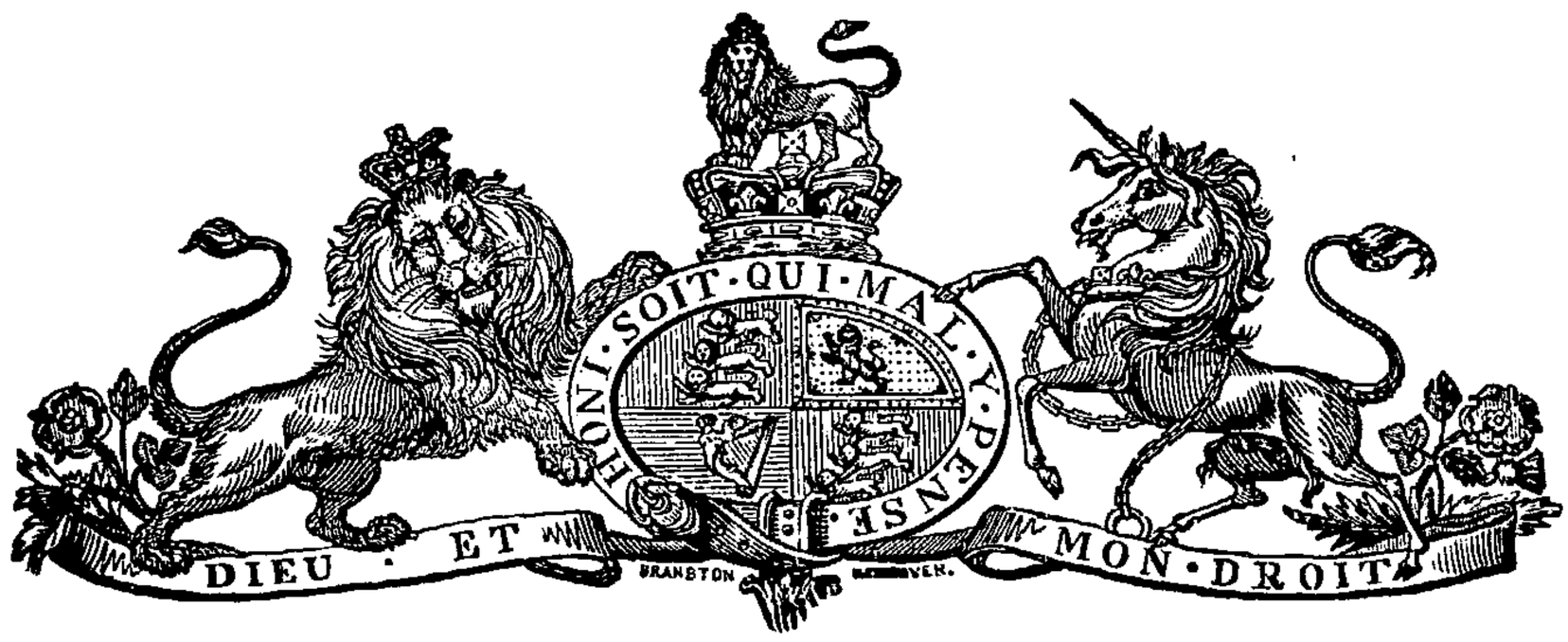


ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

***

Commissioners. That the Lord of the Manor and Hundred of *Faversham* in the County of *Kent* for the Time being, the Mayor and Aldermen of *Faversham* for the Time being, the Chairman of the Trustees of the public Charities of *Faversham* for the Time being, the Vicar of *Faversham* for the Time being, the Vicar of *Ospringe* for the Time being, the Rector of *Norton* for the Time being, the Rector of *Eastling* for the Time being, the Vicar of *Newnham* for the Time being, the Vicar of *Boughton* for the Time being, the Vicar of *Herne Hill* for the Time being, together with *John Abbott*, *John Barling*, *Thomas Barnes*, *Henry Barnes*, Major *Bridges*, *Edward Cobb*, *John Coulter*, Sir *Edward Cholmondeley Deering* Baronet, *Charles Drayson*, *Thomas Gillett*, General *Gerrard Gosselin*, *Gerard Lipeat Gosselin*, *Edward Gosselin*, Colonel *Groves*, *William Hall*, the Honourable *George Francis Robert Harris*, *Giles Hilton*, *Edward Jones Hilton*, *Henry Hilton*, *Giles Hilton* of *Lords*, the Reverend *Henry Hilton*, *Charles Jones Hilton*, *John Holmes*, *Walter Holmes*, *John Hughes*, *John Hyde*, *Edward Jarman*, *Brook Jones*, *Joseph Kingsnorth*, the Right Honourable Sir *Edward Knatchbull* Baronet, *Norton Joseph Knatchbull*, *Edward Knight*, *John Price Lade*, the Right Honourable *Stephen Rumbold Lushington*, *Charles Manners Lushington*, the Reverend *George Pierce Marsh*, *William Augustus Munn*, *George Murton*, *Henry Murton*, *John Neame*, *Charles Neame*, *Frederick Neame*, *Mark Redman*, *William Rigden*, Captain *John Shepherd*, *Henry Shepherd*, *Henry Shepherd* the younger, *Gillow Simpson*, *Richard Goodfellow Stone*, *Edward Toker*, the Honourable *Richard Watson*, *Isaac Wildash*, *James Beckford Wildman*, and such other Persons as may from Time to Time be elected in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for carrying this Act into execution, by the Name of "The Commissioners of the *Faversham* Navigation."

Qualification of Commissioners. II. And be it enacted, That every Commissioner under this Act shall be seised or possessed in his own Right of Real or Personal Estate, or both, to the Value of One thousand Pounds, beyond what will satisfy all his Debts.

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

'I *A. B.* do solemnly declare, That I will faithfully and impartially, according to the best of my Skill and Judgment, execute all the Powers and Authorities reposed in me as a Commissioner by virtue of an Act of Parliament, intituled [*here insert the Title of this Act*], and also that I am *bonâ fide* in my own Right possessed of Personal Estate, or Real and Personal Estate together, of the Value of One thousand Pounds, beyond what will satisfy all my Debts.'

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

V. And

Declaration to be taken at the First Meeting.

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

Penalty on Commissioner, not being qualified, acting.

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

Appointment of new Commissioners.

VII. And be it enacted, That if any of the Commissioners die or resign, or be disqualified or cease to be a Commissioner, it shall be lawful for the remaining Commissioners, if they think fit, to elect another Commissioner to his Place; and every Commissioner so elected as last aforesaid shall and may act with the surviving or continuing Commissioners in the Execution of this Act, in the same Manner as if he had been originally named a Commissioner in this Act.

First and other Meetings.

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

Town; and not less than Seven Days Notice shall be given of such intended Meeting.

Special Meetings.

IX. And be it enacted, That it shall be lawful for the said Commissioners to hold Special Meetings, and any Three or more of the Commissioners may require a Special Meeting to be held; but no such Meeting shall be held unless Seven Days Notice thereof shall be given: Provided nevertheless, that in the event of any imminent Danger being apprehended from unusually High Tides, or any other Cause, and that in the Judgment of Two or more of the Commissioners the Exigency of the Case will not admit of the Delay of Seven Days Notice, it shall be lawful for any Two or more of the Commissioners, or for their Clerk, upon the Direction in Writing of any Two or more of the Commissioners (and which he is hereby required to do upon such Direction), to convene, by Circular Letters sent to each Commissioner, a Special Meeting for as early a Day as the said Two or more Commissioners shall think fit in their Discretion to appoint, such Letters to specify the particular Object for which such Meeting is convened, and no Business shall be transacted thereat but that which strictly relates or has reference to such Object.

Quorum of Commissioners.

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

How Notices of Meetings are to be given.

XI. And be it enacted, That all Notices of any Meeting to be held under the Authority of this Act shall be in Writing, and shall be delivered or sent by the Post to the usual Place of Abode of each of the Commissioners, and advertised in One or more Newspapers circulated within the said Town, Seven Days at least previous to such Meeting; and every Notice shall specify the Time and Place of Meeting, and in case of a Special Meeting shall specify the Object thereof, and no Business shall be transacted at any Special Meeting except such as is stated in the Notice thereof.

Expences of Meetings.

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

General Meeting may appoint Committees.

XIII. And be it enacted, That it shall be lawful for the said Commissioners at any General Meeting to appoint a Committee, consisting of not less than Five of the Commissioners, for carrying into effect any of the Provisions of this Act, and at any General Meeting to continue, alter, or discontinue such Committee, but no such Committee shall be appointed to act for a longer Term than until the annual General Meeting of the Commissioners next following its Appointment; and every such Committee shall from Time to Time make Reports of their Proceedings to the Commmissioners, if required, and shall at all Times be subject to the Control of the Commissioners.

Duration of Committees.

XIV. And

XIV. And be it enacted, That no Business shall be transacted at any Meeting of the Committee unless Three Members of the Committee be present. Quorum of Committees.

XV. And be it enacted, That at every Meeting of the Commissioners or Committee One of the Commissioners present shall be elected Chairman by the Majority of the Votes of the Commissioners present at such Meeting; and all Questions considered at any such Meeting shall be decided by the Votes of the Majority present, and if there be an equal Division of Votes, the Chairman, in addition to his own Vote as a Commissioner or Member of the Committee, shall have a casting Vote. Order of Business at Meetings of Commissioners and Committees.

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

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

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

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

Indictments how to be preferred.

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

Commissioners not to be personally liable.

Liability of their Funds.

XXI. And be it enacted, That nothing in any Deed or Contract by this Act authorized to be made by or on the Behalf of the Commissioners for any of the Purposes of this Act shall extend to charge or affect the Persons of any of the Commissioners, or their Heirs, Executors, or Administrators, or their or any of their own proper Lands or Goods, with or for the Performance of any thing contained in any such Instrument; but the Amount of all Damages, Costs, and Charges recovered in any Action or Suit in consequence of any such Instrument, or which any such Commissioner shall otherwise be put to by virtue of this Act, shall respectively be discharged out of the Monies to arise by virtue of this Act, or other the Goods and Chattels vested in the Commissioners by virtue of their Office, unless such Action or Suit, or any such Damages or Charges, have arisen in consequence of wilful Neglect or Default on the Part of the Commissioners incurring the same, or unless such Action or Suit have been defended without the Order or Direction of the Commissioners.

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

XXII. And be it enacted, That in all Actions, Suits, and Proceedings in respect of any Matter or Thing relating to the Execution of this Act, to be brought by or against the Commissioners, it shall be sufficient to state the Names of any Two of the Commissioners, or the Name of their Clerk, as the Party, Plaintiff or Defendant, representing the Commissioners in any such Action, Suit, or Proceeding; and no such Action shall abate or be discontinued by the Death of any such Commissioner, or by the Death, Suspension, or Removal of such Clerk: Provided that in any Action, Suit, or Proceeding, either for or against the Commissioners, the Clerk for the Time being of the Commissioners, or any such Commissioner, shall, notwithstanding he may be Plaintiff or Defendant on the Record, be, if not otherwise interested or objectionable, a good and competent Witness.

Executions against Goods of Commissioners.

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

Indemnity to Commissioners and Clerk.

XXIV. And be it enacted, That every such Commissioner or Clerk in whose Name any such legal Proceedings shall be carried on, either as Plaintiff or Defendant, on behalf of the Commissioners, shall be reimbursed, out of the Monies which shall come into the Hands of the Treasurer of the Commissioners by virtue of his Office, all Damages, Costs, Charges, and Expences to which any such

Commissioner or Clerk may be put, or with which he may become chargeable, by reason of being so made Plaintiff or Defendant; and no such Commissioner or Clerk shall be personally liable for the Payment of the same, unless such Action or Suit have arisen in consequence of his own wilful Neglect or Default, or unless, if such Action have been brought by the Clerk, or Two Commissioners, or more, as aforesaid, it have been so brought without the Order or Direction of the Commissioners.

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

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

Commissioners to appoint Treasurer and other Officers.

XXVI. And be it enacted, That the said Commissioners shall from Time to Time appoint a Treasurer, Clerk, Superintendent of Navigation, Collector, and such other Officers as they shall think fit, with such Salaries and Allowances as they think reasonable, and may remove such Treasurer, Clerk, Superintendent, Collector, and Officers, and appoint others in their Stead.

Offices of Clerk and Treasurer to be separate.

Penalty.

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

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

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

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

If

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

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

Officer taking Fees to lose his Office, and be subject to Penalty.

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

Commissioners to take Security from all Officers intrusted with Money.

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

Officers to account.

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

Remedy against Officers failing to account.

XXXI. And be it enacted, That if any such Officer shall fail to render such Accounts, or to produce and deliver up all the Vouchers and the Receipts relating to the same, in his Possession or Power, or to pay the Balance thereof when thereunto required, or if for Ten Days after being thereunto required he shall fail to deliver up to the Commissioners, or to any Person appointed by them to receive the same, all Books, Papers, and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this

this Act, or belonging to the Commissioners, then, on Complaint thereof being made to any Justice acting within the Jurisdiction where such Officer may be found, such Justice shall, by Warrant under his Hand and Seal, cause such Officer to be brought before him; or if such Officer cannot be found, then in his Absence such Justice may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, either upon Confession of such Officer or upon Evidence, or upon Inspection of the Account, that any Monies of the Commissioners are in the Hands of such Officer, or owing by him to the Commissioners, such Justice may order such Officer to pay the same forthwith, and if he shall fail to pay the Amount it shall be lawful for such Justice to grant a Warrant to levy the same by Distress, or in default thereof to commit the Offender to Gaol, there to remain without Bail for any Time not exceeding Three Calendar Months; and in any of the following Cases; (that is to say,)

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

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

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

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

Such Justice may lawfully commit such Offender to Gaol; and in every such Case of Commitment the Prisoner shall remain in Custody without Bail until he have made out and delivered such Accounts, and delivered up the Vouchers and Receipts, if any, relating thereto, in his Possession or Power, and have delivered up such Books, Papers, Writings, Property, Effects, Matters, and Things, if any, in his Possession or Power.

Commitment not to discharge Sureties.

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

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

XXXIII. And be it enacted, That the Commissioners shall cause a Book to be kept by their Clerk, in which such Clerk shall enter or cause to be entered true and regular Accounts of all Sums of Money received and expended for the Purposes of this Act, and of the several Matters for which such Sums of Money shall have been received or expended, and such Book shall at all seasonable Times be open to the Inspection of the Commissioners, and of every Creditor on the Rates, Tolls, Duties, and other Monies by this Act authorized to be levied and raised, without any Fee being demanded for such Inspection; and it shall be lawful for any of the Commissioners, Creditors, and other Persons aforesaid, at seasonable Times, to take Copies of or Extracts from the said Book without paying any thing for the same; and if, on Request for that Purpose, the Clerk

shall fail to permit any of the Commissioners, Creditors, or Persons aforesaid to inspect such Book, or to take Copies or Extracts as aforesaid, such Clerk shall for each such Default forfeit a Sum not exceeding Five Pounds.

Accounts to be settled and examined at the annual Meeting.

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

To be final, unless appealed from.

Statement of Accounts to be prepared, and to be open for Inspection.

XXXV. Provided always, and be it enacted, That Ten Days at the least previously to such Examination and Settlement as aforesaid the Commissioners shall cause a full and true Statement and Account to be drawn out of all Tolls and other Monies levied and raised, and of all Contracts entered into, and of all Monies received and expended by virtue of this Act during the preceding Year, and also of all Debts then owing by the Commissioners, and they shall allow such Statement and Account to remain for Inspection at the Office of the Commissioners; and every Creditor on the Tolls and other Monies by this Act authorized to be levied and raised, and every Person paying any such Toll, or any Person acting on behalf of any such Creditor, may at all reasonable Times inspect such Statement and Account; and the Clerk shall, on Demand, furnish a Copy of such Statement and Account, or any Part thereof, to any such Creditor, upon being paid at the Rate of Sixpence for every One hundred Words, and so in proportion for a less Number of Words; and Fourteen Days at the least previously to the Meeting for examining and settling such Accounts the Commissioners shall give public Notice of such intended Meeting, stating in such Notice that the said Statement and Account are at the Office of the Commissioners ready for the Inspection of the Creditors or other Parties interested.

Annual Account to be prepared, and a Copy thereof transmitted to the Clerk of the Peace.

XXXVI. And be it enacted, That the Commissioners shall every Year cause an annual Account in abstract to be prepared, showing the total Receipt and Expenditure of all Funds levied by virtue of this Act for the Year ending on the Thirty-first Day of *December* or some other convenient Day in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Clerk for the Time being of the said Commissioners, and shall transmit a

Copy of the said Account, free of Charge, to the Clerk of the Peace for the County of *Kent*, on or before the Thirty-first Day of *January* then next, which Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: Provided always, that if the said Commissioners shall omit to prepare and transmit such Account as aforesaid they shall forfeit for every such Omission the Sum of Twenty Pounds.

Power to borrow on Mortgage.

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

Form of Mortgage.

XXXVIII. And be it enacted, That every such Assignment or Mortgage shall be by Deed duly stamped, in which the Consideration shall be truly stated; and every such Deed shall be under the Hands and Seals of Three of the Commissioners, and may be according to the Form in Schedule (A.) to this Act annexed, or to the like Effect.

Mortgages to be without Preference.

XXXIX. And be it enacted, That all Persons to whom such Mortgages or Assignments shall be made, or who shall be entitled to the Monies thereby secured, shall, in proportion to the Sums therein respectively mentioned, be Creditors on the said Tolls, Duties, Rates, or Assessments, equally one with another, without any Preference in respect of the Priority of advancing such Monies, or of the Dates of any such Assignments respectively.

Expences of Mortgages.

XL. And be it enacted, That the Expences of every Assignment or Mortgage shall from Time to Time be defrayed by the Commissioners out of the Money raised by the same.

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

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

XLII. And

Assignment of Mortgages.

XLII. And be it enacted, That from Time to Time any Party entitled to any such Mortgage or Assignment may transfer his Right and Interest therein to any other Person, by Deed duly stamped, wherein the Consideration shall be truly stated; and any such Transfer may be according to the Form in the Schedule (B.) to this Act annexed, or to the like Effect.

Register of Transfers to be kept.

XLIII. And be it enacted, That within Thirty Days after the Date of every such Transfer it shall be produced to the Clerk of the Commissioners, and thereupon such Clerk shall cause an Entry or Memorial thereof to be made, in the same Manner as in the Case of the original Mortgage or Assignment, and for such Entry the Clerk may demand a Sum not exceeding Five Shillings; and after such Entry every such Transfer shall entitle the Transferee, his Executors, Administrators, or Assigns, to the full Benefit of the original Mortgage or Assignment in all respects; and no Party, having made such Transfer, shall have Power to make void, release, or discharge the Mortgage or Assignment so transferred, or any Money thereby secured.

Interest on Mortgages to be paid half-yearly.

XLIV. And be it enacted, That, unless otherwise provided by any Mortgage or Assignment, the Interest of the Money borrowed upon every such Mortgage or Assignment shall be paid half-yearly to the several Parties entitled thereto.

Power to take up Money at a less Rate of Interest.

XLV. And be it enacted, That if the Commissioners can at any Time borrow or take up any Sums of Money for any of the Purposes of this Act at a lower Rate of Interest than any Securities given by them, and which shall then be in force, shall bear, then from Time to Time it shall be lawful for them to borrow such Sums of Money as they shall think proper, at such lower Rate as aforesaid, in order to pay off and discharge the Securities bearing such higher Rate of Interest, and to charge the Rates, Tolls, and Duties or other Funds or Property vested in them under this Act, or any Part thereof, with Payment of such Sum, and such lower Rate of Interest, in such Manner and subject to such Regulations as are herein contained with respect to other Monies borrowed on Mortgage.

Mode of paying off Mortgages.

XLVI. And in order that no undue Preference may be given in paying off any Mortgages or Assignments, be it enacted, That when and as often as the Commissioners shall, under the Provisions of this Act, be enabled and think it expedient to pay off One or more out of the Number of such Mortgages upon which the same Rate of Interest shall be payable, or a Part of the Money secured on any such Mortgage, they shall cause the several Numbers of such Mortgages to be written upon distinct Slips of Paper of an equal Size, and all such Slips shall be rolled or folded up in a similar Form, and put into a Box, and the Clerk to the Commissioners shall, in the Presence of Five or more of the Commissioners, draw separately out of the said Box One of the said Slips, and thereupon the Mortgage corresponding with the Number so drawn, or the Part of the Money due thereon so proposed to be paid off, shall accordingly be paid off by the Commissioners; and after every such Ballot the Commissioners

missioners shall cause a Notice, signed by the Clerk, to be given to the Person entitled to the Money to be paid off pursuant to such Ballot, and such Notice shall express the Principal Sum proposed to be paid off, and that the same will be paid, together with the Interest due thereon, at a Place to be specified in such Notice, at the Expiration of Six Months from the Date of giving such Notice; and at the Expiration of such Period the Interest of the Principal Money to be paid off shall cease, unless such Principal Money and Interest be not paid on Demand, pursuant to such Notice; but such Principal Money, and the Interest thereof to the End of the said Six Months, shall nevertheless be payable on Demand.

Commissioners may pay Interest out of Money borrowed.

XLVII. And be it enacted, That until the Expiration of Six Months from the Day on which the Commissioners shall commence receiving Tolls as herein mentioned it shall be lawful for the Commissioners to pay the Interest which from Time to Time shall accrue due out of the Principal Sum hereby authorized to be raised.

Application of Monies to be borrowed.

XLVIII. And be it enacted, That all the Money which shall be raised on the Credit of the Tolls hereby authorized to be levied shall be applied, in the first place, in paying the Expences of obtaining and passing this Act, or incident thereto, and afterwards in Payment of such Interest as aforesaid, and making such Improvements as are hereby authorized, and as the Commissioners shall direct to be made, and for other the Purposes of this Act.

Commissioners may make Bye Laws to govern themselves and their Servants.

XLIX. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to make such Bye Laws for regulating the carrying on of their Business, and the Business of their Committees, and for the Government of the Officers, Servants, or other Persons in their Employ, as they shall think fit, to repeal or alter any such Bye Laws as they shall think fit, so as no such Bye Law be contrary to the Laws of *England* or the Provisions of this Act, and so as the same be reduced into Writing, and signed by Three or more of the Commissioners.

Fines for Breach of such Bye Laws.

L. And be it enacted, That it shall be lawful for the Commissioners by such Bye Laws to impose such reasonable Forfeitures and Fines upon their Officers and Servants, or other Persons in their Employ, offending against the same, as they shall think fit, not exceeding Five Pounds for each Offence: Provided always, that such Bye Laws shall be so framed as to allow the Justices before whom any Penalty imposed thereby may be sought to be recovered to order the Whole or a Part only of such Penalty to be paid.

Service of Notice on Commissioners.

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

sioner, or to some Inmate of the Place of Abode of any such Commissioner.

Authentication of Notices.

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

Releases to Witnesses.

LIII. And be it enacted, That in all legal Proceedings under this Act it shall be lawful for any Three or more of the Commissioners, by Order of the Commissioners, to grant general or other Releases for the Purpose of qualifying any Person in the Service of the Commissioners to give Evidence as a Witness; and every such Release or Discharge shall be under the Hands and Seals of the Parties giving the same.

Proof of Debts in Bankruptcy.

LIV. And be it enacted, That if any Person against whom the Commissioners shall have any Claim or Demand become bankrupt, or take the Benefit of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Secretary or Treasurer of the Commissioners, in all Proceedings against the Estate of such Bankrupt or Insolvent, or under any Fiat, Sequestration, or Act of Insolvency against such Bankrupt or Insolvent, to represent the Commissioners, and act in their Behalf, in all respects as if such Claim or Demand had been the Claim or Demand of such Secretary or Treasurer, and not of the Commissioners.

Tender of Amends.

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

Lands may be taken.

LVI. And be it enacted, That it shall be lawful for the Commissioners, subject to the Provisions of this Act, to enter into, purchase, and take such of the Lands described in the Plan and Book of Reference herein-after mentioned as shall be necessary for the Purposes of this Act.

Power to purchase Lands.

LVII. And be it enacted, That, subject to the Provisions of this Act, it shall be lawful for the Commissioners to agree with the Owners of the Lands which they are hereby authorized to enter into

and

and take for the Purposes of the Improvement of the said Navigation, for the absolute Purchase, for a Consideration in Money, of any such Lands, or such Parts thereof as they shall think proper, and of all subsisting Leases therein, and of all Rent-charges, Annuities, Mortgages, or Incumbrances affecting any such Lands, and all Commonable or other Rights to which such Lands may be subject, and all other Estates or Interests in such Lands, of what Kind soever.

Parties under Disability enabled to sell and convey.

LVIII. And be it enacted, That it shall be lawful for all or any of the following Parties, being seised, possessed of, or entitled to any such Lands, or any such Estate or Interest therein as aforesaid, to sell and dispose of and convey or release the same to the Commissioners, and to enter into all necessary Agreements for that Purpose; (that is to say,) all Corporations, Tenants for Life or in Tail, or for any other partial or qualified Estate or Interest, Married Women seised in their own Right or entitled to Dower, Guardians, Committees of Lunatics and Idiots, Trustees or Feoffees in Trust for charitable or other Purposes, Executors and Administrators; and the Power so to sell and convey as aforesaid may lawfully be exercised by all such Parties, not only on behalf of themselves and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, unborn, or not to be found, and as to such Married Women as if they were sole, and as to such Guardians on behalf of their Wards, and as to such Committees on behalf of the Lunatics and Idiots of whom they are the Committees respectively, and that to the same Extent as such Wives, Wards, Lunatics, and Idiots respectively could have exercised the same Power under the Authority of this Act if they had respectively been under no Disability, and as to such Trustees, Executors, and Administrators, on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Femes Covert, or other Persons, and that to the same Extent as such Cestuique Trusts respectively could have exercised the same Powers under the Authority of this Act if they had respectively been under no Disability.

Parties under Disability to exercise other Powers.

LIX. And be it enacted, That the Power herein-after given to release Lands from any Rent, Payment, Charge, or Incumbrance, and to agree for the Apportionment of any such Rent, Charge, or Incumbrance, shall extend to and may lawfully be exercised by every Party herein-before enabled to sell and dispose of or convey and release Lands to the Commissioners.

Consideration to be a gross Sum.

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

Acceptance of Compensation for Price of or Damage to Lands.

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

and in addition to Compensation for the Value of such Lands, or of the Interest therein to be so conveyed, such Parties shall be entitled to and may in like Manner accept Compensation for any Damage by them sustained by reason of the severing or dividing of such Lands, or otherwise owing to the Exercise of the Powers of this Act.

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

LXII. And with respect to the Consideration Money to be paid for any Lands to be purchased from any Party under any Disabilty or Incapacity, and not having Power to sell or convey, except under the Provisions in this Act contained, and the Compensation Money to be paid for any permanent Damage or Injury to any such Lands, be it enacted, That such Consideration Money or Compensation shall not, except where the same shall have been determined by the Verdict of a Jury, under the Provision herein-after contained, be less than shall be determined by the Valuation of Two able practicable Surveyors, one of whom shall be nominated by the Commissioners, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Third Surveyor as any Two Justices shall for that Purpose nominate; and each of such Two Surveyors, if they agree, or if not then the Surveyor nominated by the said Justices, shall annex to the Valuation a Declaration of the Correctness thereof.

Compensation to absent Parties to be ascertained by Valuation.

LXIII. And with respect to the Compensation Money to be paid for any Lands to be purchased from any Party who by reason of Absence or from any other Incapacity or Accident is prevented from treating, or cannot be found, and the Compensation Money to be paid for any permanent Injury to such Lands, be it enacted, That such Consideration or Compensation shall not be less than shall be determined by the Valuation of such able practicable Surveyor as Two Justices shall nominate for that Purpose; and such Surveyor shall annex to the Valuation a Declaration of the Correctness thereof.

Form of Conveyances.

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

LXV. And

Costs of Conveyances.

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

Taxation of Costs.

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

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

LXVII. And for the Purpose of providing for the Deposit and Application of the Purchase Money or Compensation to be paid in respect of any such Lands which may belong to Parties under Disability, be it enacted, That if any such Purchase Money or Compensation shall be payable in respect of any such Lands, or any Interest therein, which any Corporation, Tenant for Life or for any other partial or qualified Interest, Married Woman seised in her own Right or entitled to Dower, Guardian, Committee of Lunatic or Idiot, Trustee, Executor or Administrator, or Person under any Disability, shall be entitled to, and shall under the Powers of this Act be enabled to convey or dispose of the same, shall, if it amount to or exceed the Sum of Two hundred Pounds, be paid into the Bank of *England* in the

the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there *ex parte* "The Commissioners of the *Faversham* Navigation," pursuant to the Method prescribed by an Act of the Twelfth Year of the Reign of His late Majesty King *George* the First, intituled *An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of* East India *Bonds, and Indorsements thereon, as likewise Indorsements on* South Sea *Bonds,* and pursuant to the General Rules and Orders of the said Court, and without Fee or Reward, according to the Act of the Twelfth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act to empower the High Court of Chancery to lay out on proper Securities any Monies, not exceeding a Sum therein limited, out of the common and general Cash in the Bank of* England *belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant General of the said Court;* and such Monies shall remain so deposited until the same be applied to some One or more of the following Purposes; that is to say,

12 G. 1. c. 32.

12 G. 2. c. 24.

Application of Monies so deposited.

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

In the Purchase of other Lands, to be conveyed, limited, and settled upon the like Uses, Trusts, and Purposes, and in the same Manner, as the Lands in respect of which such Money shall have been paid stood settled; or,

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

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

Order for Application.

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

Sums from 20*l.* to 200*l.* to be depo-

LXIX. And with respect to any such Purchase Money or Compensation which shall not amount to the Sum of Two hundred Pounds,

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

sited, or invested in Trustees.

LXX. And with respect to any such Money which shall not exceed the Sum of Twenty Pounds, be it enacted, That the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands in respect whereof the same shall be payable, for their own Use and Benefit; or in case of the Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity of any such Parties, then such Money shall be paid, for their Use, to the respective Husbands, Guardians, Committees, or Trustees of such Persons.

Sums not exceeding 20*l.* to be paid to Parties.

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

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

been received, and in respect of what Purchase the same shall have been paid in, and thereupon all the Interest in such Lands in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Commissioners.

Application of Monies so deposited.

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

Party in possession deemed to be Owner.

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

Costs in Cases of Money deposited.

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

LXXV. And

Payment of Price to be made previous to Entry, except to survey, &c.

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

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

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

Decision of Justices not conclusive as to Commissioners Right.

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

Notice of Intention to take Lands

LXXVIII. And be it enacted, That when the Commissioners shall require to purchase any of the Lands which by this Act they are authorized to purchase or take they shall give Notice thereof to all the Parties interested in such Lands, or enabled by this Act to sell and convey or release the same, or such of them as shall be known to the Commissioners, and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in

such Lands, and of the Claims made by them in respect thereof; and every such Notice shall be in Writing, and shall state the Particulars of the Lands so required, and shall state that the Commissioners are willing to treat for the Purchase of the Interest of such Party in such Lands, and as to the Compensation to be made for the Damage that may be sustained by him by reason of the Execution of the Works by this Act authorized.

Parties interested in Lands to state their Claims.

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

Proceedings in case of Refusal to deliver Possession of Lands.

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

Dispute as to Compensation to be settled by a Jury.

LXXXI. And for the Purpose of making Provision for settling Cases of disputed Compensation arising under this Act, be it enacted, That if any Difference shall arise or if no Agreement can be come to between the Commissioners and the Owners of any Lands, or of any Interest in any such Lands, taken or required for or injuriously affected by the Execution of the Works by this Act authorized (including among such Owners all Parties by this Act enabled to sell or convey Lands), as to the Value of such Lands, or of any Interest therein, or as to the Compensation to be made in respect thereof; or if by reason of Absence any such Owner be prevented from treating; or if any such Owner shall fail to disclose or prove his Title to any such Lands, or any Interest therein; or if by reason of any Impediment or Disability any such Owner be incapable of making any Agreement, Conveyance, or Release necessary for enabling the Commissioners to take such Lands, or to proceed in the Execution of the Works by this Act authorized; or if any such Difference arise as to the Amount of the Damages occasioned to

any Lands, and for which any Party may be entitled to demand Compensation according to the Provisions of this Act, the Amount of the Compensation to be paid by the Commissioners in every such Case shall be settled by the Verdict of a Jury in manner herein-after mentioned.

Claims not exceeding 50*l.* by Two Justices.

LXXXII. Provided always, and be it enacted, That if any Compensation claimed under the Provisions of this Act shall not exceed Fifty Pounds the same shall be settled by Two Justices.

Notice by Commissioners of Intention to have a Jury summoned.

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

Requisition by Party claiming Compensation that a Jury be summoned.

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

Warrant for summoning Jury to be addressed to the Sheriff.

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

Provisions applicable to Sheriff

LXXXVI. And be it enacted, That throughout the Enactments contained in this Act relating to the Reference to a Jury, where the Term

to apply to Coroner.

Term "Sheriff" is used, the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his Place; and in every Case in which any such Warrant shall have been directed to any other Person than the Sheriff, such Sheriff shall immediately on receiving Notice of the Delivery of the Warrant deliver over, on Application for that Purpose, to the Person to whom the same shall have been directed, or to any Person appointed by him to receive the same, the Jurors Book belonging to the County where the Lands in question shall be situate.

Summoning of Jurymen.

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

Impannelling of Jury.

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

Notice of Inquiry.

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

Sheriff to preside;

Witnesses to be summoned.

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

Oath of Jurymen.

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

Verdict of Jury to be for Purchase of Lands and for Damage,

XCII. And be it enacted, That such Jury shall deliver their Verdict for the Sum of Money to be paid for the Purchase of the Lands required for the Purposes of this Act, or of any Interest therein, belonging to the Party with whom such Questions of disputed Compensation

pensation shall so have arisen, and also the Sum of Money to be paid for the Injury done to the Lands of any such Party by the Severance from such Lands of the Lands required by the Commissioners, and also the Sum of Money to be paid by way of Compensation for the Damage occasioned to any such Lands by the Execution of the Works, whether it be for Damage sustained before the Time of the Inquiry, or for future Damage, either temporary or permanent, or for any recurring Damage of which the Cause is then only in part obviated, and which cannot or will not be further obviated by the Commissioners; and the Sums of Money to be paid for the Injury done by any such Severance as aforesaid, or by way of Compensation for any such Damage as aforesaid, shall in every Case be assessed separately from the Value of the Lands, or the Sum to be paid for the Purchase thereof or of any Interest therein.

assessed separately.

XCIII. And be it enacted, That in assessing the Sum of Money to be paid for the Purchase of any such Lands the Value of any Interest in such Lands which shall have been theretofore rightfully purchased by the Commissioners shall be first deducted.

Value of Interests previously purchased to be deducted.

XCIV. And be it enacted, That the Sheriff before whom such Inquiry shall be held shall give Judgment for the Purchase Money or Compensation assessed by such Jury; and the said Verdict and Judgment shall be signed by the Sheriff, and being so signed shall be kept by the Clerk of the Peace among the Records of the Quarter Sessions of the County in which the Lands or any Part thereof shall be situate in respect of which such Purchase Money or Compensation shall have been awarded; and such Verdicts and Judgments shall be deemed Records, and the same, or true Copies thereof, shall be good Evidence in all Courts and elsewhere; and all Persons may inspect the said Verdicts and Judgments, and may have Copies thereof or Extracts therefrom, on paying for each Inspection thereof One Shilling, and for every One hundred Words copied or extracted therefrom Sixpence.

Verdict and Judgment to be recorded.

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

Costs of the Inquiry.

XCVI. And be it enacted, That such Costs shall be settled by the Sheriff, and such Costs shall include all reasonable Costs, Charges, and Expences incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry; and with respect to any such

Particulars of the Costs.

such Costs payable by the Commissioners, if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, the same shall be recoverable by Distress, and on Application to any Justice he shall give his Warrant accordingly; and with respect to any such Costs payable by the Owner of the Lands or of any Interest therein the same may be deducted out of any Money awarded by the Jury to be paid to such Owner, as so much Money advanced for his Use, and the Payment of the Remainder of such Money shall be a good Payment and Satisfaction of the whole thereof.

Penalty on Sheriff and Jury for Default.

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

Penalty on Witnesses making default.

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

Reference of Dispute as to Compensation to a Justice.

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

Commissioners empowered to purchase the

C. And be it enacted, That if at any Time after the Commissioners shall have entered upon any Lands which under the Provisions of this Act they were authorized to purchase, and which shall be

be permanently required for the Purposes of this Act, any Party shall appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands which the Commissioners shall have failed or omitted duly to purchase or to pay Compensation for, then, whether the Period granted for the Purchase of Lands shall have expired or not, the Commissioners shall remain in the undisturbed Possession of such Lands; provided, within Six Calendar Months after Notice of such Estate, Right, Interest, or Charge, in case the same shall not be disputed by the Commissioners, or in case the same shall be disputed then within Six Calendar Months after the Right thereto shall have been finally established by Law in favour of the Party claiming the same, the Commissioners shall purchase or pay Compensation for the same, and shall also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the Mesne Profits or Interest which would have accrued to such Parties respectively in respect thereof during the Interval between the Entry of the Commissioners thereon and the Time of the Payment of such Purchase Money or Compensation by the Commissioners, so far as such Mesne Profits or Interest may be recoverable in Law or Equity; and such Purchase Money or Compensation shall be agreed on or awarded and paid in like Manner as according to the Provisions of this Act the same respectively would have been agreed on or awarded and paid in case the Commissioners had purchased such Estate, Right, Interest, or Charge before their entering upon such Lands, or as near thereto as Circumstances will admit.

Interest in Lands the Purchase whereof may have been omitted by Mistake.

CI. And be it enacted, That in estimating any Compensation to be given for any such last-mentioned Lands, or any Estate or Interest in the same, or for any Mesne Profits thereon, the Jury shall assess the same at such Price as they shall find to be the Value of such Lands, Estate, or Interest, and Profits, without regard to any Improvements or Works made in the said Lands by the Commissioners, and as though such Works had not been constructed.

How Value of such Lands to be estimated.

CII. And be it enacted, That in addition to the said Purchase Money, Compensation, or Satisfaction, and before the Commissioners shall become absolutely entitled to any such Estate, Interest, or Charge, or to have the same merged or extinguished for their Benefit, they shall, when the Right to any such Estate, Interest, or Charge shall be disputed, pay the full Costs and Expences of any Proceedings at Law or in Equity for the Recovery of the same to the Parties with whom any Litigation in respect thereof shall have taken place; and such Costs and Expences shall, in case the same shall be disputed, be settled by the proper Officer of the Court in which such Litigation took place.

Commissioners to pay the Costs of Litigation as to such Lands.

CIII. And with respect to any such Lands which shall be so cut through and divided by the Works authorized by this Act as to leave either on both Sides or on one Side thereof a less Quantity of Land than Half a Statute Acre, be it enacted, That if the Owner of any such Land, not being situate in a City or Town, or built upon, require the Commissioners to purchase any such small Parcel of

Power to Owners of intersected Land to insist on Sale.

of Land along with the other Land required for the Purposes of this Act, the Commissioners shall purchase the same accordingly, unless the Owner thereof have other Land adjoining to that so left into which the same can be thrown; and if such Owner have any other Land so adjoining, he may require the Commissioners, at their own Expence, to throw the Piece of Land so left into such adjoining Land, by removing the Fences and levelling the Sites thereof, and by soiling the same in a sufficient and workmanlike Manner.

Power to redeem Mortgages.

CIV. And with respect to any such Lands which shall be subject to any Mortgage, be it enacted, That the Commissioners may purchase or redeem the Interest of the Mortgagee of such Lands, and that whether they shall have previously purchased the Equity of Redemption of such Lands or not, and whether the Mortgagee thereof be entitled thereto in his own Right or in Trust for any other Party, and whether he be in possession of such Lands by virtue of such Mortgage or not, and whether such Mortgage affect such Lands solely, or jointly with any other Lands not required for the Purposes of this Act, and in order thereto the Commissioners may pay or tender to such Mortgagee the Principal and Interest due on such Mortgage, together with his Costs and Charges, if any, and also Six Months additional Interest, and thereupon such Mortgagee shall immediately convey his Interest in the Lands comprised in such Mortgage to the Commissioners, or as they shall direct, or the Commissioners may give Notice in Writing to such Mortgagee that they will pay off the Principal and Interest due on such Mortgage at the End of Six Months, computed from the Day of giving such Notice; and if they shall have given any such Notice, or if the Party entitled to the Equity of Redemption of any such Lands shall have given Six Months Notice of his Intention to redeem the same, then at the Expiration of either of such Notices, or at any intermediate Period, upon Payment or Tender by the Commissioners to the Mortgagee of the Principal Money due on such Mortgage, and the Interest which would become due at the End of Six Months from the Time of giving either of such Notices, together with his Costs and Expences, if any, such Mortgagee shall convey or release his Interest in the Lands comprised in such Mortgage to the Commissioners, or as they shall direct.

Deposit of Mortgage Money on Refusal to accept Redemption.

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

such

such Lands, shall vest in the Commissioners, and they shall be deemed to be in the actual Possession thereof, in case such Mortgagee were himself entitled to such Possession.

Sum to be paid when Mortgage exceeds Value of Lands.

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

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

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

Deposit of such Money when refused on Tender.

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

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

Release of Lands from Rent-charges.

CIX. And with respect to any such Lands which shall be charged with any Rent Service or Rent-charge, or Chief or other Rent, Corn Rent in lieu of Tithes, or other Payment or Incumbrance, be it enacted, That if any Difference shall arise between the Commissioners and the Party entitled to any such Charge respecting the Consideration to be paid for the Release of such Lands therefrom, or from the Portion thereof affecting the Lands required for the Purposes of this Act, the same shall be determined as in other Cases of disputed Compensation.

Release of Part of Land from Charge.

CX. And be it enacted, That if Part only of the Lands charged with any such Rent Service, Rent-charge, Chief or other Rent, Corn Rent in lieu of Tithes, Payment or Incumbrance, be required to be taken for the Purposes of this Act, the Apportionment of any such Charge may be settled by Agreement between the Party entitled to such Charge and the Owner of the Lands on the one Part, and the Commissioners on the other Part, and if such Apportionment be not so settled by Agreement the same shall be settled by Two Justices; but if the remaining Part of the Lands so jointly subject be a sufficient Security for such Charge, then, with Consent of the Owner of the Lands so jointly subject, such Owner not being under legal Disability or Incapacity, the Party entitled to such Charge may release therefrom the Lands required, on Condition or in Consideration of such other Lands remaining exclusively subject to the whole thereof.

Deposit in case of Refusal to release.

CXI. And be it enacted, That upon Payment or Tender of the Compensation so agreed upon or determined to the Party entitled to any such Charge as aforesaid such Party shall execute to the Commissioners a Release of such Charge; and if he fail so to do, or if he fail to adduce a good Title to such Charge to the Satisfaction of the Commissioners, they shall pay the Amount of such Compensation

into the Bank of *England* in the Manner provided by this Act in the like Cases of Monies required to be deposited in such Bank, and thereupon the Rent Service, Rent-charge, Chief or other Rent, Corn Rent in lieu of Tithes, Payment or Incumbrance, or the Portion thereof in respect whereof such Compensation shall so have been paid, shall cease and be extinguished.

Charge to continue on Lands not taken.

CXII. And be it enacted, That if any such Lands be so released from any such Charge or Incumbrance, or Portion thereof, to which they were subject jointly with other Lands, such last-mentioned Lands shall alone be charged with the whole of such Charge, or with the Remainder thereof, as the Case may be, and the Party entitled to the Charge shall have all the same Rights and Remedies over such last-mentioned Lands, for the whole or for the Remainder of the Charge, as the Case may be, as he had previously over the whole of the Lands subject to such Charge; and if, upon any such Charge or Portion of Charge being so released, the Deed or Instrument creating or transferring such Charge be tendered to the Commissioners for the Purpose, they, or any Three or more of them, shall sign a Memorandum of such Release, indorsed on such Deed or Instrument, declaring what Part of the Lands originally subject to such Charge shall have been purchased by virtue of this Act, and if the Lands be released from Part of such Charge, what Proportion of such Charge shall have been released, and how much thereof continues payable; or if the Lands so required shall have been released from the whole of such Charge, then that the remaining Lands are thenceforward to remain exclusively charged therewith; and such Memorandum shall be made and executed at the Expence of the Commissioners, and shall be Evidence in all Courts and elsewhere of the Facts therein stated, but not so as to exclude any other Evidence of the same Facts.

Where Part only of Lands under Lease are taken the Rent to be apportioned.

CXIII. And with respect to any such Lands which shall be comprised in a Lease for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of this Act, be it enacted, That the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands; and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Commissioners on the other Part; and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by Two Justices, and after such Apportionment the Lessee of such Lands shall, as to all future accruing Rent, be liable only to so much of the Rent as shall be so apportioned in respect of the Lands not required for the Purposes of this Act; and the Lessor shall have all the same Rights and Remedies for the Recovery of such Rent as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of this Act, in the same Manner as they would

would have done in case such Part of the Land only had been included in the Lease.

Tenants to be compensated.

CXIV. And be it enacted, That every such Lessee as last aforesaid shall be entitled to receive from the Commissioners Compensation for the Damage done to him in his Tenancy by reason of the Severance of the Lands required from those not required, or otherwise by reason of the Execution of any such Works.

Tenants at Will or from Year to Year to cede Possession on Six Months Notice.

CXV. And with respect to any such Lands which shall be in the Possession of any Person having no greater Interest therein than as Tenant at Will or Lessee for a Year, or from Year to Year, be it enacted, That at the Expiration of Six Months after receiving Notice to that Effect from the Commissioners, or at any other Time, when required, after the Expiration of such Period, all such Persons shall respectively deliver up to the Commissioners, or to the Person appointed by them to take possession thereof, any such Lands in their Possession required for the Purposes of this Act; and any such Notice shall be effectual, whether it be given with reference to the Time of the Commencement of such Tenant's holding or not, and whether such Notice be given before or after the Purchase of such Lands by the Commissioners.

Compensation to such Tenants.

CXVI. Provided always, and be it enacted, That if any such Person as last aforesaid be required to give up Possession of any Lands so occupied by him before the Expiration of his Term or Interest therein, he shall, before he shall be required to give up Possession of such Lands, be entitled to Compensation for the Value of his unexpired Term or Interest in such Lands, or, if a Part only of such Lands be required, Compensation for the Damage done to him in his Tenancy by the Severance of the Lands required from those not required; and the Amount of such Compensation shall be determined by Two Justices, in case the Parties differ about the same.

On Refusal, Sheriff to give Possession.

CXVII. And be it enacted, That if any such Person refuse to give up such Possession, it shall be lawful for any Three or more of the Commissioners, after making Payment or Tender of such Compensation as herein-before mentioned, but not otherwise, to issue their Precept under their Hands to the Sheriff to deliver up Possession of such Lands to the Person in such Precept nominated to receive the same; and upon the Receipt of such Precept the Sheriff shall deliver Possession of such Lands in obedience thereto; and the Party so refusing to give up Possession shall pay the Costs incurred in the issuing or Execution of such Precept, to be settled by the Sheriff; and if, on Demand, he fail to pay the same, they shall be levied by Distress, and the Sheriff shall issue his Warrant accordingly.

Production of Leases.

CXVIII. And be it enacted, That if any Party claim Compensation in respect of any unexpired Term or Interest under any Lease or Grant of any such Lands, the Commissioners may require such Party to produce the Lease or Grant in respect of which such Claim shall

shall be made, or the best Evidence thereof in his Power; and if, after Demand made in Writing by the Commissioners, such Lease or Grant, or the best Evidence thereof, be not produced within a reasonable Time, the Party so claiming Compensation shall be considered as a Tenant holding only from Year to Year, and be entitled to Compensation accordingly.

Compulsory Purchase limited to Three Years.

CXIX. And be it enacted, That the Powers of the Commissioners for the compulsory Purchase or taking of Lands for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing thereof.

Lands not wanted to be sold.

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

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

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

Lands to be offered to original or to adjoining Owners.

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

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

CXXIII. And be it enacted, That if such respective Persons be desirous of purchasing such Land, then, within Sixty Days after such Offer of Sale, they shall signify their Desire in that Behalf to the Commissioners, or if they decline such Offer, or if for Sixty Days they neglect to signify their Desire to purchase such Lands, the Right of Pre-emption of every such Person so declining or neglecting in respect of the Lands included in such Offer shall cease, and thereupon a Declaration in Writing, made before a Justice by some

Person not interested in the Matter in question, stating that the Person or all the Persons entitled to the Right of Pre-emption were out of the Country, or could not be found, or were not capable of entering into a Contract for the Purchase of such Lands, or that such Offer was made, and was refused or not accepted, within Sixty Days from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence of the Facts therein stated.

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

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

Effect of the Word "grant" in Conveyance.

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

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

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

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

And all such Grantees, and their several Successors, Heirs, Executors, Administrators, and Assigns respectively, according to their respective

respective Quality or Nature, and the Estate or Interest in such Conveyance expressed to be conveyed, may in all Actions brought by them assign Breaches of Covenants, as they might do if such Covenants were expressly inserted in such Conveyances.

Power to improve the Creek, and make new Cuts.

CXXVI. And be it enacted, That it shall be lawful for the Commissioners and they are hereby authorized to deepen, widen, embank, alter, cleanse, scour, dredge, cut, enlarge, contract, straighten, and otherwise improve the Part of the said Creek from *Ordnance* Wharf to *Nagden* Wharf delineated upon the Plan and described in the Book of Reference herein-after mentioned and referred to; and also to make and maintain a Diversion or new Line of Navigation from and out of the said Creek, commencing at a certain Place called *Foreman's Hard*, and passing through certain Fields numbered 9, 10, 10 a, 11, 12, 13, 14, and 15 on the said Plan and Book of Reference, and belonging to the Right Honourable *George* Lord *Sondes*, now in the Occupation of *Charles Horne*, *Mark Redman*, and *Giles Hilton*, and terminating in the said Creek at a certain Place called the *Standard* Wharfs or Quays: Provided always, that no Quay, Wharf, Erection, or Embankment, Towing Path or other Work, be made or projected below the Line of High-water Mark at ordinary Spring Tides; and provided also, that if any Damage shall be done to the Walls of any of the Wharfs in the said Town or otherwise, by deepening and widening the said Creek, the same shall be paid for by the Commissioners appointed under this Act; and in case the Amount for the Compensation for any Damage done or occasioned by the said Commissioners in the Exercise of any of the Powers herein contained shall be disputed the same shall be ascertained by a Jury summoned and impannelled and returned according to the Provisions of this Act.

Power to deepen certain Parts of the Creek.

CXXVII. And whereas it may be found expedient, for the Improvement of the Navigation of the said Creek, to deepen certain Parts thereof to an Extent exceeding the Depth marked upon the Section referred to in this Act; be it enacted, That it shall be lawful for the Commissioners and they are hereby authorized and empowered to deepen the same to an Extent not exceeding Eleven Feet at High Water Spring Tides at the *Ordnance* Wharf.

No Works to be constructed below High-water Mark, without Consent of Admiralty.

CXXVIII. Provided always, and be it enacted, That it shall not be lawful for the said Commissioners, or any Person acting under their Authority or on their Behalf, to make or begin to make, construct, or carry on any Pier, Quay, or other Work below the Line of High-water Mark at ordinary Spring Tides, without the previous Consent of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty.

Satisfaction to be made for Damages in execution of Works.

CXXIX. Provided always, and be it enacted, That the Commissioners shall make full Satisfaction to all Parties interested for

for all Damages sustained by them by reason of the Execution of such Works.

Deposited Plans and Books of Reference to be open for Inspection.

CXXX. And whereas a Plan describing the Situation and Levels of the said Creek, and the intended Line or Course of the said Diversion or new Line of Navigation, and the Lands upon, through, or over which the same and the Works connected therewith are intended to be made, and also a Book of Reference containing the Names of the Owners, Lessees, and Occupiers, or reputed Owners, Lessees, and Occupiers of such Lands, have been deposited with the Clerk of the Peace for the County of *Kent;* be it enacted, That all Persons interested may at all seasonable Times inspect such Plan and Book of Reference, and may require to be furnished by any such Clerk of the Peace with Extracts therefrom or Copies thereof; and every such Clerk of the Peace shall give Access to such Documents, and, if required, furnish Copies thereof or Extracts therefrom, and certify the same to be true Copies or Extracts, and in respect thereof he shall be entitled to One Shilling for every Inspection of such Document, and One Shilling for every Hour such Inspection shall continue beyond the first Hour, and Sixpence for every One hundred Words copied or extracted therefrom; and if any such Clerk of the Peace shall fail to comply with any of the Provisions aforesaid he shall forfeit for every such Offence a Sum not exceeding Five Pounds.

Errors and Omissions to be corrected.

CXXXI. And for the Purpose of making Provision for correcting any Omission, Mis-statement, or erroneous Description of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the said Plan or in the said Book of Reference, be it enacted, That the Correction of any such Matter may be referred by the Commissioners to the Determination of Two Justices; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerk of the Peace of the said County of *Kent*, and Copies or Extracts thereof with the Clerks of the several Parishes in which the Lands affected thereby shall be situate; and such Certificate and such Extracts or Copies respectively shall be kept by such Clerk of the Peace and Clerks of the Parishes respectively along with the Documents to which they relate, and thereupon such Document shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Commissioners to execute the Works in accordance with such Certificate.

Certified Copies of Plans to be Evidence.

CXXXII. And be it enacted, That true Copies of such Plan and Book of Reference, or of any Correction thereof or Extracts therefrom, certified by any such Clerk of the Peace, shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Power to deviate from the Line laid down.

CXXXIII. And be it enacted, That the Commissioners, in making the said intended Diversion or new Line of Navigation and other Works, shall have full Power and Authority to deviate from the Course or Direction thereof delineated in the Map or Plan so deposited with the Clerk of the Peace as herein-before mentioned; provided that no such Deviation shall extend to a greater Distance than One hundred Yards, nor beyond the Line of Deviation marked upon such Plan, nor into the Lands or Property of any Person whose Name is not mentioned in the said Book of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in the Manner herein-before provided for in Cases of unintentional Errors in the said Book of Reference.

Houses and inclosed Grounds not to be taken.

CXXXIV. And be it enacted, That the Commissioners shall not take or injure any Property of the following Kinds, without the Consent in Writing of the Owners and Occupiers thereof; (that is to say,) any House or Building erected on or before the Thirtieth Day of *November* One thousand eight hundred and forty-one, or any Ground on or before that Day inclosed or set apart and used as a Garden, Orchard, Nursery Ground, Yard, Paddock, Plantation, planted Walk, or Avenue to a House.

Buildings not to be erected so as to impede the Navigation.

CXXXV. Provided also, and be it enacted, That it shall not be lawful for any Person whomsoever to erect or place, or cause or suffer to be erected or placed, any Wharf, Warehouse, Tenement, Building, or Erection whatsoever upon the Banks or Sides of the said Navigation, so as to diminish the Waterway or to impede the Navigation thereof.

Land Tax and Poor's Rate to be made good.

CXXXVI. And for the Purpose of providing against Deficiencies in the Assessments for Land Tax or Poor's Rate occasioned by the Execution of the said Works in the several Parishes wherein the same or any Part thereof may be situate, be it enacted, That if the Commissioners become possessed by virtue of this Act of any Lands charged with the Land Tax, or liable to be assessed to the Poor's Rate, the Commissioners shall from Time to Time, until the Works shall be completed and assessed to such Land Tax and Poor's Rate, be liable to make good the Deficiency in the several Assessments for Land Tax and Poor's Rate arising within such Parishes by reason of such Lands having been taken or used for the Purposes of such Works, and such Deficiency shall be computed according to the Rental at which such Lands were valued or rated at the Time of the passing of this Act; and on Demand of such Deficiency the Treasurer of the Commissioners shall pay all such Deficiencies to the Collector of the said Assessments respectively; nevertheless, if at any Time the Commissioners think fit to redeem such Land Tax, they may do so, in accordance with the Powers in that Behalf given by the Acts for the Redemption of the Land Tax.

Works to be completed in Seven Years.

CXXXVII. And be it enacted, That after the Expiration of Seven Years from the passing of this Act all the Powers hereby granted

granted to the Commissioners for executing the Works hereby authorized to be made shall cease to be exercised, except as to so much thereof as shall then be completed, and except such Powers as shall hereby be declared to be continued for a longer Period.

Power to take Tolls.

CXXXVIII. And be it enacted, That it shall be lawful for the Commissioners, from Time to Time, and at all Times after the Improvement hereby authorized shall have been in manner in this Act mentioned declared to be completed, to demand, take, and recover, for the Purposes of this Act, the Tolls herein-after mentioned; that is to say, a Toll or Duty not exceeding Five-pence *per* Ton upon all Vessels of Ten Tons Burden and upwards, and Three-pence *per* Ton upon all Vessels below Ten Tons Burden, carrying Passengers, Goods, Wares, Merchandize, or other Matters or Things whatsoever on any Part of the said Navigation between *Nagden* Wharf and the *Ordnance* Wharf in the said Town of *Faversham*, both inclusive; and where there shall be a Fraction of a Ton, being less than Half a Ton, no Toll or Duty shall be demanded or taken for such Fraction, and where there shall be a Fraction of a Ton exceeding Half a Ton such Fraction shall be deemed a Ton.

Report of Engineer to be Evidence.

CXXXIX. And be it enacted, That a Report of the Completion of the Works hereby authorized, signed by the Engineer for the Time being of the said Commissioners, and verified by his Affidavit or Declaration, which any Justice of the Peace is hereby authorized to take, shall be conclusive Evidence of the Navigation having been improved as hereby directed between the Limits or Places aforesaid, and upon such Report being signed and verified as aforesaid the Commissioners shall call a Meeting of the said Commissioners as herein provided, and declare the said Improvements to be completed, and thereupon the Payment of Tolls shall commence.

Tolls to be charged equally.

CXL. Provided always, and be it enacted, That the several Tolls authorized to be taken by this Act shall at all Times be charged equally and after the same Rate in respect of the same Description of Vessels and Goods.

Power to reduce or advance Tolls.

CXLI. And be it enacted, That it shall be lawful for the said Commissioners from Time to Time to reduce the Tolls hereby authorized to be taken in respect of Vessels carrying rough Stones for Cement or Gravel, or Manure of any Kind for the Cultivation of Land, or any other Articles, Matters, and Things in favour of which such Reduction shall be deemed expedient to such Extent as they may think proper, and from Time to Time to again advance the same to any Extent not exceeding the Amount limited by this Act: But it is hereby provided and enacted, that such Rate of Toll as shall be levied at the Time when any Money shall be lent to the Commissioners on the Credit thereof, or which may be agreed upon between the Lenders of Money and the said Commissioners when such Loans shall be concluded, previous to the Collection of Tolls taking place as fixed by this Act, shall not be reduced without the Consent in Writing of Three Fourth Parts of the said Lenders in Value

Value and Amount: Provided always, that all Lenders shall be held as consenting who shall not dissent in Writing within the Period of Two Months from and after they shall have been applied to for such Consent by the Clerk of the Commissioners in Writing: Provided also, that when the said Tolls or any of them are reduced or advanced such Reduction and Advance shall be made on all Vessels carrying Goods and other Matters or Things of the same Description throughout the Line of the said Navigation so hereby intended to be improved.

Tolls to be reduced or advanced proportionally.

CXLII. And be it enacted, That previously to any Reduction or Advance in the said Tolls being carried into effect One Calendar Month's Notice at least shall be given in some One of the Newspapers published in the County of *Kent*: Provided also, that no Reduction or Advance in the said Tolls shall either directly or indirectly be made partially or in favour of or against any particular Person or Company.

One Month's Notice of Reduction or Advance to be given.

CXLIII. And be it enacted, That all Money to arise by or from the Tolls to be from Time to Time received by virtue of this Act, or recovered for any Penalties by this Act imposed, shall be from Time to Time applied by the Commissioners in the Manner following; (that is to say,) in paying the Interest of the Monies lent or advanced on Mortgage of the said Tolls; in making Compensation to any Owner or Occupier of any Lands or Premises for any Injury which may be done to such Lands or Premises, under or by reason of the Operation of this Act; in Payment of any Expences incurred by the said Commissioners under and by virtue of this Act, and in maintaining and keeping the said Navigation deepened, embanked, cleansed, and navigable; and after Payment of all such Expences, the Remainder, if any, of such Monies shall from Time to Time be applied in repaying the Principal Money so lent or advanced, or which shall be borrowed for the Purposes of this Act, and on the Credit thereof.

Application of the Tolls.

CXLIV. Provided always, and be it enacted, That when and as soon as the whole of the Money authorized to be raised by the Authority of this Act shall have been repaid, the Commissioners shall reduce the said Tolls hereby authorized to be taken to such Sums as shall be in the Opinion of the Commissioners sufficient to defray the Expences of maintaining the Improvements and Works hereby authorized to be made, and to defray the other usual Expences, so as such Reduction shall be made proportionably upon all the said Tolls, or as near thereto as Circumstances will permit.

When Money borrowed has been repaid, Tolls on a reduced Scale to be taken to maintain Improvements.

CXLV. Provided also, and be it enacted, That when and so often as the said reduced Tolls shall be found inadequate to discharge the Expences aforesaid it shall be lawful for the said Commissioners and they are hereby empowered to raise and advance the said Tolls, so that the same do not at any Time exceed the respective Amounts hereby authorized to be taken, and such Tolls may again be reduced and again advanced as Occasion shall require.

When reduced Tolls are inadequate they may be again advanced.

CXLVI. And

Taking and Recovery of Tolls.

CXLVI. And with respect to the Collection of such Tolls, be it enacted, That such Tolls shall be paid to such Persons, and at such Places upon or near to the said Navigation, and in such Manner, and under such Regulations, as the Commissioners shall, by Notice to be annexed to the Account or List of Tolls, appoint; and if, on Demand, any Person fail to pay the Tolls due in respect of any Vessel, it shall be lawful for the Collector to detain and sell such Vessel, and out of the Monies thence arising retain the Tolls payable in respect of the same, and all Charges and Expences of such Detention and Sale; and such Collector shall, upon Demand, render the Overplus, if any, of the Monies arising by such Sale, to the Person entitled thereto; and if such Vessel happen to be removed before the Tolls payable in respect of the same be paid, then the Commissioners may recover such Tolls by Action at Law.

Disputes as to Amount of Tolls chargeable.

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

Ascertaining Tonnage of Vessels.

CXLVIII. And be it enacted, That the Tonnage or Admeasurement of all Vessels required to be registered by any Act of Parliament, and liable to the Payment of the Rates or Tolls by this Act imposed, shall be ascertained according to the certified Tonnage in the Ship's Register; and the Master or other Person having the Command of such Vessel is hereby required to produce such Certificate of Register at the Time of Payment of the said Rates or Tolls to the Person duly authorized to collect and receive the same; and in case of any Dispute about the same, whether the Vessel shall be *British* or Foreign, then the Tonnage shall be ascertained in the Manner and according to the Directions of any Act for the Time being in force for ascertaining the Tonnage of *British* Vessels.

Differences as to Tonnage.

CXLIX. And be it enacted, That if any Difference arise between any Toll Collector, or other Officer or Servant of the Commissioners, and any Owner of or Person having the Charge of any Vessel, respecting the Tonnage of such Vessel, such Collector or other Officer may lawfully detain such Vessel, and examine, measure, and gauge the same according to the Mode prescribed by any Act for the registering of *British* Vessels; and if upon such measuring such

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

List of Tolls to be exhibited on a Board.

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

Tolls to be taken only whilst Board exhibited.

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

Regulations as to Toll Collectors.

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

Penalties on Toll Collectors.

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

If he do not place such Board and keep the same in its Place during the whole Time he is on Duty:

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

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

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

If upon the legal Toll being paid or tendered he do unnecessarily detain or wilfully hinder any Vessel, or any Person from passing upon the Navigation:

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

Toll Collector to be liable for wrongful Detention of Goods.

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

Power to lease the Tolls.

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

Lessees to be deemed Collectors.

CLVI. And be it enacted, That during the Continuance of any such Lease the respective Lessees named therein, and also all Persons appointed by them to collect the Tolls so let, shall be deemed Collectors of the Tolls so let, and they shall have the same Powers to collect and recover such Tolls, and be subject to the same Rules, Duties, and Penalties in reference thereto, as if they had been appointed for that Purpose by the Commissioners.

Lessees or Collectors making default to be removed.

Delivery of Matters in Possession or Custody of Lessees or Toll Collector at Removal.

CLVII. And be it enacted, That if any such Lease shall have become void or voidable, according to any Stipulations therein contained for that Purpose, by reason of the Failure on the Part of the Lessee to comply with any of the Terms of such Lease, or if all or any Part of the Rent thereby reserved shall be in arrear or unpaid for Twenty-one Days after the same shall become payable; or if any Collector of Tolls be discharged or suspended from his Office, or die, abscond, or absent himself, and if such Collector so discharged or suspended, or the Wife, Widow, or any of the Family or Representatives of any such Collector so discharged or suspended, or who shall have died, absconded, or absented himself, refuse or neglect, after Seven Days Notice in Writing for that Purpose, to deliver up to the Commissioners, or to any Person appointed by them for that Purpose, any Toll House, Dwelling House, Office, or other Building, with its Appur-

Appurtenances, or any Books, Papers, or other Matters belonging to the Commissioners, in the Possession or Custody of any such Lessee or Collector at the Occurrence of any such Event as aforesaid, then, upon Application being made by the Commissioners to any Justice, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon such Toll House or other Building, and to remove from the same such Lessee or Collector or other Person found therein, and to take possession thereof, and of any such Books, Papers, or other Matters, and to deliver the same to the Commissioners or any Person appointed by them for that Purpose.

Power of reletting Tolls.

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

Owners of Vessels to be accountable for Damage done by their Servants.

CLIX. And be it enacted, That the Owner of every Vessel passing along, upon, or through the said Navigation shall be answerable for any Damage, Spoil, or Mischief that shall be done to the said Navigation or other Works of or under the Management of the said Commissioners by his Vessel, or by any Horse, Mule, or other Cattle drawing the same, or by any Person belonging to or employed in or about the same Vessel, or by the loading or unloading of any Vessel, or by any Means whatsoever; and the Owner of such Vessel shall, for every such Damage, Spoil, or Mischief, upon Conviction before some Justice of the Peace acting for the County, Town, or Place wherein such Offence shall be committed, either by Confession of the Party offending or upon the Oath of some credible Witness, pay to the said Commissioners the Damage, Spoil, or Mischief, to be ascertained by such Justice, provided that such Damage, Spoil, or Mischief do not exceed the Sum of Twenty Pounds, and also shall, over and above such Damage, Spoil, or Mischief, forfeit to the Informer any Sum not exceeding Forty Shillings; and such Payment and Forfeiture shall be levied by Distress and Sale of the Goods of the Owner of any such Vessel, in like Manner as any other Penalties or Forfeitures are by this Act directed to be levied, or if the Damage, Spoil, or Mischief shall exceed the Sum of Twenty Pounds, then and in such Case the Owner of any such Vessel may be sued and prosecuted for such Damage, Spoil, or Mischief in any of Her Majesty's Courts of Record at *Westminster;* and if a Verdict or Judgment shall be given against such Owner, either on Proof made or by Default, or upon Demurrer, the Plaintiffs in such Case shall recover their Damages thereby sustained, with full Costs of Suit; and if the Owner of any Vessel passing along, through, or upon such Navigation shall be compelled to make any Satisfaction or pay any

Penalty

Penalty for any Damage, Spoil, or Mischief, by reason of any wilful Neglect or Default of his Servant or Seaman, then and in such Case every such Servant or Seaman shall be liable to repay such Satisfaction or Penalty, with the Costs attending the same, to such Owner, and in case of Nonpayment thereof, on Demand, the same shall be recovered in like Manner.

Vessels lying so as to obstruct Navigation to be removed.

CLX. And be it enacted, That if any Vessel shall be placed on any Part of the said Navigation, or upon any Part of the Works under the Management of the Commissioners, so as to obstruct the Navigation thereof, and the Person having the Care of such Vessel shall not immediately upon Request made for that Purpose by the said Commissioners, or any of their Servants, or any other Person who shall be obstructed, remove the same Vessel, the Person having the Care thereof shall, upon Conviction, forfeit and pay to the said Commissioners for every such Offence a Sum not exceeding Twenty Shillings nor less than Ten Shillings, and a further Sum of Twenty Shillings for every Hour such Obstruction shall continue.

Vessels may be unloaded.

CLXI. And be it enacted, That it shall be lawful for any Agent or Servant of the said Commissioners to cause any such Vessel to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction in the Navigation, and to seize and detain such Vessel and the Lading thereof, or any Part of such Lading, until the Charges occasioned by such unloading and Removal are paid.

Sunken Vessels to be weighed up.

CLXII. And be it enacted, That if any Vessel shall be sunk in any Part of the said Navigation, and the Person having the Care of such Vessel shall not without Loss of Time weigh or draw up the same, it shall be lawful for any Agent or Servant of the said Commissioners to cause such Vessel to be weighed or drawn up, and to detain and keep the same and the Lading thereof till Payment be made of all Expences necessarily incurred thereby; and if such Charges or Expences be not paid within Fourteen Days from such Seizure and Detention, or such weighing or drawing up, (as the Case may be,) such Vessel may, by an Order of any Justice of the Peace, be sold, in order to defray such Charges or Expences; and the Surplus of the Monies which shall remain after the Payment of such Charges or Expences, and the Expences attending the Sale, shall be paid to the Owner of such Vessel, on his demanding the same.

Penalty on obstructing Navigation by the Lading of Vessels, or preventing the Execution of the Act.

CLXIII. And be it enacted, That every Person who shall commit any of the following Offences shall for every Offence be liable to a Penalty not exceeding Five Pounds:

Every Person who shall suffer the Lading of any Vessel being on the said Navigation to lie over the Sides thereof so as to obstruct the Passage of any other Vessel, or to do any Damage thereto, or to the Works hereby authorized to be made:

Every Person who shall wilfully obstruct or prevent any Person in the Execution of this Act.

CLXIV. And

Penalties for malicious Injuries.

CLXIV. And be it enacted, That any Person offending in the following Particulars shall for each Offence forfeit a Sum not exceeding Ten Pounds; (that is to say,)

If, without the Authority of the Commissioners, he wilfully throw any Ballast, Gravel, Dirt, Stone, or Rubbish, or other Matter or Thing, into the said Navigation or other Works:

If, without the Authority of the Commissioners, he extinguish any Light or Lamp set up on or near the Navigation or Works for the Purposes thereof:

If he wilfully do any Act or Thing to obstruct the free Passage of the Navigation or any Part thereof, and not herein-before provided for and made subject to a Penalty.

Damage to the Property to be made good.

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

Provision for Damages not otherwise provided for.

CLXVI. And be it enacted, That in all Cases where any Damages or Charges are by this directed or authorized to be paid, and the Method of ascertaining the Amount thereof is not provided for, such Amount, in case of Nonpayment thereof, or of any Dispute respecting the same, shall be ascertained and determined by One or more Justices; and when by this Act any Damages or Charges are directed to be paid in addition to the Penalty for any Offence, the Amount of such Damages and Charges, in case of Nonpayment thereof, or of any Dispute concerning the same, shall be determined by the Justice or Justices by whom the Offender shall be convicted of such Offence; and on Nonpayment of the Damages or Charges in any of the Cases aforesaid, on Demand, the same shall be levied by Distress, and such Justices shall issue their Warrant accordingly.

Justices to examine Parties and Witnesses.

CLXVII. And be it enacted, That where in this Act any Question of Compensation or Damages is referred to the Determination of any Justice, it shall be lawful for such Justice to examine the Parties to such Question, and their Witnesses, on Oath, and to administer the Oaths necessary for that Purpose; and the Costs of every such Inquiry shall be in the Discretion of such Justice; and if either Party to any such Question fail to appear at the Time and Place appointed by the Justice for going into any such Question, without reasonable Excuse to the Satisfaction of such Justice, due Notice of such Appointment having been given to such defaulting Party, it shall be lawful for such Justice to proceed *ex parte*.

Publication of Penalties.

CLXVIII. And for the Purpose of providing for the due Publication of all Penalties and Forfeitures exigible under this Act, or any Bye Law of the Commissioners, affecting other Persons than the Commissioners or their Officers or Servants, be it enacted, That from Time to Time the Commissioners shall publish the short Particulars of the several Offences for which any such Penalty is imposed by this Act, and of the Amount of every such Penalty, and shall cause such

Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Commissioners, and where any such Penalties are of local Application shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have reference; and such Particulars shall be renewed as often as the same or any Part thereof is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required.

Defacing Boards used for such Publication.

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

Penalties to be summarily recovered before One Justice or more.

CLXX. And for the Purpose of providing for the Recovery of Penalties or Forfeitures imposed by this Act, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for, be it enacted, That every such Penalty or Forfeiture may be recovered by summary Proceeding upon Complaint made before One or more Justices; and on the Complaint being made to any such Justice he shall issue a Summons requiring the Party complained against to appear on a Day and at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and either upon the Appearance or upon the Default to appear of the Party offending it shall be lawful for any One or more Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against or upon the Oath of One credible Witness or more, it shall be lawful for any One or more Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties to be levied by Distress.

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

Imprisonment in default of Distress.

CLXXII. And be it enacted, That it shall be lawful for the Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture and Costs, unless the Offender give sufficient Security, by way

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

Application of Penalties.

CLXXIII. And with respect to the Application of any Penalties or Forfeitures recovered by virtue of this Act the Application whereof is not herein otherwise provided for, be it enacted, That the Justice by whom any such Penalty or Forfeiture shall be imposed shall award one Half thereof to the Commissioners, and the other Half thereof to the Informer, or any Person suing for the same, or, if the Commissioners be the offending Party, shall award one Half thereof to the Informer, and the other Half to the Overseers of the Poor of the Parish in which the Offence shall have been committed, for the Benefit of the Poor of such Parish.

Penalties to be sued for within Six Months.

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

Penalty on Witnesses making default.

CLXXV. And be it enacted, That if any Person who shall be summoned as a Witness before any Justice touching any Offence committed against this Act, or any Bye Law made by virtue thereof, shall without reasonable Excuse refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Persons giving false Evidence may be prosecuted.

CLXXVI. And be it enacted, That every Person who in any Examination to be taken upon Oath by virtue of this Act shall wilfully and corruptly give false Evidence, or otherwise forswear himself before any Jury or any Justice of the Peace acting under the Authority of this Act, shall and may be prosecuted for the same, and upon Conviction thereof shall be subject to the same Fines and Penalties as Persons guilty of Perjury are subject to by the Laws of this Realm.

CLXXVII. And

Transient Offenders.

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

Form of Conviction.

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

Informalities.

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

Distress how to be levied.

CLXXX. And be it enacted, That where in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expences of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not unlawful for Want of Form.

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

Parties may appeal to Quarter Sessions on giving Security.

CLXXXII. And be it enacted, That if any Person shall think himself aggrieved by any Determination or Adjudication of any Justice under the Provisions of this Act he may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, and unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, and unless the Appellant forthwith after such Notice enter into Recognizances before a Justice ,conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

CLXXXIII. And

Court to make such Order as they think reasonable.

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

Costs.

Interpretation of Act.

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

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

Words importing the Masculine Gender shall include Females:

The Word "Month" shall mean Calendar Month:

The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster*:

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

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

The Word "Sheriff" shall include Under Sheriff or other legally competent Deputy; and where any Matter in relation to any Lands is required to be done by any Sheriff or by any Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Liberty, or Place where such Lands shall be situated; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in one County, City, Liberty, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Liberty, or Place where any Part of the Lands shall be situate:

The Word "Justice" shall mean Justice of the Peace for the County, City, Liberty, or Place where the Matter requiring the Cognizance of any Justice shall arise, and who shall not be interested in the Matter; and where the Matter shall arise in respect of Lands, being the Property of one and the same Party, situate not wholly in any one County, City, Liberty, or Place, the same shall mean a Justice acting for the County, City, Liberty, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter:

The Word "Toll" shall include any Rate or Charge or other Payment payable under this Act for any Vessel using the said Navigation:

The Word "Burden" shall mean the registered Tonnage of a Vessel:

The Expression "the Navigation" shall mean the Parts of the Creek called *Faversham Creek* authorized to be deepened and improved by this Act, and also the said Diversion or new Line of Navigation, and the Works connected therewith or belonging thereto:

The Word "Vessel" shall include Ships, Steam Ships, Steam Packets, Boats, Lighters, Barges, Hoys, Trows, and all other Craft or Vessels, of what Nature or Kind soever:

The Expression "the Commissioners" shall mean the Commissioners appointed in or by virtue of this Act.

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

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SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Form of Mortgage Deed.

The Faversham Navigation Commission.

Mortgage, Number £

By virtue of an Act passed, *&c.* intituled *&c.*, we of the Commissioners of the Faversham Navigation, in consideration of the Sum of Pounds paid to us by *A.B.* of do assign unto the said *A.B.*, his Executors, Administrators, and Assigns, the said Undertaking, and all the Tolls and Sums of Money arising by virtue of the said Act, and all the Estate, Right, Title, and Interest of the Commissioners in the same, to hold unto the said *A.B.*, his Executors, Administrators, and Assigns, until the said Sum of Pounds, together with Interest for the same at the Rate of for every One hundred Pounds by the Year, be satisfied [the Principal Sum to be repaid at the End of Years from the Date hereof (*in case any Period be agreed upon for that Purpose*)]. Given under our Hands and Seals, this Day of in the Year of our Lord .

SCHEDULE (B.)

Form of Transfer of Mortgage.

I *A.B.* of in consideration of the Sum of paid to me by *G.H.* of do hereby transfer to the said *G.H.*, his Executors, Administrators, and Assigns, a certain Mortgage, Number made by "The Commissioners of the Faversham Navigation" to bearing Date the Day of for securing the Sum of and Interest [*or, if such Transfer be by Indorsement,* the within Security], and all my Right, Estate, and Interest in and to the Money thereby secured, and in and to the Tolls, Money, and Property thereby assigned. In witness whereof I have hereunto set my Hand and Seal, this Day of One thousand eight hundred and .

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SCHEDULE (C.)

Form of Conveyance.

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

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SCHEDULE (D.)

Form of Conviction.

to wit. } Be it remembered, That on the Day of in the Year of our Lord *A.B.* is convicted before me, *C.D.*, One of Her Majesty's Justices of the Peace for the County of *L.* [*here describe the Offence generally, and the Time, Place, when and where committed*], contrary to "The Faversham Navigation Act, 1842." Given under my Hand and Seal, the Day and Year first above written.

C.D.

London: Printed by George E. Eyre and Andrew Spottiswoode, Printers to the Queen's most Excellent Majesty. 1842.