ANNO VICESIMO SEXTO & VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

Cap. cvi.

An Act to confer further Powers upon the *Birkenhead* Improvement Commissioners, and to make Provisions with respect to their Mortgage Debts, and to enable them to raise further Monies; and for other Purposes. [29th *June* 1863.]

WHEREAS by an Act (3 *Will.* IV. c..68., Local and Personal,) 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*, a Body of Commissioners was constituted for carrying the said Act into execution: And whereas by the following Acts (Local and Personal), (that is to say,) First of *Victoria*, Chapter Thirty-three, Fifth of *Victoria*, Session Two, Chapter Five, Sixth of *Victoria*, Chapter Thirteen, Sixth of *Victoria*, Chapter Twenty-four, Seventh of *Victoria*, Chapter Thirty-two, Ninth of *Victoria*, Chapter Twenty-eight, "The *Birkenhead* Improvement Amendment Act, 1850," "The *Birkenhead* Improvement (General Mortgagees) Act, 1858," and "The *Birkenhead* Commissioners Gas and Water Act, 1858," further Powers were conferred upon and further Provisions were made with respect to such Commissioners; and the Acts above recited,

3 W. 4. c. lxviii.

other than and except the "*Birkenhead* Commissioners Gas and Water Act, 1858," are herein-after referred to as "the Commissioners Acts": And whereas by the said "*Birkenhead* Improvement (General Mortgagees) Act, 1858," the said Body of Commissioners under the said Acts was incorporated by the Name of "The *Birkenhead* Improvement Commissioners" (in this Act called "the Commissioners"), and the District within which the Powers of the Commissioners are exercised (herein-after called "the District") now consists of the Township of *Birkenhead* and the Township of *Claughton-cum-Grange*: And whereas, under the Authority and Provisions of the Commissioners Acts the Commissioners have executed various Works and Improvements within the District, and have purchased and are now the Owners of the *Woodside Ferry* as described in those Acts, and of certain Wharfs, Lands, and Buildings in connexion therewith, and of certain Steam Boats and other Things necessary or proper for working the said Ferry, and have acquired or become the Owners of certain Lands and other Property: And whereas it is expedient that the Commissioners should be authorized to construct and execute certain Buildings (including a Town Hall) and other Works and Improvements within the District, including the laying of Rails upon Roads: And whereas the widening and Improvement of a Road called *Grange Vale*, from the Junction thereof with *Whetstone Lane* to or near to the Road leading through *Clifton Park*, from *Holt Hill* to *Birkenhead*, and a new Road thence to *Hamilton Street*, at or near the Junction therewith of *Conway Street* and *Oliver Street*, and a Sewer under *Grange Vale* and the said new Road, or Part thereof respectively, would be of public and local Advantage to the Townships of *Birkenhead* and *Tranmere*, and it is expedient that the Commissioners should be authorized to make and maintain the same: And whereas the said Two Roads to be widened and made will be partly situate within the District of the Local Board of *Tranmere*, and it is expedient that such Local Board should be authorized to contribute towards the Expense of making and maintaining the same and the Sewers thereunder; and it is also expedient that the Commissioners on the one hand, and the Local Board for the District of *Tranmere* and *Oxton* respectively on the other, should be authorized to enter into Arrangements with respect to the Construction and Use of Outfall Sewers: And whereas by the recited Act Sixth and Seventh *Victoria*, Chapter Thirteen, (whereby the said Township of *Claughton-cum-Grange* was included within the District of the Commissioners,) it was provided that the Charges and Expenses of lighting and watching that Township should be paid for by the Occupiers of Tenements within the said Township, and should be provided for by a separate Rate, to be called "The *Claughton* Lighting and Watching Rate," upon such Occupiers, but such Rate was not levied, and the Township is not lighted, except by Subscription, and is watched by the County Constabulary, and it is expedient that Provision should be made for the said Township being lighted

and

and watched under the Authority of the Commissioners: And whereas it is expedient that further Powers should be given to the Commissioners for the proper local Management of the District: And whereas the District has now become very populous, and it is expedient that Provision should be made for the Appointment of a Stipendiary Magistrate and a Clerk to such Magistrate, and that such Stipendiary Magistrate and all other Justices of the Peace having Jurisdiction within the said District should be empowered to commit Offenders to the County Gaol as well as to the House of Correction: And whereas under the Authority of the Commissioners Acts certain large Sums of Money have been borrowed, whereof Part is herein-after called "the Ferry Debt," and is charged specially on the *Woodside Ferry* and the Tolls thereof, and the Steam and other Boats and Vessels, Machinery, Plant, Tackle, and Effects belenging to or used in connexion with the said Ferry; and the remaining Part of the said Sums is herein-after called "the General Mortgage Debt," and is charged upon all the Lands, Rates, and Revenues of the Commissioners, including the *Woodside Ferry*, and the before-mentioned Boats, Vessels, Machinery, Plant, Tackle, and Effects, but subject, as to the said Ferry Tolls, Boats, and other Effects, to the Mortgages for the Ferry Debt; and by "The *Birkenhead* Improvement Amendment Act, 1850," and "The *Birkenhead* Improvement (General Mortgagees) Act, 1858," Provisions are made as to the Payment by Instalment of such Mortgages, and for the Formation and Application of Funds, to be called respectively "the Interest Reserve Fund" and "the General Mortgagees Fund": And whereas the General Mortgage Debt and Part of the Ferry Debt will become payable on the First Day of *January* One thousand eight hundred and sixty-five, and it is expedient that, subject to the Provisions for Redemption and Repayment of such Mortgages in the Two last-mentioned Acts contained, the Commissioners should have Powers to reborrow for the Purpose of meeting and discharging the Principal Monies secured by the said Mortgages when the same shall become due, or of renewing any such Mortgages with the Consent of the Holders thereof respectively, and that the Mortgages granted upon such reborrowing or Renewals should be upon an equal Footing with respect to Security, and that upon Payment of the present Mortgages constituting the General Mortgage Debt and Ferry Debt the Distinction between those Debts should cease: And whereas, for better securing to the Mortgagees the Payment of the Interest upon the Mortgages held by them, it is expedient that the Commissioners should have Power under certain Circumstances to levy an additional Rate: And whereas it is expedient that the Time limited by ".The *Birkenhead* Commissioners Gas and Water Act, 1858," for the Sale of superfluous Lands should be extended: And whereas it is expedient that the Commissioners should be authorized to borrow further Sums of Money: And whereas it is expedient that the Market Tolls should be altered, and that the Commissioners Acts should be in other

respects

respects amended: And whereas the Objects aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Recited Acts extended to this Act.

1. The Powers and Provisions of the said recited Acts, so far as the same are now unrepealed, and except such of them as are repealed, altered, or otherwise provided for by this Act, shall extend to this Act, and to the several Purposes thereof, as fully and effectually as if the said Powers and Provisions were herein repealed and re-enacted in this Act in reference to such Purposes, Matters, and Things; and the said Acts and this Act shall be read and construed together as forming One Act.

Interpretation.

2. The Expression "Superior Court," or Court of competent Jurisdiction, or any other like Expression, in the Commissioners Acts or this Act, shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute; and the several other Words and Expressions to which by the Commissioners Acts, or any of them, Meanings are respectively assigned, shall have the same respective Meanings in this Act unless the contrary be expressed, or is to be inferred from the Subject Matter or the Context.

Power to construct Town Hall, &c.

3. The Commissioners may construct, erect, and maintain upon any Lands now or hereafter belonging to them within the District the following Buildings, Works, and Improvements; that is to say,

1. A Town Hall, with all proper Conveniences annexed or appurtenant thereto:
2. Public Baths, with all convenient Accommodation and Appurtenances thereto:
3. New additional Police Stations, Lock-ups, and other Buildings and Conveniences in connexion therewith.

Power to widen Grange Vale and make

4. The Commissioners may widen and otherwise improve the present Street or Road called *Grange Vale* from the Junction of such Street or Road with the Road called *Whetstone Lane* to or near to the Road leading from *Holt Hill* in the Township of *Tranmere*, through *Clifton Park* to *Birkenhead*, and may construct a Sewer under the said Road called *Grange Vale*, and may maintain such Road and Sewer; and the Commissioners may also make and maintain a new Street or Road to commence at the Terminus of the said Road called *Grange Vale* at or near the said Road leading from *Tranmere* to *Birkenhead*, or at such last-mentioned Road in the Township of *Birkenhead*, and to terminate in *Hamilton Street* at or near the Junction therewith of *Conway Street* and *Oliver Street*, and a Sewer under the said Road, and all proper Works and Conveniences in connexion therewith.

5. And

Widening and making of Road and Sewers.

5. And whereas a Plan and Section of the proposed Widening, new Roads and Sewers, and of the Lands required for the Purposes thereof, with a Book of Reference to such Plan, have been deposited with the Clerk of the Peace of the County of *Chester:* Therefore, subject to the Provisions of this Act, and of "The Lands Clauses Consolidation Acts" incorporated herewith, the said Widening and new Road and Sewers shall be made in the Line and upon the Lands delineated on the said Plan and described in the said Book of Reference, and according to the Levels defined on the said Sections; and the Commissioners may enter upon, use, and take such of the said Lands as they may consider necessary for such Purposes.

8 & 9 Vict. cc. 18. and 20. incorporated.

6. "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," shall be incorporated with and form Part of this Act; and the following Sections of "The Railways Clauses Consolidation Act, 1845," *viz.*, Sections 7 to 12 (both inclusive) and Section 15, shall be incorporated with and form Part of this Act, and shall apply to the said new Road and Sewer, and for this Purpose shall be read as if the Words "Road and Sewer" had been used therein instead of the Word "Railway."

Commissioners not to take Lands belonging to London and North-western and Great Western Companies without Consent.

7. Nothing in this Act contained shall extend or be deemed or construed to extend to authorize and enable the Commissioners to enter upon, take, or use, either permanently or temporarily, any of the Lands belonging to the *London and North-western* Railway Company and the *Great Western* Railway Company, or to alter, vary, or interfere with the Railway of those Companies (herein-after called the *Birkenhead* Railway), or any of the Works of those Companies, or any Traffic on the said Railway, further or otherwise than is necessary for the proper and convenient Construction of the said Street, Bridge, and Works connected therewith, without the Consent in Writing in every Instance for that Purpose first had and obtained of the *London and North-western* Railway Company and the *Great Western* Railway Company.

Mode in which Street is to be carried over and across Birkenhead Railway.

8. The Commissioners in carrying the new Street across the *Birkenhead* Railway shall be bound by and comply with the following Provisions; (that is to say,)

First, the Street shall be carried over and across the *Birkenhead* Railway only by means of an Iron flat Girder Bridge of Two Spans:

Second, except only so far as the *London and North-western* Railway Company and the *Great Western* Railway Company by Writing under their Common Seals otherwise consent, the Spans or Openings of the Bridge shall be at least Twenty-five Feet and Thirty Feet respectively in the Clear in every Part thereof, measured at Right Angles with the Rails of the *Birkenhead* Railway, and having in every Part thereof

thereof a clear Space at the least of Fifteen Feet in Height above the Level of the Rails for the whole Width of each Span or Opening:

Third, the Bridge shall be made Water-tight, so as to prevent, as far as reasonably may be, any Drip of Water from any Part thereof on to the Railway:

Fourth, before the Commissioners shall commence the Construction of the said Bridge they shall furnish to the *London and North-western* Railway Company and the *Great Western* Railway Company proper and sufficient Plans and Sections and Specifications of such Bridge, and the Abutments and other Works thereof; and the Plans, Sections, and Specifications of the same shall be agreed on between the Surveyor of the Commissioners and the Engineer for the Time being of the *Birkenhead* Railway, or in case of Difference between them shall be determined by a competent and impartial Civil Engineer, to be, on the Application of the Commissioners or the said Companies, appointed by the Board of Trade:

Fifth, except with Consent of the *London and North-western* Railway Company and the *Great Western* Railway Company in Writing under their Common Seals, the said Bridge, and the Abutments and other Works thereof, shall be made only in accordance with the Plans, Sections, and Specifications thereof so agreed on or determined:

Sixth, the said Bridge shall be made under the Superintendence and Direction of the Engineer of the *London and North-western* Railway Company and the *Great Western* Railway Company, and shall be at all Times maintained by the Commissioners in good and proper Repair and Condition.

For widening or altering Bridge over Birkenhead Railway.

9. In case the *London and North-western* Railway Company and the *Great Western* Railway Company shall at any Time or Times hereafter widen or in any way alter their existing *Birkenhead* Railway at the Point where it will be crossed by the said Bridge, so as to render it necessary to widen, alter, or rebuild the said Bridge, the said Companies may, notwithstanding anything in this Act contained, widen, alter, or rebuild the said Bridge in such Manner as they may find necessary and think proper, but so as not to alter the Level or lessen the Width of the said Bridge without the previous Consent of the Commissioners: Provided that in every such Case the said Companies shall make good and reinstate the Roadway and Approaches of the said Bridge and the Works connected therewith.

Penalty in case of Interruption of Traffic on the Birkenhead Railway.

10. If by reason of any Works or Proceedings of the Commissioners under this Act there shall be any Obstruction of or Interference with the *Birkenhead* Railway, so as to prevent or impede the convenient Passage of Engines and Carriages along the same, the Commissioners shall pay to the *London and North-western* Railway Company and the *Great Western* Railway

Railway Company a Sum not exceeding Five hundred Pounds *per* Day for every Day during which such Obstruction shall continue.

Commissioners to acquire only Easement in Land of London and North-western and Great Western Companies.

11. With respect to any Land of the *London and North-western* Railway Company and the *Great Western* Railway Company which the Commissioners are by this Act from Time to Time authorized to use, enter upon, or interfere with for the Purposes of constructing the Bridge over the said Railway, the Commissioners shall not purchase and take the same, but may take, and the *London and North-western* Railway Company and the *Great Western* Railway Company may and shall sell and grant accordingly, an Easement or Right of using the same for the Purposes for which (but for this Enactment) the Commissioners might purchase and take the same.

Saving Rights of London and North-western and Great Western Companies.

12. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the Rights, Privileges, or Powers of the *London and North-western* Railway Company and the *Great Western* Railway Company, or either of them, otherwise than is hereby expressly provided.

Power for Commissioners and Local Board of Tranmere to make Agreements.

13. The Commissioners and the Local Board for the District of *Tranmere* may make and carry into effect all such Arrangements and Agreements as they may think fit in regard to the Cost of widening, improving, and maintaining the said Road called *Grange Vale*, and of making and maintaining the said new Road and the said Sewers respectively, or otherwise in relation thereto; and the said Local Board may from Time to Time levy and apply such Sums or Sum of Money as may be necessary for the Purpose of enabling them to carry into effect such Arrangements and Agreements as aforesaid, by way and as Part of the General District Rate, which they are by "The Public Health Act, 1848," and "The Local Government Act, 1858," and "The *Tranmere* Improvement Act, 1862," or any of them, authorized to levy and apply; and they may also from Time to Time, subject to the Provisions of "The *Tranmere* Improvement Act, 1862," and in the Manner therein prescribed, borrow on Mortgage of the said General District Rate, in addition to the Sums of Money which they are by that Act authorized to borrow, such further Sum or Sums of Money, not exceeding in the whole Three thousand Pounds, as may be necessary for such Purposes as aforesaid.

Powers for compulsory Purchases limited.

14. The Powers for the compulsory Purchase of Lands by this Act conferred upon the Commissioners shall not be exercised after the Expiration of Five Years from the passing of this Act.

Power to lay down Street Tramways.

15. The Commissioners may from Time to Time lay down, maintain, and renew in and upon the Streets or Roads by this Act specially authorized, or any of them, and in or upon such other Streets or Roads within the District as they may think fit, or any Part thereof, Iron or other

other Rails, Plates, or Trams for the Passage of Carriages and Waggons to be moved by Horse Power, and they may make such Charges for the Use of the same as they may deem fit; or they may also enter into Agreements with any Company or Persons for the laying down of such Rails, Plates, or Trams, and for the Maintenance, Renewal, and Use thereof, and also for the Removal, if required by the Commissioners, of such Rails, Plates, or Trams, or any of them, and with respect to the Charges to be made for the Use of the same, and for the Purchase and Use of Carriages and Waggons for the Conveyance of Passengers and Goods along such Lines of Rails or Trams: Provided always, that nothing in this Act contained shall be held or construed to authorize the Commissioners to lay down, maintain, or renew, or to agree to the laying down, maintaining, or renewing of any such Rails, Plates, or Trams upon any Street or Road that shall be less than Sixty Feet wide inclusive of the Footpaths and Gutters on either Side thereof: Provided also, that nothing in this Act contained shall be held or construed to affect the Question of the Legality of any Rails, Plates, or Trams already laid down.

Power to purchase Lands by Agreement.

16. The Commissioners may purchase and take by Agreement for the Purposes of their Acts any further or additional Quantity of Land within their said District not exceeding in the whole Two Acres.

Carriage Crossings to be made across Footpaths or Streets where Access to Premises abutting on Street is to be made across such Footpath.

17. Every Owner or Occupier of Land or Premises which shall abut upon any Street within the District shall, before making any Opening or Means of Access for Horses, Cattle, or Vehicles from or between such Land or Premises and the Street, give Seven Days Notice in Writing to the Commissioners of his Intention to do so, and shall, prior to using or permitting the Use of the same Opening or Means of Access, lay down, construct, and complete, or cause to be laid down, constructed, and completed, a Carriage Crossing over the Footwalk or Sidepath of the Street of such Materials and in such Manner and Form as shall be satisfactory to the Commissioners; and any Owner or Occupier making Default therein, and every Person using such Opening or Means of Access for Horses, Cattle, or Vehicles before such Crossing shall have been constructed and completed to such Satisfaction as aforesaid shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds.

Penalty on Persons driving across Footwalks.

18. All Carriage Crossings over any Footway or Sidepath within the District requiring Repair or Reconstruction at the Time of the passing of this Act shall be repaired or reconstructed to the Satisfaction of the Commissioners by the Persons claiming to be entitled to the Use thereof; and any Person who shall drive or cause to be driven any Cart, Waggon, Carriage, or other Vehicle across, over, along, or upon any Footway or Sidepath, whether flagged or not, except over the Part thereof

thereof on which any such Carriage Crossing has then been constructed, or who shall thereby or otherwise break, damage, or injure the Materials of which any Footway or Sidepath may be formed, shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds, in addition to the Amount of Damage, if any, thereby occasioned, such Amount to be recovered in like Manner as Penalties under this Act may be recovered.

Power to appoint a Medical Officer of Health.

19. The Commissioners may appoint, subject to the Approval of One of Her Majesty's Principal Secretaries of State, a legally qualified Medical Practitioner, of Skill and Experience, to inspect and report periodically on the sanitary Condition of the District of the Commissioners, to ascertain the Existence of Diseases, more especially Epidemics increasing the Rate of Mortality, and to point out the Existence of any Nuisances or other local Causes which are likely to originate and maintain such Diseases and injuriously affect the Health of the Inhabitants of the District, and to take cognizance of the Fact of the Existence of any contagious Disease, and to point out the most efficacious Modes for checking or preventing the Spread of such Diseases, and also to point out the most efficient Means for the Ventilation of Churches, Chapels, Schools, registered Lodging Houses, and other public Edifices within the said District, and to perform any other Duties of a like Nature which may be required of him; and such Person shall be called "the Medical Officer of Health for *Birkenhead*," and the Commissioners may pay to such Officer such Salary as shall be approved of by One of Her Majesty's Principal Secretaries of State.

Power to enforce Conversion of Privies into Watercloset, Trapping of Drains, &c.

20. When and so often as it shall be certified to the Commissioners, under the Hands of the Medical Officer of Health or of Two legally qualified Medical Practitioners, that any Privy, Drain, or Cesspool is in a Condition, State, or Situation injurious, dangerous, or prejudicial to the Health of any of the Inhabitants of the District, it shall be lawful for the Commissioners, if they think fit, to require the Occupier of the Premises to which such Privy, Drain, or Cesspool shall belong, or the Owner of such Premises if the same are let for less than Fifteen Pounds *per Annum* Rent or for a less Term than from Year to Year, by Notice in Writing for that Purpose, forthwith or within such reasonable Time as shall be specified in such Notice, to repair or alter such Privy or to convert the same into a Watercloset, and to cause such Drain to be properly trapped, and such Cesspool to be properly cleansed and repaired to the Satisfaction of the Commissioners or of their Surveyor; and in default of the Execution of the Work specified in such Notice such Occupier or Owner, as the Case may be, shall be liable to a Penalty not exceeding Twenty Shillings for every Day after the Expiration of the Time allowed by such Notice during which the Requirements of

such Notice shall not be complied with: Provided that if such Occupier or Owner, as the Case may be, shall satisfy the Commissioners that such Privy can be so altered as to prevent the same being injurious, dangerous, or prejudicial to Heath, by other Means than by converting the same into a Watercloset, then such Alteration, if made to the Satisfaction of their Surveyor, shall be deemed a Compliance with this Provision.

Water Spouts to be affixed to Buildings.

21. The Seventy-fourth Section of "The Towns Improvement Clauses Act, 1847," with respect to Water Spouts to be affixed to Houses or Buildings, is hereby incorporated with this Act, but shall be read and construed as if the word Occupier therein had been Owner.

Courts and Passages to be flagged and channelled.

22. Every Court and Passage within the District shall be well and sufficiently paved or flagged, channelled and sewered, and (except as herein-after mentioned) kept in good Repair, to the Satisfaction of the Commissioners, by the Owners of the Houses, Buildings, and Lands abutting thereon and having the Right to the Use thereof; and if at any Time any such Court or Passage shall not be well and sufficiently paved or flagged, channelled and sewered, and kept in good Repair to their Satisfaction, the Commissioners may cause the same to be paved, flagged, channelled, and sewered to their Satisfaction; and the whole of the Costs, Charges, and Expenses attending the same shall be paid and reimbursed to the Commissioners in the Manner herein-after provided by the Owners of the Houses, Buildings, and Lands abutting on such Court or Passage, and having the Use thereof, in such Proportions as the Commissioners or their Surveyor shall determine; and any Court or Passage, being sufficiently paved, flagged, channelled, and sewered, and in good Repair, to the Satisfaction of the Commissioners, may be dedicated to the public Use by the Owners thereof, and after Notice in Writing under the Hands of such Owners given to the Commissioners, the Court or Passage, being then also in such good Repair as aforesaid, shall be kept in repair by the Commissioners.

As to the Purchase of Lands for opening new Streets.

23. The Commissioners may agree with the Owners of any Houses or Lands within the District for the absolute Purchase thereof, or of any Part thereof, for the Purpose of opening any new Streets or Passages, or making any other convenient Communications, or of straightening, widening, or diverting any existing Streets, Ways, or Passages.

Hoards to be set up during Repairs.

24. No Person shall begin to build or take down, alter, or repair any Building, or sink or make any Foundation or Excavation, or cause the same to be done, where any Street or Footway will be obstructed or rendered inconvenient by means of such Work, without first causing sufficient Hoards or Fences to be put up in order to separate the Building or Place where such Works are being or intended to be carried on from the

the Street, with a convenient Platform and Handrail, to the Satisfaction of the Commissioners, to serve as a Footway for Passengers outside of such Hoard or Fence; and every such Person who fails to put up such Fence or Hoard or Platform with such Handrail as aforesaid, or to continue the same respectively standing and in good Condition, to the Satisfaction of the Commissioners, during such time as the public Safety or Convenience requires, or who does not, while the said Hoard or Fence is standing, keep the same sufficiently lighted in the Night, or who does not remove the same when directed by the Commissioners within a reasonable Time afterwards, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Forty Shillings for every Day while such Default is continued.

Naming Streets.

25. The Provisions of "The Towns Improvement Clauses Act, 1847," with respect to the naming the Streets and numbering the Houses, are hereby incorporated with this Act.

Commissioners may agree with Owners of projecting Buildings and of Houses at Corners of Streets to alter and round off the same.

26. In every Case in which the Commissioners shall deem it expedient that the whole or any Part of any House or Building projecting beyond the regular Line of any House or Street, or beyond the Front of the House or Building on either Side thereof in any Street, or at the Corner of any Street, or opposite to or projecting across the End of any Street, should be taken down for the Purpose of straightening the Line of any Street or of rounding off the Corner of any Street, or improving the Entrance or Approach thereto or to any adjoining Street, it shall be lawful for the Commissioners to agree with the Owner and Occupier of such House or Building to pull down, set back, or alter the same in such Manner as the Commissioners shall require, and to pay to such Owner and Occupier such Compensation as shall be agreed upon between them and the Commissioners; and it shall be lawful for the Commissioners to add to the Street so much of the Site of any House or Building so pulled down, set back or altered, as shall be agreed upon between the Commissioners and such Owner and Occupier.

Dangerous Places to be repaired or inclosed.

27. If any Wall, Building, Hole, or Excavation, or any other Place near any Street, be, for Want of sufficient Repair, Protection, or Enclosure, dangerous to the Passengers along such Street, the Commissioners shall cause the same to be repaired, protected, or enclosed so as to prevent Danger therefrom; and the Expenses of such Repair, Protection, or Enclosure shall be repaid to the Commissioners by the Owner of the Premises so repaired, protected, or enclosed, and shall be recoverable from him as Damages.

Vaults under Streets to be repaired by Owners.

28. The Owner of any Vault, Arch, or Cellar at any Time existing under any Street within the District shall keep the same in substantial Repair so as not to occasion any Injury to the Street; and in default of his

his so doing the Commissioners may cause such Vault, Arch, or Cellar to be substantially repaired, and may recover the Expenses thereof as Damages from the Owner of such Vault, Arch, or Cellar.

Vaults and Cellars under Streets not to be made without the Consent of the Commissioners.

29. No Vault, Arch, or Cellar shall be made under any Street within the District without the Consent of the Commissioners first obtained in Writing; and every such Vault, Arch, or Cellar hereafter to be made within the District shall be made in all respects to the Satisfaction of the Commissioners, and so as not to interfere or communicate with any Drains or Sewers under the Control of the Commissioners without their Consent in Writing first obtained; and if any Vault, Arch, or Cellar shall be made contrary to the Provisions of this Act, it shall be lawful for the Commissioners to fill up the same, and the Expenses incurred thereby shall be paid by the Person making such Vault, Arch, or Cellar, to be recovered as herein-after provided.

Ruinous Buildings, Vaults, &c. to be protected and repaired by Owners.

30. When and so often as any Vault, Arch, Cellar, or other Excavation, or any Part of the Works connected therewith, or any Part thereof respectively, shall be or become ruinous, decayed, or in any Manner dangerous, it shall be lawful for the Building Surveyor of the Commissioners to give Notice to the Owner thereof, requiring him forthwith sufficiently to fence, stay, shore, or otherwise protect the same, and within such Time as shall be specified in such Notice to reconstruct, arch over, or otherwise well and sufficiently to repair the same to the Satisfaction of such Surveyor; and in case such Owner shall refuse or neglect forthwith sufficiently to fence, stay, shore, or otherwise protect the same, or shall refuse or neglect to reconstruct, arch over, or otherwise well and sufficiently repair such Vault, Arch, Cellar, or other Excavation, or the Works connected therewith, within the Time specified in such Notice, such Owner shall for such Refusal or Neglect respectively forfeit and pay any Sum not exceeding Five Pounds, and such further Sum as shall not exceed One Pound for each and every Day during which such Refusal or Neglect shall continue; and it shall be lawful for the Commissioners to cause such Vault, Arch, Cellar, or other Excavation to be fenced and protected, and to be taken down, reconstructed, arched over, or otherwise well and sufficiently secured and repaired, and to recover the Costs and Expenses of such taking down, Reconstruction, arching over, securing, fencing, protecting, and repairing from the Owner.

Regulations to prevent Accumulations of Dung, &c.

31. If at any Time it appears to the Inspector of Nuisances that any Accumulation of Manure, other than artificial Manure, Dung, Soil or Filth, or other offensive or noxious Matter whatsoever, ought to be removed, he shall give Notice to the Person to whom the same belongs, or to the Occupier of the Premises whereon it exists, to remove the same; and if at the Expiration of Twenty-four Hours after such Notice the

the same be not complied with, the Manure, Dung, Soil or Filth, or Matter referred to shall become vested in the Commissioners; and it shall be lawful for the Commissioners to sell and dispose of the same as the Property of the Commissioners, and the Money thence arising shall be applied to the Purposes of the Improvement Rate; and if any Person shall allow or permit any Dung, Dirt, Ashes, or Filth to accumulate within his Dwelling House for more than Three Days after the Scavenger shall have applied to remove the same, such Person upon being lawfully convicted shall be subject to a Penalty not exceeding Forty Shillings.

Privies, &c. to be provided in Manufactories, &c.

32. If at any Time it shall appear to the Commissioners, upon the Report of the Medical Officer of Health, or of two legally-qualified Medical Practitioners, that any Manufactory, Shop, Office, or Workshop has no sufficient Watercloset, Privy, or Urinal therein, it shall be lawful for the Commissioners, if they shall think fit, to require the Occupier thereof, or if such Manufactory, Shop, Office, or Workshop be let for a less Term than from Year to Year, or at any Rent not exceeding Fifteen Pounds *per Annum*, the Owner thereof, forthwith to erect, construct, or otherwise provide such and so many sufficient Waterclosets, Privies, and Urinals, and in such suitable Position, as the Commissioners shall think fit; and any such Occupier or Owner who shall refuse, omit, or neglect for the Space of One Month after being so required as aforesaid to erect, construct, or provide such sufficient Waterclosets, Privies, or Urinals shall forfeit and pay a Sum not exceeding Five Pounds, and a further Sum not exceeding Forty Shillings for every Day during which such Default is continued.

Penalty for Neglect.

Drains, Privies, and Cesspools to be kept in good Order by Owners and Occupiers.

33. All Drains, Privies, and Cesspools within the District shall be under the Survey and Control of the Commissioners and of the Surveyors and Officers appointed by them for that Purpose, and shall be repaired and kept in proper Order at the Cost and Charges of the Occupiers of the Lands and Tenements to which the same belong, or if any such Land or Tenement be let for a less Term than from Year to Year, or at a Rent not exceeding Fifteen Pounds *per Annum*, by the Owner of such Land or Tenement; and if the Occupier or Owner, as the Case may be, of any Land or Tenement to which any such Drain, Privy, or Cesspool shall belong shall neglect to repair and to put the same into good Order, in the Manner required by the Commissioners, during Fourteen Days after Notice in Writing for that Purpose signed by the Clerk or Surveyor to the Commissioners shall have been given to such Owner or left upon the Premises, it shall be lawful for the Commissioners to order such Drain, Privy, or Cesspool to be repaired and put in good Order, and to levy and recover the Costs and Expenses thereof from such Owner in the Manner herein-after provided.

Power to cause Inspection of Drains, Privies, and Cesspools.

34. It shall be lawful for the Commissioners or for their Surveyor, or such other Person as shall be appointed by the Commissioners, to inspect any Drain, Privy, or Cesspool within the District at all reasonable Times in the Daytime, and after Twenty-four Hours Notice in Writing shall have been given to the Occupier of the Premises to which such Drain, Privy, or Cesspool is attached, or left upon the Premises, to enter by themselves or their Surveyor and Workmen upon any Lands and Tenements, and also to cause the Ground to be opened in any Place they shall think fit, doing as little Damage as may be; and if such Drain, Privy, or Cesspool shall be found to be made to the Satisfaction of the Commissioners and in proper Order and Condition, they shall cause the same to be closed and made good as soon as may be; and the Expenses of opening, closing, and making good such Drain, Privy, or Cesspool shall be defrayed by the Commissioners.

House Drains to be made into Sewers at Request of Commissioners.

35. In all Cases where any House or Building situate within the District shall at any Time be found not to be drained by a Drain or Pipe communicating with some Sewer, and emptying itself into the same, to the Satisfaction of the Commissioners, and if a Sewer of a sufficient Size under the Jurisdiction of the Commissioners shall pass along any Street and within One hundred Feet of any Part of such House or Building, it shall be lawful for the Commissioners, if they shall think fit, by Notice in Writing to require the Owner of such House or Building forthwith or within such reasonable Time as shall be appointed by the Commissioners to construct and make from such House or Building into the nearest Common Sewer a covered Drain or Pipe, of such Materials, of such Size, at such Level, and with such Fall as shall be adequate for the Drainage of such House or Building, and also, if practicable, of its Areas, Watercloseta, Privies and Offices, if any, and to carry and convey the Soil, Drain, and Wash therefrom into the said Sewer; and if the Owner of such House or Building shall refuse or neglect, during Twenty-eight Days next after the said Notice shall have been delivered to such Owner or left at such House or Building, to begin to construct such Drain, or shall thereafter fail to carry it on and complete it with all reasonable Despatch, it shall be lawful for the Commissioners and they are hereby required to cause the same to be constructed and made, and to recover the Expenses to be incurred thereby in the Manner herein-after provided.

If Owners neglect, Commissioners to perform the Work and recover the Expense.

No House to be erected, &c. without Drains.

36. It shall not be lawful to erect, build, or rebuild any House or other Building within the District unless a Drain be constructed, if required by the Commissioners, to the Satisfaction of the Commissioners, of such Materials, of such Size, at such Level, and at such Fall as they shall direct, so that the same shall be available for the Drainage of the Cellar Floor of such Building, and also of its Areas, Watercloseta, Privies, and Offices, if any, which Drain shall lead from the intended

Site

Site of such House to such Sewer already made or intended to be constructed near thereto as the Commissioners shall direct and appoint, or if there be no such Sewer existing or intended to be constructed within One hundred Feet of any Part of the intended Site of such House, then to such covered Cesspool or other Place not being under any Dwelling House as the Commissioners shall direct; and if any Building or Drain shall be begun, erected, or made contrary to the Provisions of this Act, it shall be lawful for the Commissioners to cause such Building to be taken down, and to cause such Drain to be relaid, amended, or remade, as the Case may require, and to cause the Expenses thereof to be levied and repaid to them by the Owner thereof in manner herein-after provided.

The Costs, &c. are to be recovered from Owner.

37. If the Owner of any House, Buildings, or Land made liable by this Act or the recited Acts, or any of them, for the Repayment to the Commissioners of any Costs, Charges, and Expenses incurred or Monies expended by them, shall not, when and as soon as the same shall become due and payable from him, repay to the Commissioners all such Costs, Charges, Expenses, and Monies, it shall be lawful for the Commissioners to recover the same from such Owner, or from any Person who shall become Owner of such Premises, within Twelve Months after such Costs, Charges, Expenses, and Monies shall have become due, in an Action of Debt in any of the Superior Courts or in any Court of competent Jurisdiction.

Power to levy Charges on Occupier.

38. And by way of additional Remedy it shall be lawful for the Commissioners, whether any such Action shall have been brought against any such Owner or not, to require the Payment of all or any Part of such Costs, Charges, and Expenses from the Person who shall then or at any Time thereafter occupy any such House, Building, or Land, and in default of Payment thereof by such Occupier, on Demand by the said Commissioners, the same may be levied by Distress and Sale of the Goods and Chattels of such Occupier, in the same Manner as any Rate may be recovered from him; and such Occupier shall be entitled to deduct from his Rent the Amount of any such Costs, Charges, and Expenses as shall be paid by or recovered from him.

Occupier not to be liable for more than the Amount of Rent due.

39. Provided always, That in no Case, except as herein-after mentioned, shall any Occupier, being only the Tenant of such Premises, be liable to pay more Money in respect of such Costs, Charges, and Expenses as aforesaid than the Amount of Rent due from him at the Time of the Demand made upon him for such Costs, Charges, and Expenses, or which shall at any Time after such Demand, and Notice not to pay the same to his Landlord, accrue and become payable by him, unless he shall neglect or refuse, upon Application made to him for that Purpose by or on behalf of the Commissioners, truly to disclose the

the Amount of his Rent, and the Name and Address of the Person to whom such Rent is payable; but the Burden of Proof that the Sum demanded of any such Occupier is greater than the Rent which was due by him at the Time of such Demand, or which shall have since accrued, shall lie upon such Occupier.

Act not to affect Agreements between Landlord and Tenant.

40. Provided always, That nothing in this Act contained shall be taken to affect any Contract made or which may hereafter be made between any Owner and Occupier of any Land, Building, or other Property, whereof it is or may be agreed that the Occupier shall pay and discharge all Rates, Dues, and Sums of Money payable in respect of such Land, Building, or Property, or to affect any Contract whatsoever between Landlord and Tenant.

Commissioners, &c. empowered to enter upon Lands on which Buildings are to be erected.

41. The Commissioners shall, for the Purposes of this Act or the recited Acts, have full Power and Authority to enter, or to order and direct their Surveyor or other Officers and Persons employed by them at all reasonable Hours in the Daytime to enter, into and upon any Land or Tenement within the District, and into and upon the Land on which any House, Building, or other Erection is built or being built or intended to be built, and into and upon any Buildings or any Part thereof, without being liable to any Action at Law or Suit in Equity, or any other legal Proceedings or Molestation whatsoever, for or on account of such Entry or the Works done or to be done in any Part thereof in pursuance of this Act.

Person receiving Rents to be deemed the Owner.

42. And in order to prevent any Dispute touching the Word "Owner" for all the Purposes of this Act and the recited Acts whereby an Owner is required to do any Matter or Thing under the Provisions of this Act or the recited Acts, or to be rated, or pay any Rates or Monies, the Person receiving the Rents of any Property from the Occupier thereof, on his own Account, or as Trustee or (except as hereinafter mentioned) as Agent for any other Person, shall be deemed the "Owner" of the same for all such Purposes; but if any such Agent shall make known to the Commissioners the Name and Address of the Person for whom he is such Agent, then that Person shall be deemed such Owner.

Mortgagees in possession may recover Monies paid by them for Sewering, &c., in the same Way as Principal and Interest.

43. When any House or Land shall be in the Possession of any Mortgagee or other Person having in his own Right any Charge or Incumbrance thereon, such Mortgagee or other Person shall have and exercise the same Powers and Remedies for the Recovery of any Monies paid by him in respect of such House or Land for forming, constructing, sewering, levelling, paving, flagging, and channelling, or otherwise completing any Road, Street, Court, or Passage as he has or may exercise for the Recovery of the Principal Money secured by such Mortgage or the Interest thereof.

44. If

Unoccupied or unproductive Property may be let to defray Expenses.

44. If any House, Building, or Land abutting on the Sides of any Street, Court, or Passage, or Part of any Street, Court, or Passage, which or any Part of which shall have been levelled, formed, paved or flagged, sewered or drained by the Commissioners, or if any House or Building in respect of which any Drain shall have been constructed by the Commissioners, and the Costs and Expenses of which Works are to be repaid to the Commissioners by the Owners thereof in the Manner herein-before provided, shall be unoccupied or unproductive, and the Owner thereof shall for the Space of Three Months neglect or refuse to contribute and pay his Proportion of the Costs, Charges, and Expenses of levelling, making, paving or flagging, sewering or draining such Street, Court, or Passage, or the Costs of constructing such Drain or other Work, and the same shall not have been recovered from the Occupier thereof, it shall be lawful for the Commissioners, at or after the Expiration of Fourteen Days Notice to that Effect affixed or placed on any such House, Building, or Land, to take possession of such unoccupied or unproductive House, Building, or Land, and to fence off, hold, and let the same from Year to Year or for any less Term, and to receive the Rents and Profits thereof until such Costs and Expenses shall be repaid.

Furnaces to consume their own Smoke.

45. From and after the First Day of *August* One thousand eight hundred and sixty-four every Furnace employed or to be employed within the District in the working of Engines by Steam, and every Furnace employed or to be employed in any Mill, Factory, Printing House, Dye House, Iron Foundry, Glass House, Distillery, Brewhouse, Sugar Refinery, Bakehouse, Gasworks, Waterworks, or other Buildings used for the Purpose of Trade or Manufacture within the District, or in any Public Baths or Wash-houses (although a Steam Engine be not used or employed therein), shall in all Cases be constructed or altered so as to consume or burn the Smoke arising from such Furnace; and if any Person shall after the First Day of *August* One thousand eight hundred and sixty-four, within the District, use any such Furnace which shall not be constructed so as to consume or burn its own Smoke, or shall so negligently use any such Furnace as that the Smoke arising therefrom shall not be effectually consumed or burnt, or shall carry on any Trade or Business which shall occasion any noxious or offensive Effluvia, or otherwise annoy the Neighbourhood or Inhabitants, without using the best practicable Means for preventing or counteracting such Smoke or other Annoyance, every Person so offending, being the Owner or Occupier of the Premises or being a Foreman or other Person employed by such Owner or Occupier, shall, upon a summary Conviction for such Offence before any Justice or Justices, forfeit and pay a Sum not more than Five Pounds nor less than Forty Shillings, and upon a Second Conviction for such Offence the Sum of Ten Pounds, and for each subsequent Conviction a larger Sum not exceeding double the Amount of the Penalty imposed for the last preceding Conviction: Provided always, that the Words

Penalty not to attach, where only Fuel not emitting Smoke is used.

" consume or burn the Smoke " shall not be held in all Cases to mean " consume or burn all the Smoke," and that the Justice or Justices before whom any Person shall be summoned may remit the Penalties enacted by this Act if he or they shall be of opinion that such Person has so constructed or altered his Furnace as to consume or burn as far as possible all the Smoke arising from such Furnace, and has carefully attended to the same, and consumed or burned as far as possible the Smoke arising from such Furnace.

Power to enter and inspect Furnaces and Steam Engines.

46. And in order that the preceding Enactment may be duly carried into effect it shall be the Duty of the Inspector of Nuisances from Time to Time to inspect any Buildings or Premises within the District in which he has reason to believe that such Enactment is not complied with, and to report the Result of his Inspection to the Health Committee; and if the Owner or Occupier of any Premises to which the preceding Enactment shall apply shall refuse to allow his Premises to be inspected by such Inspector, or by a Person duly authorized by the Health Committee for that Purpose, it shall be lawful for any Constable authorized by Warrant under the Hand of a Justice, with or without any Assistant, to enter into and upon any Building or Premises in which any Furnace may be, or in which such noxious Trade or Business may be carried on, and to examine into the Construction of such Furnaces, or into the Manner of carrying on such Trade or Business; and any Person obstructing any such Constable or his Assistant in the Execution of any such Warrant or Order shall, upon a summary Conviction for such Offence before any Justice or Justices, forfeit and pay any Sum not exceeding Twenty Pounds.

No Information to be laid except by Authority of Health Committee.

47. No Information shall be laid against any Person for the Recovery of any Penalty under the Two preceding Enactments, or either of them, except by the Authority of the Health Committee.

Power to Justices to order Alteration of Chimneys.

48. It shall be lawful for any Justice, upon Complaint made to him by the Medical Officer of Health or the Inspector of Nuisances that any Smoke, Gas, or Vapour from any Chimney is a Nuisance to any of the Inhabitants of the District, to issue his Summons calling upon the Occupier of the Premises where such Chimney is to appear at a Time and Place named therein to answer such Complaint, and if upon the Hearing of such Complaint the Justice shall think fit so to do, he may make an Order requiring such Occupier to cause such Chimney to be raised, or a Funnel or Pipe to be placed thereon for conveying away such Smoke, Gas, or Vapour, or such other Means to be adopted as may seem fitting to such Justice for preventing or mitigating such Nuisance, within such Time as shall be specified in such Order; and any such Occupier as aforesaid who shall neglect or refuse to obey such Order shall for such Offence forfeit and pay a Sum not exceeding Five Pounds, and a further Sum not exceeding Forty Shillings

Shillings for every Day during which such Neglect or Refusal shall continue.

For preventing the filling up or Embankment upon Ground with offensive or unwholesome Matters.

49. It shall not be lawful to raise, fill, or embank upon any Ground within the District with any offensive or unwholesome Matter, and every Person who shall offend contrary to this Enactment shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds, and a further Sum not exceeding Forty Shillings for every Day during which such offensive or unwholesome Matter shall continue unremoved after Notice shall have been given by the Surveyor of the Commissioners for the Removal thereof.

Rates due from Owner may be recovered from Occupier.

50. When the Owner of any Property rateable under this or the recited Acts, or any of them, shall have been rated in respect thereof, and the Rate shall remain unpaid for the Space of Three Months, it shall be lawful for the Commissioners or their Collector to recover the Amount of such Rate from the Occupier of such rateable Property by Distress and Sale of his Goods and Chattels in like Manner as Rates may be recovered from the Occupiers of any Property liable to be rated: Provided always, that no Occupier shall be required to pay, nor shall his Goods and Chattels be distrained for any further Sum than the Amount of Rent due from him at the Time of the Demand made upon him for such Amount of Rate, or which shall after such Demand, and Notice not to pay the same to his Landlord, at any Time accrue and become payable by him, unless he shall refuse, on Application being made to him for that Purpose by or on behalf of the Commissioners, truly to disclose the Amount of his Rent, and the Name and Address of the Person to whom such Rent is payable; but the Burthen of Proof that the Sum demanded from any such Occupier is greater than the Rent which was due by him at the Time of such Notice, or which shall have since accrued, shall lie upon the Occupier.

Occupier refusing to give Name of Owner liable to a Penalty.

51. If on the Request of the Commissioners or of the Collector of the said Rates the Occupier of any Property shall refuse or wilfully omit to disclose or shall wilfully mis-state to the Commissioners or Collector making such Request the Name of the Owner of such Property, or of the Person receiving or authorized to receive the Rents of the same, it shall be lawful for any Justice of the Peace, on Oath made before him of such Request, and of such Refusal or wilful Omission or Mis-statement, to summon the Person who shall have so refused or wilfully omitted or mis-stated as aforesaid to appear at the Time and Place to be mentioned in such Summons before such Justice or before some other Justice; and if the Person so summoned shall neglect or refuse to attend at the Time and Place mentioned in the Summons, or if he shall attend and not show good Cause to the Justice then present for such his Refusal or wilful Omission or Mis-statement, it shall be lawful for such Justice, upon Proof,

Proof, in case of the Neglect or Refusal to attend as aforesaid, of the due Service of the said Summons, to impose a Penalty upon such Person who shall have so refused or wilfully omitted or have made such wilful Mis-statement not exceeding the Sum of Five Pounds.

Occupier may recover Money paid for Rates due from Owner or deduct the Amount from the Rent.

52. If the Amount of any Rate which under the Provisions of this Act or the recited Acts, or any of them, ought to be borne and paid by the Owner of any rateable Property shall be paid by the Occupier of such Property or levied on his Goods and Chattels, then the Person who shall be the Owner of such Property at the Time of such Payment or Levy shall reimburse the Occupier; and it shall be lawful for such Occupier to deduct the Sums paid or levied, together with the Costs of the Distress (if any) paid by him, from any Rent due or to become due from him in respect of such Property, and the Payment shall be a good and sufficient Discharge to such Occupier against such Owner for so much Money as he shall have paid in the Manner directed by this Act, or shall have sustained the Loss of by reason of any Distress made under this Act; or such Occupier may recover the same from such Owner as aforesaid by Action of Debt or on the Case to be brought in any of Her Majesty's Superior Courts or in any Court whatsoever.

Power to Commissioners to make Byelaws for certain Purposes and to fix Penalties.

53. It shall be lawful for the Commissioners and they are thereby empowered from Time to Time to make such Byelaws as they shall think fit for all or any of the Purposes following; (that is to say,)

For regulating all Stage Carriages and Omnibuses plying in any Part of the District:

For fixing and altering the Places therein where it shall be lawful for the same to stand and ply for Hire:

For regulating the Number of Persons to be carried by Stage Carriages and Omnibuses:

For regulating the Drivers and Conductors thereof, and punishing Misconduct:

And such Byelaws may at any Time be varied, altered, or repealed as the Commissioners may consider expedient; provided that such Byelaws be not repugnant to the Laws of the United Kingdom or to the Provisions of this Act.

Byelaws may be enforced by Penalties.

54. All Byelaws made or to be made by the Commissioners under the Provisions of any of the recited Acts or this Act, and for enforcing which no Penalty is provided by any of the Commissioners Acts, may be enforced by a Penalty not exceeding Twenty Shillings, to be imposed by the Commissioners in such Byelaws; and all such Byelaws shall be signed, published, and confirmed in like Manner as Byelaws under the recited Act of 5th of *Victoria*, Chapter 5.

55. It

Commissioners to order Costs of Prosecutions.

55. It shall be lawful for the Commissioners, except as is by this Act otherwise expressly provided, to direct any Prosecution for any public Nuisance whatever which shall be committed or suffered within the Limits of this Act, and to order Proceedings to be taken for the Recovery of any Penalties and for the Punishment of any Persons offending against the Provisions of this Act or the recited Acts, and to direct and order the Expenses of such Prosecution or other Proceedings to be paid and borne by and out of the Improvement Rate.

Recovery and Application of Penalties.

56. All Penalties imposed by or under this Act, the Recovery whereof is not otherwise expressly provided for, may be recovered in manner provided for the Recovery of Penalties by "The Public Health Act, 1848," and the Justices by whom any Penalty or Forfeiture for an Offence committed under this Act shall be imposed shall, where the Application thereof is not otherwise provided for, award the same to be paid to the Commissioners.

As to Qualification of Voters at Elections of Commissioners.

57. After the passing of this Act no Person shall be qualified to vote at any Election of Commissioners unless he shall have been rated to the Improvement Rate for at least Twelve Months prior to the Day of Election, and Three Months prior to the Day of Election shall have paid all Rates then due from him to the Commissioners, except such as shall have been made or become due within Six Months immediately preceding the Day of tendering his Vote.

Elections to be on the 1st Tuesday in November instead of the 1st Tuesday in June.

58. The Commissioners who shall be in Office after the Election of Commissioners on the First *Tuesday* in *June* One thousand eight hundred and sixty-three shall continue in Office until the First *Tuesday* in *November* One thousand eight hundred and sixty-four; and in the Year One thousand eight hundred and sixty-four, and in every Year thereafter, the Day of Retirement in Rotation and of Election of Commissioners shall be the First *Tuesday* in *November* instead of the First *Tuesday* in *June* as theretofore.

Lighting and watching Claughton.

59. The Fourth, Fifth, Sixth, and Seventh Sections of the recited Act 6 *Vict.* c. 13. are hereby repealed, and all the Powers, Provisions, and other Matters and Things contained in the Commissioners Acts and this Act shall extend and apply to the Township of *Claughton-cum-Grange* as fully and effectually as to the Township of *Birkenhead*, and as if the said Township of *Claughton-cum-Grange* were for all Purposes included within the District; and the Commissioners may and shall assess, levy, and collect the Lighting and Watching Rate upon the Occupiers of Tenements within the Township of *Claughton-cum-Grange*, as well as upon the Occupiers of Tenements within the Township of *Birkenhead* or elsewhere within the District.

Exemption of Claughton from County Police Rate.

60. From and after the passing of this Act the said Township of *Claughton-cum-Grange* shall not be assessed or taxed to or for the Payment of the County Police Rate under the Provisions of the Act 3 and 4 *Vict.* c. 88., intituled *An Act to amend the Act for the Establishment of County and District Constables*, or be otherwise liable to contribute to the Payment of the County Constabulary.

Appointment of Stipendiary Magistrate.

61. If at any Time hereafter the Commissioners shall think it expedient that a Stipendiary Magistrate should be appointed to execute the Office of a Justice of the Peace within the District, and shall pass a Resolution to that Effect, whereby the Amount of the Salary to be paid to such Stipendiary Magistrate, not exceeding One thousand Pounds, shall be fixed, they may petition One of Her Majesty's Principal Secretaries of State to have such Stipendiary Magistrate appointed, and thereupon it shall be lawful for Her Majesty, if She shall think fit, to appoint a fit and proper Person, being a Barrister-at-Law of not less than Seven Years Standing, to be during Her Majesty's Pleasure a Police Magistrate and Justice of the Peace within the Districts; and upon any Vacancy in the Office of Stipendiary Magistrate for the District no new Appointment shall be made until the Commissioners shall again present a Petition to One of Her Majesty's Principal Secretaries of State in that Behalf, as in the Case of the First Appointment of a Stipendiary Magistrate for the said District.

Justice need not be qualified by Estate.

62. Any Person empowered to keep the Peace within the said District as such Stipendiary Magistrate shall, while he shall continue to hold such Office, execute the Duties of a Justice of the Peace in and for the District of the Commissioners, although he may not have such Qualification of Estate as is required by Law in the Case of other Persons being Justices of the Peace for or within the County of *Chester*, provided he be not disqualified by Law to act as a Justice of the Peace for any other Cause or upon any other Account than in respect of Estate, and shall, while he shall continue to hold such Office, sit and act as a Justice of the Peace within the said District, either alone or together with any other Justice or Justices of the Peace for the County of *Chester*; and all the Provisions of the Act 21 and 22 *Vict.* c. 73., intituled *An Act to amend the Law concerning Stipendiary Magistrates and Justices of the Peace*, in certain Cases shall extend and apply to such Stipendiary Magistrate: Provided nevertheless, that nothing in the said last-mentioned Act contained shall prevent any such Stipendiary Magistrate from acting in the District as Justice of the Peace at Special Session, or in relation to the granting or transferring of Licences in the District.

Limits within which the

63. The Stipendiary Magistrate shall reside within the District, and shall attend at the Police Court or other Place to be provided by the Commis-

Commissioners in the Township of *Birkenhead* for the hearing and Despatch of Business every Day from the Hour of Ten of the Clock in the Forenoon to the Hour of Four of the Clock in the Afternoon, unless the Business of the Day be sooner disposed of, and at all such other Times when any special Occasion may require his Services, provided that no such Attendance shall be given on *Sundays*, *Christmas Day*, *Good Friday*, or any Day appointed for a Public Fast or Thanksgiving, unless in Cases of urgent Necessity, or when it shall be directed by One of Her Majesty's Principal Secretaries of State.

Stipendiary Magistrate must reside, his Attendances and Places of Sitting.

64. No Stipendiary Magistrate to be appointed by virtue of this Act shall, during his Continuance in Office as such Stipendiary Magistrate, practise in any Court of Justice, or be capable of being elected or of sitting as a Member of the House of Commons.

Not to practise or be a Member of the House of Commons.

65. The Salary for the Stipendiary Magistrate, so fixed as aforesaid, shall be paid by the Commissioners out of the Improvement Rates, which Payment they are hereby authorized to make to the Stipendiary Magistrate and his Successors respectively, such Salary to commence from the Time when any such Stipendiary Magistrate shall enter on the Duties of his Office, and to be paid so long as any such Stipendiary Magistrate shall continue to discharge the Duties of his Office, and such Salary to be payable and paid by Two equal half-yearly Payments on the Twenty-fourth Day of *June* and the Twenty-fifth Day of *December*, or on any following Day, on Demand made by or by Authority of such Stipendiary Magistrate; and a due Proportion of the first half-yearly Sum shall be paid at the Time and in manner aforesaid in case the Stipendiary Magistrate shall enter on the Duties of his Office on any Day between such half-yearly Days; and in case of the Resignation or Removal of any such Stipendiary Magistrate between any such half-yearly Days of Payment, then he shall be entitled to and be paid a due Proportion of the said Salary up to the Period of his Resignation or Removal; and in case of his Death between any such half-yearly Days of Payment, his Representative shall be entitled to and be paid a due Proportion of the said Salary up to the Period of his Death: Provided always, that it shall be lawful for the Commissioners at any Time, with the Consent in Writing of One of Her Majesty's Principal Secretaries of State, to increase the said Salary to any Sum not exceeding One thousand Pounds *per Annum*.

Salary of Stipendiary Magistrates.

66. Every Summons for the Appearance of any Person, or Warrant to compel such Appearance, or Warrant for the Apprehension of any Person charged with any Offence, or Search Warrant, issued by the Stipendiary Magistrate, may be respectively served and executed within the County of *Chester* or within any Distance not exceeding Seven Miles from the District, and within such Limits as aforesaid shall have the same Force and Effect as if the same had been originally issued or subsequently

Summonses, &c. may be executed within 7 Miles of the District.

subsequently endorsed by a Justice of the Peace having Jurisdiction in the Place where the same shall be served or executed, any Law, Statute, Charter, or Usage to the contrary notwithstanding; and every such Summons and Warrant shall and may be lawfully served or executed within such Limits as aforesaid by the Constable or Special Constable to whom the same shall be directed.

Power to Stipendiary Magistrate to appoint Clerk.

67. It shall be lawful for any Stipendiary Magistrate appointed in pursuance of this Act from Time to Time to appoint a Clerk being an Attorney-at-Law in actual Practice, and from Time to Time at his Pleasure to remove any Clerk so appointed; and such Clerk shall attend personally (except when prevented by Illness or some other sufficient Cause to be allowed under the Hand of the Stipendiary Magistrate) at all official Sittings of such Stipendiary Magistrate, and assist him in the Execution of his Duties; and the said Clerk shall be allowed and paid such yearly Salary or Sum as the Commissioners shall think fit and fix, such Salary or Sum to be paid by the Commissioners out of the Improvement Rates in Four equal quarterly Payments in every Year, and the first quarterly Payment thereof to be made at the End of Three Calendar Months from the Time of such Appointment; and such Clerk shall not be concerned, either by himself or Partner, in any Matter before the Stipendiary Magistrate, or arising out of or consequent thereupon, in any other Court, on pain of Dismissal.

Salary of Clerk.

Salaries and Expenses to be paid out of Rates.

68. The Commissioners are hereby authorized and empowered to pay all other Salaries and to make such other Payments as may be incurred in carrying into operation the Provisions of this Act with respect to a Stipendiary Magistrate, out of the Improvement Rates.

Clerk to take Fees and pay them over.

69. Every Magistrate's Clerk appointed under the Provisions of this Act shall receive and take all such Fees as are authorized to be taken by Clerks to the Justices acting for the County of *Chester*; provided that a Copy of the Table of Fees shall be affixed in the Police Office of the Stipendiary Magistrate within the District, and that such Magistrate may remit any Fees, in part or in whole, for reasonable Cause, and may award such Costs as to him shall seem meet to be paid to or by either of the Parties to any Charge or Complaint, whether a Warrant or Summons shall have issued or not; and such Clerk shall pay over all Fees to the Commissioners once every Quarter of a Year, and shall keep Accounts of them in Writing, and shall at the same Time render to the Commissioners an Account thereof; and all such Fees, together with all Fines, Penalties, and Forfeitures herein-after referred to, shall be carried by the Commissioners to the Credit of the Improvement Rate.

Offenders may be committed to

70. Any Stipendiary Magistrate appointed under or pursuant to the Provisions of this Act, or any Justice or Justices of the Peace having Jurisdiction

Jurisdiction within the District of the Commissioners, may commit any Offender whom, but for the passing of this Act, he or they might have committed to the House of Correction, either to the House of Correction or to the County Gaol, as he or they may think proper.

the House of Correction or County Gaol, at the Discretion of the committing Magistrate.

71. The Forty-seventh Section of the recited Act 3 *William* IV. c. 68., empowering the Commissioners to receive certain Market Tolls, is hereby repealed; and after the passing of this Act there shall be paid to the Commissioners by every Person using or occupying any Shop, Shed, Stall, Standing, Bulk, Tressel, Block, or other Convenience, Standing Place, or Station, or selling, offering, or exposing for Sale any Articles or Things whatsoever in the Market established under the Provisions of the said recited Act, the several Tolls, Stallages, Rents, and Sums of Money expressed and contained in the Schedule to this Act.

Market Tolls.

72. And whereas it is expedient that the Commissioners should be authorized to demand and take a higher Toll or Charge from Passengers using their Ferry Boats during certain Hours of the Night: Therefore the Commissioners may and are hereby authorized to demand and take from every Passenger who shall be conveyed across the River *Mersey* from a Slip or Quay of the Commissioners in *Birkenhead* to a Landing Place in *Liverpool*, or *vice versâ*, in any Ferry Boat of the Commissioners, at and after the Hour of Twelve o'Clock at Night and before the Hour of Five o'Clock in the Morning, such Toll or Sum not exceeding Sixpence as they may think proper, and every such Sum shall be recoverable in the same Manner as the ordinary Ferry Toll upon Passengers.

Power to make Night Charge at Woodside Ferry.

73. The Commissioners may reborrow on Mortgage of all or any of the Rates and Property of the Commissioners, and at such Rate of Interest as may be necessary, such Sums of Money as may be required for paying off any Principal Monies now outstanding upon Mortgage, and comprised either in the Ferry Debt or General Mortgage Debt; and if, having reborrowed any such Sums, they pay off the same, they may again reborrow the Amount so paid off, and so from Time to Time; but such Power of reborrowing shall not extend to authorize the reborrowing of the Monies secured by way of Mortgage, which, under the Provisions of the 22nd Section of "The *Birkenhead* Improvement (General Mortgagees) Act, 1858," shall by Purchase or Redemption have been or hereafter be paid off.

Power to reborrow on Mortgage.

74. The Commissioners may at any Time after the passing of this Act, by Agreement with the Holders of any Mortgages comprised in the General Mortgage Debt or Ferry Debt, accept and take a Surrender of such Mortgages, and grant other Mortgages in lieu thereof at such Rate of Interest as may be agreed upon, and the Mortgages so granted shall be

Commissioners may take Surrenders of existing Mortgages, and grant others in lieu.

be subject to the same Provisions as if the Sums thereby secured were reborrowed under the Provisions of this Act.

When existing Mortgages in Ferry Debt and General Mortgage Debt paid off, Distinction to cease.

75. When all the Mortgages comprised in the Ferry Debt and General Mortgage Debt respectively, and existing at the Time of the passing of this Act, shall be determined either by Surrender or Payment, or under the Provisions of this Act with respect to reborrowing, the Distinction between the General Mortgage Debt and Ferry Debt shall cease.

Power to raise more Money on Mortgage.

76. In addition to any Monies which the Commissioners are authorized to borrow on Mortgage under their existing Acts, they may from Time to Time borrow on Mortgage such Sums as they may require, not exceeding in the whole Forty-nine thousand nine hundred Pounds.

Existing Mortgages to have Priority.

77. All Mortgages granted by the Commissioners before the passing of this Act shall during the Continuance thereof respectively, and as regards the Rates and Property comprised in and assigned by such Mortgages, have Priority over all Mortgages which may be granted by virtue of this Act.

Mortgagees under this Act to rank equally one with another.

78. The Holders of all Mortgages which may be granted by virtue of this Act shall as between themselves, and without Prejudice to the Priority hereby declared and reserved in favour of Mortgages now subsisting, rank equally one with another; and none of such Mortgages shall entitle the Holders thereof to any Preference or Priority in Payment either of Principal or Interest by reason of Priority of Date or Time of Creation.

Saving Rights of Holders of Mortgages in Ferry Debt and General Mortgage Debt.

79. Nothing in this Act contained shall be held or construed in any way to impair, prejudice, or affect any Mortgages comprised in the Ferry Debt or General Mortgage Debt of the Commissioners existing at the Time of the passing of this Act, or the Security, Rights, or Powers of the Holders of such Mortgages in respect thereof.

As to Registry and Transfer of Mortgages.

80. The Provisions of the Commissioners Act passed in the Session of Parliament held in the First and Second Years of the Reign of Her present Majesty, with respect to the Registry and Transfer of Mortgages, shall extend to this Act in respect to all Mortgages to be created by virtue of this Act as fully and effectually as if such Provisions had been expressly re-enacted in this Act in reference to such Mortgages.

Forms of Mortgage and Transfer.

81. Any Mortgage or Transfer of a Mortgage under this Act may be according to the Form in the Schedule (B.) to this Act annexed, or to the like Effect.

Power to levy Rate in aid of ad-

82. And by way of additional Security to the Holders of any Mortgages comprised in the General Mortgage Debt, or which may be granted under

under the Provisions of this Act, be it enacted, That if and whenever the Receipts of the Commissioners applicable to the Payment of Interest, together with any Sums for the Time being standing to the Credit of the Interest Reserve Fund, shall be deficient in Amount to pay the Interest due on such Mortgages, the Commissioners shall levy a Rate in Aid of such Amount as shall be sufficient to make good such Deficiency; and such Rate shall be made, assessed, and levied in like Manner, and upon and from the same Persons, and in respect of the same Properties, and with the like Powers and Means of recovering and enforcing Payment thereof, as the Improvement Rate: Provided always, that the Occupier of any Land used as Arable, Meadow, or Pasture Ground only, or as Wood Lands, Market Gardens, or Nursery Grounds, and the Occupier of any Land covered with Water, or used only as a Canal or Towing-path for the same, or as a Railway constructed under the Powers of an Act of Parliament for public Conveyance, shall be assessed in respect of the same in the Proportion of One Fourth Part only of the net annual Value thereof: Provided also, that it shall not be lawful for the Commissioners in any One Year to levy by means of such Rate in Aid more than One Shilling in the Pound of the Value of the Property rateable.

Additional Securities to Mortgages.

83. The Commissioners may include in One Rate Book the Assessments to all or any of the Rates which they are authorized to levy.

Assessments to different Rates may be in One Rate Book.

84. The Time limited for the Sale of superfluous Lands acquired by the Commissioners by or under the Provisions of "The *Birkenhead* Commissioners Gas and Water Act, 1858," shall be extended to Five Years after the passing of this Act.

Extending Time for Sale of superfluous Lands.

85. The Commissioners on the one hand, and the Local Boards of Health for the District of *Tranmere* and *Oxton* respectively, or either of such Local Boards, on the other hand, may, subject to the Proviso hereinafter contained, make and carry into effect all such Agreements and Arrangements as they may think proper with regard to the Use of any Sewers of the Commissioners for the Drainage or carrying away of the Sewage Matter of the Districts of such Local Boards respectively, or any Part of such Districts, and as to the Cost of constructing, maintaining, and repairing such Sewers and otherwise in relation thereto, and generally as to the Drainage and Sewage of the said Districts respectively: Provided that with respect to any Sewer or Sewers of the Commissioners, to the Costs of constructing, maintaining, or repairing whereof the Local Board for the District of *Tranmere* is or shall be liable to contribute, no such Agreements or Arrangements shall be made or carried into effect without the Concurrence therein of the said Local Board for the District of *Tranmere*.

Commissioners and Local Boards of Health of Tranmere and Oxton may enter into Agreements as to Drainage.

86. Nothing

Act not to affect Question of Rating the Docks, &c., of the Mersey Docks and Harbour Board, nor their Estate.

86. Nothing in this Act contained shall alter or affect the Question of the Liability of any of the Docks or Works vested in the *Mersey* Docks and Harbour Board to Parochial or Local Rates, but the same shall in all respects be judged of and determined as if this Act had not been passed; and, save as herein is expressly provided, nothing in this Act shall be construed in anywise to injure, prejudice, or affect any Rights, Powers, or Privileges now vested in the said Board.

Expenses of Act.

87. The Costs, Charges, and Expenses of and incident to the Application for and passing of this Act shall be paid by the Commissioners.

Short Title.

88. This Act may for any Purpose be cited as "The *Birkenhead* Improvement Commissioners Act, 1863."

The

The SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

The several Tolls, Stallages, Rents, and Sums of Money authorized to be taken in the Market.

	s.	*d.*
For every Waggon or Cart which shall be brought to the Market, and shall contain Hay, Straw, Grass, or Vetches, or any other Articles or Things, whether the same shall be sold in the Market or not, a Toll not exceeding - - - -	1	0
If the Contents of any Waggon or Cart which shall be brought to the Market shall be placed or pitched on any Waggon or Cart Stand, the same Toll shall be paid for such Contents as would have been payable for the Waggon or Cart if the Contents thereof had been exposed for Sale in such Waggon or Cart.		
If any Waggon or Cart shall be brought to and remain in the Market, or the Contents thereof shall be placed or pitched and remain on any Waggon or Cart Stand for more than One Day, such further Toll for every other Day beyond the First Day shall be paid for every such Waggon or Cart, or the Contents thereof, as shall be equal to the Toll payable for such Waggon or Cart, or the Contents thereof, for the First Day on which the same shall have been brought to the Market, or placed or pitched on such Stand.		
For every Sale Stand in the Market not exceeding 100 Square Feet Superficial, a Rent per Day not exceeding - - -	2	0
And for every Addition not exceeding 100 Square Feet Superficial which shall be made to any Sale Stand beyond 100 Square Feet Superficial, a further Rent per Day not exceeding - -	2	0
For every Sale Stand in the Market over the whole of which a Covering shall extend there shall be paid, in addition to the Rent herein-before authorized to be taken for such Stand, such further Rent per Day as shall not exceed One Fourth Part of the Rent per Day herein-before authorized to be taken for the same Stand.		
For the Weighing of any Article or Thing, or One entire Parcel of Articles or Things, a Toll—		
If the same shall be One Draught only, not exceeding - -	0	1
But if the same shall be more than One Draught, then for each Draught not exceeding - - - -	0	1
For the measuring of any Articles or Things by any Measure whatsoever a Toll each Time the Measure is filled not exceeding -	0	0½
For every Person standing or walking in the said Market, and exposing for Sale Articles, Goods, or Wares of any Kind, per Day	0	2

SCHEDULE (B.)

Form of Mortgage.

No. .

By virtue of "The Birkenhead Improvement Commissioners Act, 1863," and of the Acts therein recited, or some of them, we, the Birkenhead Improvement Commissioners acting in the Execution of the said Acts, in consideration of the Sum of Pounds advanced and lent to the said Commissioners on the Day of by *A. B.* of and paid by him to the Treasurer of the said Commissioners, do hereby grant, bargain, sell, and assign unto the said *A. B.* his Executors, Administrators, and Assigns, such Proportion of the Ferry, Market Place, Buildings, and Premises by or under the said Acts, or any of them, vested in the said Commissioners, and the Tolls, Duties, Rents, and Profits arising therefrom, and of the Rates and other Monies arising or accruing by virtue of the said Acts, or any of them, from [*here describe the Rates or other Property proposed to be mortgaged*], as the said Sum of Pounds doth or shall bear to the whole Sum which is or shall be borrowed upon the Credit of the said Tolls, Duties, Rents, Profits, Rates, or Monies, to hold to the said *A. B.*, his Executors, Administrators, and Assigns, from this Day until the said Sum of Pounds, with Interest at the Rate of per Centum per Annum for the same, shall be fully paid and satisfied [the Principal Sum to be repaid at the End of Years from the Date hereof]. Given under our Corporate Seal the Day of .

Insert the Words in Parentheses if a Period for Repayment is agreed upon.

L.S.

Form of Transfer of Mortgage.

I *A. B.* of in consideration of the Sum of paid to me by *C. D.* of do hereby transfer to the said *C. D.*, his Executors, Administrators, and Assigns, [a certain Mortgage, Number made by the Birkenhead Improvement Commissioners to bearing Date the Day of for securing the Sum of Pounds, and Interest at the Rate of Pounds per Centum per Annum,] and all my Right and Interest in and to the Money thereby secured, and in and to the Rates, Tolls, Rents, Profits, and other Monies thereby assigned. In witness whereof I have hereunto set my Hand and Seal this Day of .

If the Transfer be by Endorsement omit the Words in Parentheses and insert "the within Security."

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