Clerk, in which Book shall be entered and registered Copies of all Mortgages and other Securities made in pursuance of this Act, which Book shall be open to the Inspection of the several Holders of Mortgages and Securities made by virtue of this Act, and their respective Executors, Administrators, and Assigns, at all reasonable Times, without Fee or Reward.

Mortgages may be transferred.

XXXII. And be it further enacted, That it shall be lawful for the several Persons entitled for the Time being to any of the Securities for the Money to be borrowed as aforesaid, and their respective Executors, Administrators, and Assigns, at any Time or Times, by Writing under their respective Hands and Seals, duly stamped, to transfer the same respectively to any Person or Persons whomsoever, in the Form or to the Effect following:

Form of Transfer of Mortgage.

'I *A. B.* of [*or* I *C. D.* of 'Executor *or* Administrator of *A. B.* late of *or* '*otherwise as the Case may happen*], in consideration of the Sum of 'to me paid by *E. F.* of do 'hereby assign and transfer unto the said *E. F.*, his Executors, Admi-'nistrators,

‘ nistrators, and Assigns, a certain Security, No. , bearing
‘ Date the Day of in the Year of our Lord One
‘ thousand eight hundred and thirty- , under the Hands and Seals of
‘ of the Commissioners for executing an Act passed in the
‘ Year of the Reign of Her Majesty Queen *Victoria*, intituled
‘ *An Act to amend an Act passed in the Third Year of the Reign of His*
‘ *late Majesty King* William *the Fourth, intituled* ‘*An Act for*
‘ *paving, lighting, watching, cleansing, and otherwise improving the*
‘ *Township or Chapelry of* Birkenhead *in the County Palatine of*
‘ Chester, *and for regulating the Police thereof, and for establishing*
‘ *a Market within the said Township*,’ and the Principal Sum of
‘ thereby secured, and all Interest now due or hereafter to
‘ grow due thereon, and all my Right and Interest in and to the same.
‘ Dated this Day of in the Year of our Lord
‘ One thousand eight hundred and thirty- .’

Transfers to be registered.

Which Transfer shall, within Twenty Days after the Date thereof, be produced to the Clerk of the Commissioners, who shall cause an Entry or Memorial to be made thereof, containing the Date, Names of the Parties, and the Sum of Money thereby transferred, in the said Register Book to be kept for entering Copies of the original Mortgages, for which Entry the said Clerk shall be paid the Sum of Two Shillings and Sixpence; and after such Entry made, but not before, every such Assignment shall entitle the Person or Persons to whom the same shall be made, and his, her, and their Executors, Administrators, and Assigns, to the Benefit of the Security thereby transferred.

Money expended in permanent Improvements only to be a permanent Charge on the Rates.

XXXIII. And whereas a Sum of Seven thousand Pounds, or thereabouts, has been already expended in permanent Improvements within the said Township: And whereas it is expedient that out of the Monies by the said recited Act and this Act authorized to be raised on the Credit of the said Improvement Rate, and the Tolls, Rents, Duties, and Profits of the Market Place, and other Buildings and Premises vested in the said Commissioners, the said Sum of Seven thousand Pounds so expended in permanent Improvements as aforesaid should alone remain a permanent Charge on the said Rates, Tolls, Duties, and Profits, and that a Fund should be reserved by the said Commissioners for the Repayment, within a given Period, of all such further Sums as may be borrowed by them on the Security of the said Rates, Tolls, Duties, and Profits; be it therefore enacted, That in case any Money shall be borrowed by the said Commissioners on the Credit of the said last-mentioned Rates, Tolls, Duties, and Profits under the Authority of this Act, over and above the said Seven thousand Pounds so expended as aforesaid, the said Commissioners shall, yearly and every Year after the Expiration of Five Years from the borrowing of the same, set aside such a Proportion of the said Rates, Tolls, Duties, and Profits as will enable them to repay the said Principal Monies which may be borrowed, over and above the said Seven thousand Pounds, within a Period of Twenty Years from the borrowing thereof; and from and after the Expiration of such Twenty Years the said annual Improvement Rate shall be reduced by the full Amount of the

Sum theretofore annually set apart for Repayment of the said Principal Monies.

Public Act. XXXIV. 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.

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