ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. xiv.

An Act to amend an Act of the Forty-eighth Year of the Reign of His Majesty King *George* the Third, relating to the Improvement of the Town of *Leominster* in the County of *Hereford*.

[9th *May* 1838.]

WHEREAS an Act was passed in the Forty-eighth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for inclosing Lands in the Borough of* Leominster 48G.3. c.148. *in the County of* Hereford, *and in the Township of* Luston *in the Parish of* Eye *in the said County; and for paving and otherwise improving the Streets and other public Places within the Town of* Leominster *in the said County:* And whereas it was by the said recited Act enacted, that the Commissioners therein named and their Successors, after making certain Allotments therein directed, should set out and allot the Residue and Remainder of so much and such Part or Parts of the Commons and Parcels of Waste Lands thereby directed to be divided, allotted, and inclosed as lay within the said Town or Borough unto the Trustees therein-after nominated and appointed by the Name and Style of "The Trustees for the Proprietors of Lands and Hereditaments within the Town or Borough of *Leominster* in the County of *Hereford*, appointed by an Act passed in the Forty-eighth Year of the Reign of King *George* the Third;" and such Lands so set out and allotted should be and the same were thereby declared to be vested in the said Trustees and their Successors appointed

by virtue or in pursuance of the said Act, for ever, freed and discharged from all Right, Title, Interest, Claim, and Demand whatsoever which the Burgesses of the Town or Borough of *Leominster* for the Time being, or any other Person or Persons, could or might have in, upon, or to the same or any Part or Parts thereof, upon such Trusts nevertheless, and to and for such Uses, Intents, and Purposes, as were mentioned, expressed, or declared of and concerning the same in and by the said Act: And whereas it was by the said recited Act further enacted, that for the more effectually enabling the said Trustees to execute the Purposes of the said Act it should be lawful for the said Trustees and they were thereby empowered, from Time to Time when they should judge necessary, to borrow and take up at Interest any Sum or Sums of Money upon the Credit of the Lands and Rents to be vested in the said Trustees by virtue of the said Act, and by any Writing or Writings under their Hands and Seals to mortgage, demise, grant, or assign over the said Lands and Rents, or any Part or Parts thereof, to the Person or Persons who should advance or lend such Money, or to his or their Trustee or Trustees, as a Security or Securities for the Money so to be borrowed, together with Interest for the same: And whereas, in pursuance of the Directions contained in the said recited Act, the said Commissioners, by their Award in Writing bearing Date the Twenty-eighth Day of *March* One thousand eight hundred and eleven, set out, allotted, and awarded unto the said Trustees the said Pieces or Parcels of Land particularly mentioned and set forth in the Schedule to this Act annexed: And whereas the said Trustees, in pursuance of the Power vested in them by the said recited Act, have borrowed and taken up at Interest on the Credit of the said Lands and Rents the Principal Sum of One thousand Pounds, the whole of which is still owing, the said Act not having made any Provision for the Repayment of the Money borrowed under the Authority thereof: And whereas the said Trustees, in carrying the said recited Act into execution, have contracted various Debts, which they are unable to discharge, inasmuch as the surplus Income arising from the Rents of the said Trust Lands is insufficient for that Purpose, and the said Act does not contain any Power or Authority enabling the said Trustees to make or levy any Rate or Assessment upon the Inhabitants of the said Town or Borough: And whereas it is expedient that the said recited Act should be altered and amended, and that Provision should be made for the Repayment of the Money borrowed under the Authority thereof, and for discharging the Debts which have since been contracted by the said Trustees, and for raising Money for the immediate Repair of the Highways, Streets, and Pavements of the said Town; but inasmuch as these several Objects cannot be effected without the Aid and Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the Authority of the same, That all the Powers, Authorities, Provisions, Regulations, Directions, Privileges, Penalties, Forfeitures, Restrictions, Clauses, Enactments, Matters, and Things whatsoever contained in the said recited Act (save and except so far as the same are altered, repealed, or varied by this Act) shall

Powers of recited Act extended to this Act.

shall be and the same are hereby declared to be in full Force and Effect for the Purposes of this Act, in as full, ample, and beneficial a Manner to all Intents and Purposes whatsoever as if the same were repeated and re-enacted in this Act and were made Part thereof; and the said recited Act and this Act shall, as to all Powers, Provisions, Enactments, and Things not hereby repealed or altered, be construed together as One Act.

Rates for general Purposes.

II. And be it further enacted, That it shall be lawful for the Trustees acting under the Authority of the said recited Act and this Act, and they are hereby authorized, from Time to Time when and so often as they shall think necessary, to make a general Pound Rate or Assessment, under the Name of "The *Leominster* Improvement Rate," to be signed by any Five or more of the said Trustees, upon all the Tenants and Occupiers of the several Houses, Shops, Warehouses, and other Erections and Buildings of whatever Description, already erected, or which shall hereafter be erected, or be situate, standing, or being within the Limits of this Act, and upon all Gardens, Lands, Tenements, and Hereditaments of whatever Description within the said Limits, according to the annual Value thereof respectively, to be ascertained as herein-after mentioned, provided such Rate or Assessment do not exceed in any One Year the Sum of One Shilling in the Pound on such annual Value.

Value how to be ascertained.

III. And be it further enacted, That the annual Value of all such Houses, Shops, Warehouses, and other Erections and Buildings, Gardens, Lands, Tenements, and Hereditaments so to be respectively rated as herein-before is mentioned may be settled and ascertained by the said Trustees, according to the next preceding annual or other Assessment for the Relief of the Poor within the Borough of *Leominster*.

Trustees may inspect Poor Rates.

IV. And be it further enacted, That it shall be lawful for the said Trustees, or any Person by them authorized, from Time to Time at all seasonable Hours, to inspect all and every or any of the Poor Rates for the said Borough, and the Assessments by which the same are regulated and made, and to take Copies of or Extracts therefrom respectively, which the Overseer or other Person having the Custody thereof respectively is hereby required to permit and suffer to be made and taken without Fee or Reward, and on Refusal thereof he shall forfeit and pay for every Offence any Sum not exceeding Forty Shillings.

Rates to be paid to Collector.

V. And be it further enacted, That the several Rates or Assessments by this Act authorized to be made, charged, or levied as aforesaid, shall be assessed, levied, and raised by such yearly, half-yearly, quarterly, or other Payments as the said Trustees shall think fit and direct; and the Money so to be rated or assessed shall be paid to, levied, and collected by the Collector or other Person appointed by the said Trustees to levy, collect, or receive the same, and shall when levied and collected be paid by the Collector or other Person levying, collecting, or receiving the same to the Treasurer for the Time being to the said Trustees, and shall be and the same are hereby vested in the said Trustees.

VI. And

Recovery of Rates from Persons removing.

VI. And be it further enacted, That in case any Person shall quit or be about to quit his Premises before he shall have paid the Rates or Assessments then due in respect thereof, and shall refuse or neglect to pay the same on Demand, it shall be lawful for the said Collector, by Warrant under the Hand and Seal of any Justice of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, (which Warrant such Justice is hereby empowered and required to grant, upon Proof of any such Removal, or of a reasonable Suspicion of an intended Removal,) to seize the Goods and Chattels of any such Person wherever they may be, and to sell the same, rendering the Overplus (if any), after having deducted the reasonable Costs, Charges, and Expences attending such Distress and Sale, upon Demand, to the Owner of such Goods and Chattels.

Rates to be recoverable by Distress or Action.

VII. And be it further enacted, That if any Person rated or assessed as aforesaid shall neglect or refuse to pay his Proportion of any of the said Rates or Assessments respectively for the Space of Fourteen Days after personal Demand thereof, or Demand in Writing left at the usual or last Place of Abode or Business of such Person, or on the Premises in respect of which such Rate shall be made, the same shall be recovered and levied by Distress and Sale of the Goods and Chattels of such Person, by Warrant under the Hand and Seal of any Justice of the Peace acting for the said Borough of *Leominster* or for the said County of *Hereford*; and the Overplus (if any) of the Monies to be raised by such Distress and Sale shall be returned to the Owner of the Goods and Chattels so distrained and sold, after deducting all Charges attending such Distress and Sale: Provided always, that nothing herein contained shall prevent the said Trustees from recovering any such Rates or Assessments, where the same amount to or exceed the Sum of Twenty Pounds, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster*, wherein no Essoign, Protection, Wager of Law, nor more than One Imparlance shall be allowed.

Form of Warrant of Distress.

VIII. And be it further enacted, That the Warrant of Distress for the Nonpayment of any Rates or Assessments to be made under or by virtue of this Act may include One or more Person or Persons, and be in the Words or to the Effect following, *mutatis mutandis*; (that is to say,)

'
' to wit. } To the Collector of the Rates made by the Trustees for the Improvement of the Borough of *Leominster*, and to all Constables, Beadles, and other Peace Officers within the said Borough:

'WHEREAS the under-mentioned Persons, now or late Inhabitants, Tenants, or Occupiers of Premises within the Limits of an Act passed in the Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], have been duly rated and assessed and are liable to the Payment of the Sums set opposite to their respective Names hereunder written, by virtue of a Rate or Rates duly made under and by the Authority of the said Act: And whereas it duly appears upon Oath unto me, One of Her Majesty's Justices of the Peace for the said Borough [*or* County],

'County], that the said several Persons have refused or neglected to 'pay the several Sums of Money set opposite to their respective Names 'hereunder written as due from them by virtue or in respect of such 'Rate or Rates, and that the said several Sums of Money respectively 'still remain due and unpaid: And whereas it also duly appears upon 'Oath unto me, that the said several Persons have been duly summoned 'to appear to answer the Premises; and such Persons not having 'appeared, *or* having appeared and not having shown any sufficient 'Cause why such Sums of Money respectively should not be paid, 'these are therefore in Her Majesty's Name to command you, or 'any of you, forthwith to levy the several Sums due from the said 'several Persons and hereunder set opposite to their respective Names, 'and also such further Sum for Costs as is also set opposite to their 'respective Names, by Distress and Sale of their respective Goods 'and Chattels, such Goods and Chattels being kept, before the same 'are sold, until the Seventh Day after such Distress shall have been 'made, including the Day on which it shall be made and the Day 'of Sale, and if such Seventh Day shall happen to be *Sunday*, then 'such Sale shall be on the next or following Day, rendering to them 'respectively the Overplus (if any), on Demand, the reasonable 'Charges of such Distress, and of any Removal or keeping Posses-'sion, Appraisement, and Sale, being first deducted; and if no 'sufficient Distress can be had and taken, then that you certify 'the same to me, to the end that such further Proceedings may be 'had therein as to the Law do appertain: And I do hereby strictly 'charge and command all and singular the Constables and other Her 'Majesty's Peace Officers within their respective Jurisdictions to be 'aiding and assisting in all Things relating to the Premises. Given 'under my Hand and Seal this Day of One thousand 'eight hundred and .'

Names and Residence of Persons assessed.	Sum due.	Costs.

Trustees may mitigate Rates on account of Poverty.

IX. Provided always, and be it further enacted, That it shall be lawful for the Collector or other Person appointed by the said Trustees to levy, collect, or receive the said Pound Rates or Assessments, and he is hereby authorized and empowered, (with the Consent of Two of Her Majesty's Justices of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, such Consent to be signified in Writing under the Hands of such Justices,) in Cases where he shall see fit, by reason of Poverty, Sickness, Nonemployment or Inability of any Person rated in any Pound Rate or Assessment under this Act, either wholly or in part to excuse such Person from the Payment of any such Rate or Assessment under this Act as he in his Discretion shall think proper.

Rates to be apportioned on Persons removing from or into Houses.

X. And be it further enacted, That in all Cases where any Person shall remove from or quit any Premises whatsoever within the Limits of this Act, which shall be rated or assessed by virtue of this Act, such Person shall be liable to pay such Rate or Assessment in proportion to the Time for which he occupied the same, in like Manner as if such Person had not removed from or quitted the same; and in all Cases where any Person shall come into or occupy any such Premises as aforesaid out of or from which any other Person rated as aforesaid shall have removed, or which at the Time of making such Rate or Assessment were empty, or were rated by virtue of this Act, he shall for and in respect of his Occupation thereof be liable only to such Rate or Assessment in proportion to the Time for which he shall occupy the same, in the same Manner as if he had been originally rated or assessed for such Premises, which said respective Proportions shall, in case of Dispute, be settled and ascertained by the said Trustees.

Amendment of Rates by Trustees.

XI. And be it further enacted, That it shall be lawful for the said Trustees, either on the Application of any Person aggrieved, or without such Application, from Time to Time to amend any Rate or Assessment to be made by virtue of this Act, by inserting therein the Name of any Person who ought to have been or to be then rated, or by striking out the Name of any Person who ought not to have been rated therein, or by making such other Amendments or Alterations therein as will in the Judgment of the said Trustees make such Rate or Assessment comformable to the true Intent and Meaning of this Act; and no such Amendment shall be held to vitiate the same, or render it less operative; and every Rate which shall be so altered or corrected shall be as valid and effectual in Law to all Intents and Purposes as if such Addition had been inserted or such Alteration or Correction had been made in the Rate at the Time the same was first made and signed or allowed: Provided always, that every Person whose Name shall be so inserted, or who shall be made so liable to the Payment of any Sum of Money, or who shall think himself aggrieved by any such Addition, Alteration, or Correction, shall have and be entitled to the same Right of Appeal therefrom as he would have had had such Addition been inserted or such Alteration or Correction been made in the Rate at the Time when the same was first made and signed; and in case of Alteration or Correction such Person whose Rate shall be so altered or corrected shall be entitled to Seven Days Notice thereof before the Rate shall be payable by him.

Rates may be inspected.

XII. And be it further enacted, That Duplicates of all Rates and Assessments made or assessed by virtue of this Act shall be deposited with the Clerk or Treasurer to the said Trustees, who shall permit any Person included therein, or any Mortgagee of such Rates or Assessments, to inspect the same, at all seasonable Times, upon Payment of One Shilling; and such Clerk or Treasurer shall, within Ten Days after Demand, deliver a true Copy of such Rates and Assessments, or any Portion thereof, to such Person or Mortgagee as aforesaid, having been first paid for the making of such Copy after the Rate of Sixpence for every One hundred Words or Figures;

and in case such Clerk or Treasurer shall refuse or neglect to deliver such Copy within the said Ten Days, or at the Rate aforesaid, then and every such Case such Clerk or Treasurer shall forfeit and pay any Sum not exceeding Five Pounds.

Justices in Petty Sessions may hear Appeals against Rate.

XIII. And be it further enacted, That it shall be lawful for the Justices of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, present at any special or adjourned Petty Sessions at *Leominster* aforesaid, to hear and determine all Objections to any Rate or Assessment by this Act authorized to be made, on the Ground of Inequality, Unfairness, or Incorrectness in the Valuation of any Houses, Shops, Warehouses, or other Erections and Buildings, Gardens, Lands, Tenements, or Hereditaments included therein, which Decision shall be binding and conclusive on the Parties, unless the same shall be appealed against within the Time and in the Manner herein-after provided: Provided always, that no such Objection shall be inquired into by the said Justices in Special Session unless Notice of such Objection in Writing under the Hand of the Complainant shall have been given Seven Days at least before the Day appointed for such Special Session to the Collector of the Rates or to the Clerk for the Time being of the said Trustees: Provided also, that the said Justices in Special Session shall not be authorized to inquire into the Liability of any Houses, Shops, Warehouses, or other Erections or Buildings, Gardens, Lands, Tenements, or Hereditaments to be rated, but only into the true Value thereof, and into the Fairness of the Amount at which the same shall have been rated.

Justices in PettySessions to act with all the Powers of Justices in Quarter Sessions as to amending Rates, &c.

XIV. And be it further enacted, That the Justices present at any such special or adjourned Petty Sessions as aforesaid shall, for the Purpose aforesaid, have all the Powers of amending or quashing any such Rate so objected to, and likewise of awarding Costs to be paid by or to any of the Parties, and of recovering such Costs, which any Court of Quarter Sessions of the Peace has upon Appeals from any such Rate (except as herein excepted): Provided always, that no Order of the said Justices shall be removed by Certiorari or otherwise into any of Her Majesty's Courts of Record at *Westminster*: Provided also, that nothing in this Act contained shall be construed to deprive any Person of the Right to appeal against any Rate to any Court of General or Quarter Sessions: Provided also, that no Order of the said Justices in Special Sessions shall be of any Force pending any Appeal touching the same Subject Matter to the Court of General or Quarter Sessions of the Peace having Jurisdiction to try such Appeal, or in opposition to the Order of any such Court upon such Appeal.

On Appeal from Rate Quarter Sessions may amend without quashing it.

XV. And be it further enacted, That upon all Appeals from any Rate or Assessment made in pursuance of this Act the Court of General or Quarter Sessions of the Peace in and for the said County of *Hereford* shall and such Court is hereby authorized and required (in all Cases where they shall see just Cause to give Relief) to amend such Rate or Assessment, either by inserting therein or striking out therefrom the Name of any Person, or by altering the Sum therein charged on any Person, or in any other Manner which the said Court shall

shall think necessary for giving such Relief, and without quashing or wholly setting aside such Rate or Assessment: Provided always, that if the said Court shall be of opinion that it is necessary for the Purpose of giving Relief to the Person appealing that the Rate or Assessment should be wholly quashed, then the said Court may quash the same, and order a new Rate to be made.

Persons paying Rates &c. may be Witnesses.

XVI. And be it further enacted, That no Person shall be disqualified from being a competent Witness, or from being admitted to give Evidence in any Action, Information, Prosecution, Appeal, Cause, or Proceeding whatsoever authorized by or relating to the Execution of this Act, or any Rule, Regulation, Order, or Bye Law made or to be made in pursuance thereof, by reason of paying or being charged with or being liable to pay any of the Duties, Rates, or Assessments hereby authorized to be levied, made, charged, or assessed, or by reason of his being an Inhabitant of the said Borough, or being one of the Trustees for putting the said recited Act or this Act into execution, or holding any Office or Employment under the said Trustees.

Application of Penalties.

XVII. And inasmuch as the said recited Act contains no Provision respecting the Application of the Penalties or Forfeitures inflicted or imposed thereby, be it further enacted, That all Fines, Penalties, and Forfeitures inflicted or imposed by the said recited Act or by this Act shall be paid, one Moiety to the Informer, and the Remainder to the Treasurer of the said Trustees, for the Use and Benefit of the said Trustees, to be applied by them to the Purposes of the said recited Act and this Act.

Power to mortgage the Rates, &c.

XVIII. And for the more speedily and effectually enabling the said Trustees to execute the several Purposes of the said recited Act and of this Act, be it further enacted, That it shall be lawful for the said Trustees and they are hereby authorized and empowered, from Time to Time when and as often as they shall think it expedient, to borrow and take up at Interest any Sum or Sums of Money not exceeding in the whole the Sum of One thousand Pounds upon the Credit of the Rates and Assessments hereby authorized to be made, levied, and collected, and by any Writing under the Hands and Seals of the said Trustees, or any Five or more of them, to mortgage, grant, or assign the said Rates and Assessments to any Person who shall advance or lend such Money, or to their Trustees, as a Security for the Money so to be borrowed, together with such lawful Interest as the said Trustees and the Parties lending such Money shall agree upon; and the Charges and Expences of such Securities shall be from Time to Time defrayed by the said Trustees out of the Money advanced upon such Securities, or out of any other Monies in their Hands; and every such Mortgage shall be in the Words or to the Effect following; (that is to say,)

Form of Mortgage.

'BY virtue of an Act passed in the Year of the Reign 'of Queen *Victoria*, intituled [*here set forth the Title of this Act*], 'we whose Hands and Seals are hereunto subscribed, being of 'the Trustees acting in the Execution of the said Act, in considera- 'tion of the Sum of Pounds advanced and 'lent by upon the Credit of and for the general 'Purposes of the said Act, and paid by him to the Treasurer of the 'said

'said Trustees, do hereby grant and assign unto the said
'[*or* to his Trustee or Trustees, *as the Case may be*,] his Executors,
'Administrators, and Assigns, such Proportion of the Rates and
'Assessments authorized to be raised, levied, and collected by
'virtue of the said Act as the said Sum of Pounds doth or
'shall bear to the whole Sum to be borrowed, and which shall from
'Time to Time be owing upon the Credit of the said Rates and
'Assessments, to be had and holden from the Day of the Date of
'these Presents until the said Sum of Pounds, with
'Interest for the same after the Rate of *per Centum per*
'*Annum*, to be paid half-yearly, shall be fully repaid and satisfied.
'In witness whereof we have hereunto set our Hands and Seals
'the Day of in the Year of our Lord One
'thousand eight hundred and .'

And every such Mortgage shall be valid and effectual in the Law; and all such Mortgages shall be numbered commencing with Number One, and so proceeding in arithmetical Progression ascending, whereof the common Excess or Difference shall always be One.

No Preference in Payment of Mortgages.

XIX. And be it further enacted, That the several Persons to whom any such Mortgage shall have been made shall be respectively entitled to their respective Quota of the said Rates and Assessments in proportion to the annual Amount of the Interest of the Monies borrowed on Mortgage of the said Rates or Assessments, without any Preference by reason of the Priority in Date of any such Mortgage, or on any other Account whatsoever.

Register Book to be kept of Securities.

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

Power to transfer Securities.

XXI. And be it further enacted, That it shall be lawful for the several Persons for the Time being entitled to any of the Securities for the Money to be borrowed as aforesaid, and their respective Executors, Administrators, and Assigns, at any Time to transfer the same respectively to any other Person or Persons whomsoever, in the Form or to the Effect following; (that is to say,)

Form of Transfer.

'I *A.B.* of [*or* I, *C.D.* of Executor,
'*or* Administrator of *A.B.* late of *or otherwise*,
'*as the Case may happen to be*], in consideration of the Sum of
'to me paid by *E.F.* of do
'hereby assign and transfer unto the said *E. F.*, his Executors,
'Administrators, and Assigns, a certain Security, Number
'bearing Date the Day of in the Year of our
'Lord under the Hands and Seals of
'of the Trustees for executing an Act passed in the
'Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here*
'*set*

'*set forth the Title of this Act*], and the Principal Sum of
'thereby secured, and all Interest now due and hereafter to grow due
'thereon, and all my Right and Interest in and to the same. Dated
'this Day of in the Year of our
'Lord .'

Transfers to be registered.

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

Securities not to be assigned, except by an Instrument in Writing duly stamped.

XXII. Provided always, and be it further enacted, That no Mortgage or other Security made or issued or to be made or issued by the said Trustees under the Authority of the said recited Act or of this Act shall be assigned or transferred, except by Deed or Instrument in Writing duly stamped according to the Laws in force, in which Deed or Instrument the Consideration for the Assignment or Transfer shall be truly specified and set forth.

Money may be borrowed at lower Interest to pay off existing Mortgages.

XXIII. And be it further enacted, That in case the said Trustees shall at any Time be able to borrow or take up any Sum of Money at a lower Rate of Interest than shall then happen to be payable upon any of the existing Mortgages which may have been granted by the said Trustees, it shall be lawful for the said Trustees from Time to Time to charge the said Rates or Assessments in manner aforesaid with any Sum of Money to be borrowed at such lower Rate and the Interest thereof, and with such last-mentioned Sum to pay off and discharge any of the said Mortgages bearing a higher Rate of Interest.

Provision for Payment of Mortgages by Ballot.

XXIV. And in order that no Preference may be given in paying off the said Mortgages, be it further enacted, That the said Trustees (if there be more Creditors than One) shall, at any of their Meetings, cause the several Numbers of all the Assignments or Securities granted by way of Mortgage and then in force to be written upon distinct Pieces of Paper of an equal Size, and all such Papers shall be rolled up in the same Form as near as may be, and be put into a Box; and the Clerk of the said Trustees shall, in the Presence of Five or more of the said Trustees, draw separately out of the said Box One of the said Numbers for every Assignment then intended to be paid off, and thereupon the Assignment corresponding with the Number which shall be so drawn shall be accordingly paid off by the said Trustees; and after every such Ballot the said Trustees shall cause Notice, signed by their Clerk, to be given to or left at the usual or last known Place of Abode of the Person who shall be entitled to the Money to be paid off pursuant to such Ballot, and where there shall be only One Creditor the like Notice shall be given to such Creditor,

of

of the Intention to pay him off as aforesaid, which Notice shall express the Sum to be paid off, and that the same will be paid, together with the Interest due thereon, on a Day and at a Place to be specified in such Notice, such Day not being sooner than Three Calendar Months after the Day of giving or leaving such Notice as aforesaid; and the Interest of the Principal Money to be paid off shall, from and after the Day to be so specified, cease and be no longer paid or payable, unless the Money shall be demanded pursuant to such Notice and shall not be paid, but the Principal Money in respect whereof such Notice shall be given, and also the Interest thereof to the Day so specified, shall nevertheless be payable on Demand.

Penalty for conveying Washings into any Stream, &c.

XXV. And be it further enacted, That if any Company or Person making, furnishing, or supplying Gas to be used or consumed within the said Town or Borough shall at any Time empty, drain, or convey, or cause or suffer to be emptied, drained, or conveyed, or to run or flow, any Washings, or other waste Liquid, Substance, or Thing whatsoever which may arise or be produced in the making of such Gas, into any River, Brook, or running Stream, Reservoir, Aqueduct, Feeder, Pond, Spring Head, or Well, or into any Drain, Sewer, or Ditch communicating therewith, or shall do or cause to be done any Annoyance or Thing to the Water contained in any such River, Brook, or running Stream, Reservoir, Aqueduct, Feeder, Pond, Spring Head, or Well, or Drain, Sewer, or Ditch, whereby such Water or any Part thereof shall or may be fouled or corrupted, then and in every such Case such Company or Person as aforesaid shall forfeit and pay for every such Offence the Sum of Two hundred Pounds; and such Penalty or Forfeiture shall or may be sued for and recovered, together with full Costs of Suits, in any of Her Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Plaint, Suit, or Information, wherein no Essoign, Protection, Privilege, or Wager of Law, nor more than One Imparlance, shall be allowed; and the whole of such Penalty shall be paid to the Person who shall sue for the same: Provided always, that no such Penalty or Forfeiture shall be recoverable unless the same be sued for within Six Calendar Months next after the Time at which such Annoyance, Nuisance, Injury, Damage, Act, or Thing shall have ceased and determined; Provided also, that over and above and in addition to the said Penalty of Two hundred Pounds (and whether such Penalty shall or shall not have been sued for and recovered), in case any of the said Washings or other waste Liquid, or noisome or offensive Liquid, Substance, or Thing, shall be emptied, drained, conducted, or conveyed, or caused or suffered to run or flow in manner aforesaid, into any River, Brook, or running Stream, or any Reservoir, Aqueduct, Feeder, Pond, Spring Head, or Well, or into any Drain, Sewer, or Ditch communicating therewith, or any such Annoyance, Act, or Thing shall be done or caused to be done as aforesaid, and Notice thereof in Writing shall have been given by any Person whomsoever to the said Company or to such Person as aforesaid, and such Company or Person shall not, within Twenty-four Hours after such Notice shall have been given, stop, hinder, or prevent such Washings, waste Liquid, or noisome or offensive Liquid, Substance, or Thing from being emptied, drained, conducted, or conveyed, or from running or flowing in

manner aforesaid, and every such Annoyance, Nuisance, Injury, Damage, Act, or Thing from being done, then such Company or Person shall forfeit and pay the Sum of Twenty Pounds for each Day such Washings, waste Liquid, or noisome or offensive Liquid, Substance, or Thing shall be so emptied, drained, conducted, or conveyed, or cause or suffered to run or flow in manner aforesaid, or such other Annoyance, Act, or Thing shall be done as aforesaid; and such last-mentioned Penalty shall and may be recovered and levied in like Manner as any other Penalty may by the said recited Act or this Act be recovered and levied, and shall be paid to the Informer or to the Person who, in the Judgment of the Justice before whom the Conviction shall take place, shall have sustained any Annoyance, Injury, or Damage by any such Act so done or committed as aforesaid.

Penalty for allowing Escape of Gas.

XXVI. And be it further enacted, That whenever any Gas shall be found to escape from any of the Pipes which shall be laid down or set up by any Company or Person making, furnishing, or supplying any Gas to be used, burned, or consumed within the said Town or Borough, such Company or Person shall, at their own Expence, immediately after receiving Notice in Writing of any such Escape of Gas by any Person whomsoever, cause the most speedy and effectual Measures to be taken to prevent such Gas from further escaping; and in case such Company or Person aforesaid shall not, within Twenty-four Hours next after such Notice being given, effectually prevent the Gas from escaping, and wholly and effectually remove the Cause of Complaint, such Company or Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds for each and every Day after the Expiration of Twenty-four Hours from the Time of giving such Notice during which the Gas shall be suffered to escape as aforesaid, which Penalty shall be recovered in a summary Way, on the Oath of some credible Witness, by Information to be laid before some Justice of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, and shall and may be recovered and levied, with all reasonable Charges, by Distress and Sale of the Goods and Chattels of such Company or Person, by the Warrant of any Justice of the Peace as herein directed.

Gas Pipes to be laid Three Feet from Water Pipes, &c. in a particular Manner.

XXVII. And be it further enacted, That all the Pipes or other Conduits to be laid or used for the Conveyance of Gas within the said Town or Borough shall be so laid at the greatest practicable Distance, and (wherever the Width of the Carriage or other Way will allow thereof) at the Distance of Three Feet at least from the nearest Part of any Water Pipe already laid down or hereafter to be laid down for the Conveyance of Water, except in Cases where it shall be unavoidably necessary to lay the said Gas Pipes across any such Water Pipes, in which Cases the Gas Pipes shall be laid over the Water Pipes at the greatest practicable Distance therefrom, and shall form therewith a Right Angle; and in such Cases also the Length of the said Gas Pipes so crossing the said Water Pipes shall always exceed Nine Feet, and so that no Joint of the said Gas Pipes may be nearer to any Part of the said Water Pipes than Four Feet; and in laying down the said Gas Pipes such Company or Person as aforesaid shall in no Case join Two or more Gas Pipes together previously to

their being laid in the Trench, but shall lay each Pipe as near as may be in its Place in the Trench, and shall then in such Trench properly form and complete, with good and sufficient Materials, the Joining with the other Pipes to be connected therewith, and shall also make and keep Air-tight all such Pipes, and all Pipes to be connected therewith, and all the Screws, Joints, Inlets, Apertures, and Openings therein respectively, and in all respects prevent the said Gas from escaping therefrom, upon pain of forfeiting any Sum not exceeding Five Pounds for every such Default.

To prevent Escape and Contamination of Water.

XXVIII. And be it further enacted, That whenever the Water of any Owner or Proprietor of any Waterworks within the said Town or Borough, or the Water in any Well, Reservoir, or Pond belonging to or used by any Person whomsoever within the said Town or Borough, shall be contaminated or affected by the Gas of any Company or Person, such Company or Person shall forfeit and pay any Sum not exceeding Twenty Pounds for every such Offence, and the same shall be applied to the Use and Benefit of the Owner of such Waterworks, Well, Reservoir, or Pond, or the Party using any such Water and suing for the same; and in case any such Water shall be contaminated or affected by Gas in any Way whatsoever, such Company or Person so contracting to light as aforesaid shall, within Twenty-four Hours after Notice thereof in Writing, signed by any Person whomsoever interested in or using such Water, to be left at the usual Office or Place of transacting Business of such Company or Person, cause the most proper and effectual Measures to be taken to stop and prevent Gas from further escaping from their Mains, Works, or Pipes, and from contaminating such Water; and in case such Company or Person shall not, within Twenty-four Hours next after such Notice so left as aforesaid, effectually prevent the Gas from so escaping, and wholly and satisfactorily remove the Cause of Complaint, and prevent all such Contamination whereof Notice shall be given as aforesaid, such Company or Person shall forfeit and pay to the Party so interested in or using such Water and complaining as aforesaid, for the Use and Benefit of such Party (over and above the beforementioned Penalty not exceeding Twenty Pounds), the further Sum of Ten Pounds for each Day during which any such Water shall be and remain contaminated or affected by any such Gas as aforesaid.

For ascertaining if the Water is contaminated.

XXIX. And whereas it may become a Question upon such Complaint as aforesaid, whether the said Water be contaminated or affected by the said Gas; be it therefore further enacted, That in every such Case it shall be lawful for the Owner or Proprietor of any such Waterworks, or for any Person interested in such Well, Reservoir, or Pond, to dig to and about and search and examine the Pipes and other Apparatus of such Company or Person as aforesaid, for the Purpose of ascertaining whether such Contamination proceed from or be occasioned by such Gas; and if it shall appear that the said Water has been contaminated or affected by the Escape of such Gas, the Costs and Expences of the said Digging, Search, and Examination, and also of the Repair of the Pavement which shall have been taken up or disturbed, shall be paid by such Company or Person aforesaid,

which Costs and Expences shall be ascertained and determined, if necessary, by any Justice of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, and may be recovered in like Manner as any Penalty may be recovered by virtue of the said recited Act or this Act: Provided always, that if upon such Examination it shall appear that such Contamination has not arisen from any such Escape of Gas, then and in such Case the Owner or Proprietor of such Waterworks, or the Person interested in such Well, Reservoir, or Pond, shall bear and pay all the Costs and Expences of such Examination and Repair, and shall also make good to such Company or Person as aforesaid any Loss, Injury, or Damage which may be occasioned to the Pipes or other Apparatus of such Company or Person in and by such Examination, and shall also make good to the said Trustees any Loss, Injury, or Damage which may be done to the Pavement so broken up or disturbed in such Examination, the Amount of such Injury, Loss, or Damage to be ascertained and determined (if necessary) by such Justice, or by any other Justice of the Peace as aforesaid.

Act not to prevent the Company or Persons lighting with Gas from being indicted for a Nuisance.

XXX. Provided always, and be it further enacted, That the Powers and Provisions in this Act contained shall not extend to protect any Company or Person making, furnishing, or supplying any Gas to be used, burned, or consumed within the said Town or Borough, or any of the Servants, Officers, or Workmen of any such Company or Person, from any Indictment or Prosecution for a public or private Nuisance in respect of any Works, or of the Means which shall be employed by them in making or using the said Gas, or in furnishing any such Gas Light, nor from any Action for any Injury or Damage sustained by reason of any such Works or the Use of the said Gas, or the Method of lighting therewith, whether such Injury or Damage shall proceed from the Preparation or the Use of such Gas, or from the Method of lighting, or the Carelessness or Want of Skill of any of the Persons employed therein, or from any other Cause whatever.

Justices may proceed by Summons for the Recovery of Penalties.

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

Application of Money.

XXXII. And be it further enacted, That the Money to be raised or to be received by virtue of this Act under or by virtue of the Rates or Assessments herein-before mentioned, and the

Money to be raised on the Credit thereof, and also any Sums of Money which at the Time of the Commencement of this Act shall be in the Hands of the said Trustees from any Source whatever, and also any Monies which may be received by the said Trustees under the Authority of the said recited Act or this Act, shall be and the same are hereby declared to be vested in the said Trustees, and shall be applied by them and disposed of in manner following; (that is to say,) in the first place, in paying all Costs, Charges, and Expences incurred in preparing, applying for, and obtaining this Act, and otherwise incident thereto; in the next place, in paying the Interest of any Money which shall have been advanced for defraying such Costs, Charges, and Expences; in the next place, in paying the Interest of any Money that may have been borrowed by way of Mortgage under the Authority of the said recited Act, or which may be borrowed by way of Mortgage under the Authority of this Act, as and when the same respectively shall become due; in the next place, in defraying the Expences attending the Execution of the several Works, Matters, and Things by the said recited Act or this Act authorized; in the next place, in paying and discharging any Principal Money which shall have been advanced for defraying the Costs, Charges, and Expences incurred in preparing, applying for, and obtaining this Act; and in the next place, in paying and discharging any Principal Money borrowed and now due on the Credit of the said recited Act, and also any Money which may be borrowed under the Authority or on the Credit of this Act.

When old Securities lost, new ones may be executed.

XXXIII. And be it further enacted, That in all Cases in which it shall appear, by satisfactory Evidence adduced at any annual General or adjourned General Meeting of the said Trustees, that any Person is a Creditor on the Security of the Rates or Assessments by this Act authorized to be made or levied, and that the Mortgage or Assignment of the Rates or Assessments for securing any such Sum of Money, or the Transfer thereof, has been lost, mislaid, or by Accident destroyed, it shall be lawful for the said Trustees to make an Order, at the same or at any subsequent annual General or adjourned General Meeting, for the granting, at the Expence of the Person applying for the same, a new Mortgage, Assignment, or Transfer of the Rates or Assessments by this Act authorized to be made or levied, in lieu and stead of the Mortgage, Assignment, or Transfer which shall have been so proved to have been lost, mislaid, or destroyed as aforesaid; and every Mortgage, Assignment, or Transfer so to be granted shall be valid and effectual for the Purposes thereby intended.

Lands may be sold to pay Debts, and for other Purposes.

XXXIV. And be it further enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and empowered, at any Time, and from Time to Time at their Discretion, to make sale and absolutely dispose of so much and such Part or Parts of the Pieces or Parcels of Land and Hereditaments particularly described in the Schedule to this Act annexed as will in the Judgment of the said Trustees be sufficient to raise Money to enable them to pay off and discharge the Principal Money borrowed on the Security of the

said

said Lands and Premises, under the Authority of the said recited Act, and all Interest which shall be due thereon at the Time of Payment thereof, and also a certain other Debt now due and owing from the said Trustees to the Trustees of the *Leominster* District of Turnpike Roads, and also to defray the Costs, Charges, and Expences incurred in preparing, applying for, and obtaining this Act, and otherwise incident thereto; and also to enable the said Trustees to purchase such Buildings and Premises within the said Borough as may be necessary to be taken down or removed for the Purpose of widening or otherwise permanently improving the Streets of the said Borough, such Pieces or Parcels of Land to be sold to any Person or Persons whomsoever, by public Auction, in such Lot or Lots as the said Trustees shall think fit; and all Lands and Hereditaments which may be sold by virtue of this Act shall, on Payment of the full Purchase Money for the same into the Hands of the said Trustees or of their Treasurer for the Time being, or of any other Person to be by them appointed to receive the same, be conveyed as Freehold of Inheritance in Fee Simple unto or in Trust for the Purchasers thereof respectively; and Conveyances of the same by Lease and Release or Feoffment shall be made and executed by the said Trustees or any Five of them, and shall be valid and effectual in the Law to vest the same in such Purchasers, and their respective Heirs, Appointees, and Assigns absolutely for ever; and such Purchasers shall not be liable to see to the Application of their respective Purchase Monies, or be liable or accountable for the Misapplication or Nonapplication of the same: Provided always, that it shall be lawful for any One or more of the said Trustees, or any Person or Persons on his or their Behalf, to attend and bid at any such Sale or Sales, and to become the Purchaser or Purchasers of all or any of the Pieces or Parcels of Land which may be so put up or offered for Sale, any Rule of Law or Equity to the contrary thereof in anywise notwithstanding.

Application of Purchase Money arising from the Sale of Lands.

XXXV. And be it further enacted, That the Purchase Monies and other Monies arising from or to be produced by the Sale of the said Lands and Hereditaments, after deducting the Costs, Charges, and Expences of Sale, shall and may be applied by the said Trustees in paying off and discharging the Principal Money borrowed on the Security of the said Lands and Hereditaments under the Authority of the said recited Act, and all Interest which shall be due thereon at the Time of Payment thereof, and also the said Debt now due and owing to the Trustees of the *Leominster* District of Turnpike Roads, and in paying all Costs, Charges, and Expences incurred in preparing, applying for, and obtaining this Act, and otherwise incident thereto, and in purchasing and taking down or removing such Buildings and Premises within the said Borough as may be necessary to be taken down or removed for the Purpose of widening or otherwise permanently improving the Streets of the said Borough; and the surplus Money arising from the Lands so sold (if any such there be) shall be invested in the Names of such Trustees and their Successors in the Three *per Cent.* Consolidated Bank Annuities; and the Interest, Dividends, and Proceeds from Time to Time arising therefrom shall be paid and applied in aid of the Rates and Assessments herein-before authorized to be made and levied.

XXXVI. And

Power to purchase Lands.

XXXVI. And be it further enacted, That for the Purpose of widening or otherwise permanently improving the Streets, Lanes, Ways, Passages, and public Places within the said Borough, and opening Communication therewith, it shall be lawful for the said Trustees and they are hereby empowered to contract and agree with such Corporations and Persons as shall be or be deemed the Owners of or interested in any Lands, Buildings, or Premises within the said Borough, and shall be willing to sell the same, which they the said Trustees shall deem expedient to be taken or used for the Purposes of this Act or the said recited Act, for the absolute Purchase thereof, or of any Part thereof, or for any Damage thereto to be sustained by the Proprietors thereof in the Execution of the Powers of this Act or the said recited Act; and it shall be lawful for all such Corporations, Tenants in Tail or for Life, or for any other partial or qualified Estate or Interest, Husbands, Guardians, Trustees, Feoffees in Trust for charitable or other Purposes, Committees, Executors, and Administrators, and all Trustees and Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of all Persons entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, and for and on behalf of their Wives, Wards, Lunatics, and Idiots respectively, and for and on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Idiots, Femes Covert, or other Persons, and to and for all Femes Covert seised, possessed of, or interested in their own Right, or entitled to Dower or other Interest in, and for all other Persons whomsoever seised or possessed of or interested in, any such Lands, Buildings, or Premises, to contract for, sell, and convey the same, or any Part thereof, unto the said Trustees; and all such Contracts, Sales, and Conveyances, and also all Contracts, Sales, and Conveyances to be made under the Authority of the said recited Act, shall be in the following Form, or as near thereto as the Number of the Parties and the Circumstances of the Case will admit; (that is to say,)

Form of Conveyance to the Trustees.

'I *A.B.* of in consideration of the Sum
'of 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 Exchequer *ex parte* "The
'Trustees for the Improvement of the Borough of *Leominster*," *or*
'to *C.D.* of and *E.F.* of ,
'Two Trustees appointed to receive the same, pursuant to the Act
'after mentioned,] paid by the Trustees acting in the Execution of
'an Act passed in the Year of the Reign of Her Majesty
'Queen *Victoria*, intituled [*here set forth the Title of this Act*], do
'hereby convey to the said Trustees all [*describing the Premises*],
'to hold to the said Trustees and their Successors for ever, for the
'Purposes of the said Act. In witness whereof I have hereunto set
'my Hand and Seal the Day of in the Year
'of our Lord .'

And all such Conveyances and Assurances shall, without Enrolment or Registry, be valid and effectual, not only to convey the Estate and Interest of the Party conveying, but also to convey all the Right, Estate, and Interest, Use, Trust, Property, Possession, Claim, and

Demand whatsoever of his Cestuique Trust, and all Persons whomsoever claiming or having Title to claim by, from, through, under, or after him, and of all Persons entitled in Remainder or Reversion expectant on any particular Estate; and the same shall merge all Terms of Years attendant, by express Declaration or by Construction of Law, on the Estate or Interest so thereby conveyed, and shall bar and destroy the Dower of the Wife of the Party conveying, and all Estates Tail, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever of and in the same thereby intended to be conveyed; and the Party so conveying shall be indemnified for all he shall do by virtue or in pursuance of this Act.

Lands bought of any Corporation or Person under Disability to be valued by Two Surveyors or their Umpire.

XXXVII. Provided always, and be it further enacted, That the Consideration Money to be paid for any Lands to be purchased from or conveyed by any Person or Corporation under any Disability or Incapacity as aforesaid, or not having Power to sell, except under the Provisions herein-before contained, shall in no Case be less than such Sum as the same shall be valued at by Two able practical Surveyors, one of whom shall be nominated by the said Trustees, and the other by the Person or Corporation contracting or agreeing to sell the same; and if such Two Surveyors shall not agree in the Valuation thereof, then by such Third Surveyor as any Two Justices acting for the said County of *Hereford* shall for that Purpose nominate; and each of the said Two Surveyors, if they shall agree in and make their Valuation, or if not, then the Surveyor so to be nominated by the Justices as aforesaid, shall annex to their or his Survey, Estimate, or Valuation, when completed, a Declaration of the Correctness thereof, in the Form (or as near thereto as the Circumstances of the Case will admit) prescribed in the Schedule of an Act passed in the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, for the Suppression of voluntary and extra-judicial Oaths and Affidavits; and further, that all the Costs and Expences of such Valuation shall be borne by the said Trustees.

Application of Compensation Money when amounting to 200*l.*

XXXVIII. And be it further enacted, That if any Money shall be agreed to be paid for the Purchase of any Lands to be purchased by virtue of this Act, or for any Compensation or Satisfaction for Damage in respect of any Lands, which any Corporation or Tenant for Life or in Tail, or Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or any Person whose Lands are limited in strict or other Settlement, or any Person under any other Disability or Incapacity, shall be entitled unto, interested in, or otherwise capacitated to convey, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there *ex parte* "The Trustees for the Improvement of the Borough of *Leominster*," pursuant to the Method prescribed by an Act passed in the First Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the better securing Monies and*

1 G. 4. c. 35.

Effects paid into the Court of Exchequer at Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes,* and the General Orders of the same Court, and without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court made in a summary Way upon Petition to be presented to the said Court by the Party who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance, affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes, as the said Court of Exchequer shall authorize to be purchased or paid, or such Part thereof as shall be necessary; or until the same shall, upon the like Application, be laid out, by Order of the said Court made in a summary Way, in the Purchase of other Lands, which shall be conveyed, limited, and settled to, for, and upon such and the like Uses, Trusts, and Purposes, and in the same Manner as the Lands which shall be so purchased, or in respect of which Compensation or Satisfaction shall be payable as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing and capable of taking effect; and in the mean time and until such Order shall be made the said Money may, by Order of the said Court, upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or in other Government or Real Securities; and in the meantime, and until such Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, or shall be called in or cancelled, the Dividends or Interest, and annual Produce thereof, shall from Time to Time, by Order of the said Court, be paid to the Party who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased and settled.

Application of Compensation Money when less than 200*l.* and exceeding 20*l.*

XXXIX. Provided always, and be it further enacted, That if any Money agreed to be paid for any Lands to be purchased for the Purposes of this Act, or for Compensation or Satisfaction as aforesaid, in respect of any Lands belonging to any Corporation or to any Person under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then the same shall, at the Option of the respective Persons for the Time being entitled to the Rents and Profits of such Lands, or of their respective Husbands, Guardians, or Committees, in case of Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Trustees, signified in Writing under the Hands of any Five or more of them, be paid into the said Bank of *England* in the Name and with the Privity of the said Accountant General, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid (at the like Option and with the like Approbation) to Three Trustees to be nominated by the respective Persons exercising such Option, such Nomination to be approved of by the said Trustees, and such Nomination and Approbation to be signified in Writing under the

the Hands of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by such Trustees applied in like Manner as is herein-before directed with respect to the Money so to be paid into the Bank of *England*, but without being required to obtain any Order of the said Court touching the Application thereof.

Application of Compensation Money when not exceeding 20*l.*

XL. Provided also, and be it further enacted, That where any Money so agreed to be paid as last herein-before mentioned shall not exceed the Sum of Twenty Pounds, the same shall be paid to the respective Parties who would for the Time being have been entitled to the Rents and Profits of the Lands so purchased, or in respect of which Compensation or Satisfaction shall be payable under the Authority of this Act, for their own Use and Benefit; or in case of Coverture, Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their respective Husbands, Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

Expences of Purchases and Costs to be paid by the Trustees.

XLI. And be it further enacted, That where, by reason of any Disability or Incapacity of any Person or Corporation entitled to any Lands to be purchased, taken, or used under the Authority of this Act, or from any other Cause, the Purchase Money for any Lands or any Money to be paid by way of Recompence or Compensation for any Damage or Injury done to the same shall be required to be paid into the Bank of *England*, it shall be lawful for the said Court of Exchequer to order the reasonable Costs, Charges, and Expences attending any Purchase, taking, or using of Lands, or which may be incurred in consequence thereof, and also all the Costs, Charges, and Expences of the Investment of such Purchase or Compensation Money in Government or Real Securities, and of the Reinvestment of the same, or the Government or Real Securities purchased therewith, in the Purchase of other Lands, together with the necessary Costs, Charges, and Expences of obtaining the proper Orders and of all other Proceedings for such Purposes, except such as may be occasioned by Litigation between Claimants, and for the Payment of the Dividends and Interest of the Government or Real Securities upon which such Purchase or Compensation Money may be invested, and for the Payment out of Court of the Principal of such Purchase or Compensation Money, or of the Government or Real Securities aforesaid, to be paid by the said Trustees; and the said Trustees shall from Time to Time pay such Sums of Money for the Costs, Charges, and Expences herein-before mentioned as the said Court shall direct.

In case of disputed Titles the Money to be paid into the Bank.

XLII. And be it further enacted, That in case any Party to whom any Money shall be agreed to be paid for the Purchase of any Lands to be taken or used by virtue of this Act, or for Compensation or Satisfaction as aforesaid, shall refuse to accept the same, or shall not be able to make a good Title to the Premises, to the Satisfaction of the said Trustees, it shall be lawful for the said Trustees to order such Money to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the said Court of Exchequer, to be placed to his Account to the Credit of the Parties interested

interested (describing them), subject to the Order, Control, and Disposition of the said Court, which said Court, on the Application of any Party making claim to such Money or any Part thereof, by Petition, is hereby empowered, in a summary Way of proceeding or otherwise as to the same Court may seem meet, to order the same to be laid out and invested in the Public Funds, and to order Distribution thereof, or Payment of the Dividends thereof, according to the Estate or Interest of the Party making claim thereunto, and to make such other Order in the Premises as to the said Court shall seem proper; and the Cashier of the Bank of *England* who shall receive such Money is hereby required to give to the said Trustees, or to any Party paying any Money into the Bank of *England* under or pursuant to this Act, a Receipt for such Money, mentioning and specifying therein for what and for whose Use (described as aforesaid) the same is received.

Persons in possession presumptively entitled.

XLIII. Provided always, and be it further enacted, That where any Question shall arise touching the Title of any Party to any Money to be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the Court of Exchequer, in pursuance of this Act, for the Purchase of any Lands, or for or in respect of Compensation or Satisfaction as herein-before mentioned, or to any Annuities or Securities to be purchased with any such Money as herein-before mentioned, or to the Dividends or Interest of any such Annuities or Securities, the Parties respectively who shall have been in possession or receipt of the Rents or Profits of such Lands at the Time of such Purchase or Damage, and all Persons claiming under such Parties, or under or consistently with the Possession of such Parties, shall be deemed to have been lawfully entitled to such Lands, according to such Possession, until the contrary shall be shown to the Satisfaction of the said Court; and the Dividends or Interest of the Annuities or Securities to be purchased with such Money, and also the Capital of such Annuities or Securities, shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the Satisfaction of the said Court that such Possession was a wrongful Possession, and that some other Party was lawfully entitled to such Lands, or to some Estate or Interest therein, when the said Court shall make such Orders respecting the said Capital, and the Dividends and Interest thereof, as the Circumstances of the Case may require.

For the Sale of Lands not wanted.

XLIV. And whereas by means of the Purchases which the said Trustees are empowered to make by virtue of this Act they may happen to be seised or possessed of more Lands than will be necessary for effecting the Purposes of this Act, or of Lands not applicable to the Purposes thereof; be it therefore further enacted, That it shall be lawful for the said Trustees, and they are hereby required, within Ten Years from the passing of this Act, to sell and to convey to the Purchasers thereof any Part of such superfluous Lands, or any Estate or Interest purchased by the said Trustees in such Lands or any Part thereof, in such Manner as they shall deem most advantageous; and such Conveyances from the said Trustees shall be valid and effectual to all Intents and Purposes: Provided always,

always, that the said Trustees, before they shall dispose of any such superfluous Lands, shall first offer to sell the same to the Person or to the several Persons whose Lands or Premises shall immediately adjoin the Lands so proposed to be sold, such Persons being in *England* and conveniently to be found, and being capable of entering into a Contract for the Purchase of such Lands; and such respective Persons, in case they shall be desirous of purchasing the same, shall signify such their Desire and Intention in that Behalf to the said Trustees within Thirty Days after such Offer of Sale shall have been made; and in case such respective Persons shall decline to avail themselves of such Offer, or shall neglect to signify their Desire and Intention to purchase such Lands for the Space of Thirty Days, the Right of Pre-emption of every such Person so declining or neglecting in respect of the Lands included in such Offer of Sale shall cease, and a Declaration in Writing in due Form made before a Master Extraordinary of the High Court of Chancery, or before any Justice of the Peace for the said Borough of *Leominster* or for the said County of *Hereford*, by some Person not interested in such Lands, stating that the Person entitled to such Right of Pre-emption was not in *England*, or was not found, or was not capable of entering into a Contract for the Purchase of such Lands, or that such Offer was made by or on behalf of the said Trustees, and that such Offer was refused or was not accepted by the Person to whom the same was made within the Space of Thirty Days from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made and was refused or was not accepted within the Time aforesaid (as the Case may be) by the Person to whom such Offer was made; and in case such Person as aforesaid shall be desirous of purchasing any such Lands, and he and the said Trustees shall not agree with respect to the Price thereof, then the Price thereof shall be ascertained by Two Surveyors or their Umpire, in like Manner as by this Act is directed with respect to the Value of any Lands to be purchased from any Person or Corporation under Disability or Incapacity.

The Word "grant" in Conveyances from the Trustees to amount to certain Covenants.

XLV. And be it further enacted, That in all Conveyances to be made by the said Trustees under or in pursuance of this Act or the said recited Act the Word "grant" shall operate as and be construed and adjudged in all Courts of Judicature to be express Covenants to or with the respective Grantees therein named, and the Successors, Executors, Administrators, or Assigns of such Grantees, according to the Quality or Nature of such Grantees Interest therein, and the Estate or Interest therein expressed to be thereby conveyed by or from the said Trustees for themselves and their Successors, that they the said Trustees, notwithstanding any Act or Default done by them, were, at the Time of the Execution of such Conveyances, seised or possessed of the Lands 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, that the Purchaser thereof, his Heirs and Assigns, Successors and Assigns, or Executors, Administrators, and Assigns (as the Case might be), shall quietly enjoy

the same against the said Trustees and their Successors, and all claiming under them, and be indemnified and saved harmless by the said Trustees and their Successors from all Incumbrances committed by the said Trustees, and also for further Assurance of such Lands by the said Trustees or their Successors, and all claiming under them, unless except and so far as the same shall be restrained and limited by express particular Words contained in such Conveyance; and all such Grantees, and their several Successors, Heirs, Executors, Administrators, and Assigns respectively, according to their respective Quality or Nature, and the Estate or Interest expressed to be conveyed, shall and may, in all Actions to be brought, assign Breach or Breaches thereupon, as they might do in case such Covenants were expressly inserted in such Conveyances.

Money advanced to be repaid with Interest.

XLVI. And be it further enacted, That if any Person shall advance and pay any Money in discharge of the Expences of obtaining, passing, and executing this Act, the Money so paid or advanced shall be repaid and satisfied by the Direction of the said Trustees, together with lawful Interest for the same.

Limits of the Borough.

XLVII. And be it further enacted, That for the Purposes of this Act the said Borough shall be confined to the ancient Limits thereof as stated and particularly set forth in the Charter of Incorporation of the First Year of the Reign of Queen *Mary*; and that all Rates and Assessments to be levied by virtue of the Powers of this Act shall extend to the Inhabitants, Occupiers, and Tenants residing or occupying within such ancient Limits of the said Borough, and not further or otherwise.

Meaning of certain Words.

XLVIII. And be it further enacted, That in the Construction of the said recited Act and of this Act every Word importing the Singular Number only shall extend and be applied to several Persons, Matters, or Things, as well as to One Person, Matter, or Thing; and every Word importing the Plural Number shall extend and be applied to One Person, Matter, or Thing, as well as to several Persons, Matters, or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and the Word "Person" shall extend to any Body Politic, Corporate, Collegiate, Municipal, Civil, or Ecclesiastical, Aggregate or Sole, as well as an Individual; and the Word "Corporation" shall extend to any Body Politic, Corporate, or Collegiate, Municipal, Civil, or Ecclesiastical, Aggregate or Sole; and the Word "Lands" shall extend; to Messuages, Lands, Tenements, and Hereditaments of any Tenure, unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Public Act.

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

The

The SCHEDULE to which this Act refers.

	A.	R.	P.
A Parcel of Pasture Land and Orchard Ground, situate near to the Turnpike at the Etuam Street Broad, in the Occupation of Mr. J. P. Bradford	3	1	23
A Parcel of Arable Land adjoining thereto, on the South-west Side thereof, in the Occupation of Thomas Pritchard	3	3	14
A Parcel of Arable Land next adjoining, in the Occupation of Mr. E. P. Southall	6	1	10
A Parcel of Arable Land adjoining the Broad Bridge, in the Occupation of Mr. John Wood	3	1	7
A Parcel of Pasture Land adjoining the Husbandry Road, in the Occupation of Mr. Thomas Smith	4	1	29
A Parcel of Pasture Land adjoining on the North Side of the last Piece, in the Occupation of Mr. John Wood	3	1	6
A Parcel of Arable Land adjoining thereto on the North-west Side, in the Occupation of Mr. John Perks	3	1	3
A Parcel of Pasture Land next adjoining the last Piece, in the Occupation of Mrs. Trotter	3	0	2
A Parcel of Pasture Land next adjoining, in the Occupation of Mr. John Wood	4	0	12
A Parcel of Pasture Land on the West Side of the last-mentioned Field, also in the same Occupation	3	0	36
A Parcel of Pasture Land on the East Side of the last-mentioned Field, in the Occupation of Mr. William Kinnersley	5	0	3
A Piece of Garden Ground in the Occupation of Thomas Smith	0	1	35
A Parcel of Meadow Land situate on the Marsh Broad adjoining the Turnpike Road, in the Occupation of Mr. John Adams	2	0	6
A Parcel of Meadow Land adjoining thereto on the North Side, in the Occupation of Mr. James Bedford	3	0	36
A Parcel of Meadow Land adjoining the Lane on the North Side, in the Occupation of William Grosvenor	2	2	30
A Parcel of Meadow Land next adjoining, in the Occupation of Mr. James Ensoll	4	2	29
	56	1	31

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1838.