



CHAPTER cxxi.

An Act to amend the Administration of the Law relating to the New Forest in the County of Southampton; and for other purposes. A.D. 1877.
[23d July 1877.]

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 this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited for all purposes as "The New Forest Act, 1877." Short title of Act.

2. The Acts mentioned in the first and second columns of the following table are in this Act referred to by the short titles set forth in the third column of the said table in reference to such Acts respectively :— Short titles. Acts relating to the New Forest.

TABLE OF ACTS.

Year of Act.	Title of Act.	Short Title by which Act referred to in this Act.
9 & 10 Will. III. c. 36., A.D. 1691.	"An Act for the increase and preservation of Timber in the New Forest, in the County of Southampton."	Act of 1698.
48 Geo. III. c. 72., A.D. 1808.	"An Act for the increase and preservation of Timber in Dean and New Forest."	Act of 1808.
14 & 15 Vict. c. 76., A.D. 1851.	"An Act to extinguish the Right of the Crown to Deer in the New Forest, and to give Compensation in lieu thereof, and for other Purposes relating to the said Forest."	Act of 1851.

3. "The Forest" means, for the purposes of this Act, the uninclosed lands whereof Her Majesty is seised in her domain as Definition of "Forest" and "Re-

A.D. 1877: of fee, subject to the rights of commoners therein or thereover, situate within the boundaries of the New Forest in the county of Southampton, including all such lands as may at the commencement of this Act be inclosed in pursuance of any commission issued in pursuance of the Act of 1698, the Act of 1808, and the Act of 1851, or any of such Acts.

Register of common rights."

"Register of common rights made in pursuance of the Act of 1854" means the register of the decision of claims of rights of common and other rights in and over the New Forest made by the Commissioners acting under the Act of the session of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter forty-nine, intituled "An Act for the settlement of claims upon and over the New Forest."

"Her Majesty,"
"Commissioners of Woods."

4. The expression "Her Majesty" includes the heirs and successors of Her Majesty, and the expression "the Commissioners of Woods" means the Commissioners or Commissioner of Her Majesty's Woods, Forests, and Land Revenues, or such one of them as may for the time being have the management or direction of the New Forest.

Exercise of Right of Inclosure.

Limitation in area of exercise of right of inclosure.

5. The right of Her Majesty to inclose any lands in the Forest for the growth of timber or trees, in pursuance of the Act of 1698, the Act of 1808, and the Act of 1851, or any of such Acts, shall be exercised only on such lands as are at the date of the passing of this Act inclosed, or as have previously to such date been inclosed, by virtue of commissions issued in pursuance of the said Acts, or some of them.

Exercise of rights of Crown within limited area.

6. With respect to the lands in the Forest which are at the date of the passing of this Act inclosed, or have previously to such date been inclosed by virtue of any such commission as aforesaid, it shall be lawful for Her Majesty, from time to time, without the issue of any commission, and when and in such manner and as often as to Her Majesty seems meet, to cause any part of such lands to be inclosed, planted, laid open, replanted, or re-inclosed; provided that the whole quantity of such lands under inclosure does not exceed at any one time sixteen thousand acres.

Provided also, as respects the lands in this section mentioned, that in cutting timber or trees for improving the woods, or for sale, care shall be taken to maintain the picturesque character of the ground, and not wholly to level or clear the woods, but to leave from time to time a sufficient number of the most orna-

mental trees; and to keep the woods replenished from time to time by protecting the self-sown plants, or by planting trees in the vacant spaces, having regard to the ornamental as well as the profitable use of the ground.

A.D. 1877.

One month's previous notice shall be given to the verderers by the Commissioners of Woods of their intention to inclose, lay open, or re-inclose any lands which Her Majesty has power to inclose under the provisions of this Act, but the verderers shall have no power to object to any such inclosure, laying open, or re-inclosure.

7. Any part of such lands as may for the time being be inclosed shall be appropriated to growing timber and trees, and it shall be lawful for Her Majesty to plant in such inclosed part any timber or trees which may be thought expedient, and during the time that it seems meet to Her Majesty to keep such part inclosed for the growth and preservation of timber and trees such part shall remain in severalty in the actual possession of Her Majesty, free from all rights of common, and from all other rights, privileges, and claims whatsoever, except a right of the public to use any public highway which may traverse the said lands.

Appropriation of inclosures.

8. The ancient ornamental woods and trees in the Forest shall be preserved, and except in so far as is provided by this Act the Forest shall remain open and uninclosed, and wood shall be provided for the satisfaction of fuel rights, without the sacrifice of ornamental timber.

Subject to authorised inclosures, Forest to be kept open.

Fence Month and Winter Heyning.

9. In consideration of a payment to Her Majesty by the verderers on behalf of the commoners of the sum of twenty shillings on or before the fourteenth day of January in every year as an acknowledgment of the absolute right of Her Majesty to enforce the fence month and winter heyning, it shall be lawful, until otherwise provided by Parliament, for any person entitled to any right of common of pasture in the Forest, to exercise such right during the time of the fence month and during the time of the winter heyning, subject nevertheless to such limitations and restrictions in respect of such right of pasture during the time of the winter heyning as may be imposed by any byelaws made in pursuance of this Act.

Rights of common exerciseable during fence month and winter heyning.

If default is made in any year in payment of any such sum of twenty shillings as aforesaid, the fence month and winter heyning may during that year be enforced in the same manner as if this section had not passed.

A.D. 1877.

Sales of Intermixed Lands.

Restriction
on exercise
of power of
sale by Com-
missioners of
Woods.

10. The Commissioners of Woods may sell, free from all rights of common, any parcels of land in the Forest which are wholly or in parts surrounded by or intermixed with other lands not the property of the Crown (and which lands so surrounded or intermixed are in this Act included under the expression intermixed lands) on condition of the purchase money of such intermixed lands being expended in purchasing and adding to the Forest other land.

Notice shall be given to the verderers of any sales proposed to be made of intermixed lands under this section, and a sale of intermixed land shall not be deemed to be completed until the provisions of this section with respect to the investment of the purchase money in other land to be added to the Forest have been complied with, and such addition been made.

Any land purchased by the Commissioners of Woods for the purpose of being added to the Forest shall be deemed to be uninclosed lands, whereof Her Majesty is seised in her domain as of fee, but subject to the rights of the commoners therein and thereover, and to be within the boundaries of the Forest.

Any owner of land in the Forest desirous of purchasing from the Commissioners of Woods any intermixed lands may sell to the Commissioners any part of his land with which such lands are intermixed to such an extent as may be necessary for enabling the Commissioners to add to the Forest the land by this section required to be added; and for the purposes of such sale the provisions of the Lands Clauses Consolidation Acts, 1845 and 1860, with the exception of the provisions relating to the purchase and taking of lands otherwise than by agreement, shall apply.

For the purposes of this section the land added to the Forest on the occasion of any purchase need not be a part of the land belonging to the owner who has made such purchase, but may be part of any other private lands convenient for addition to the Forest and capable of being purchased by the Commissioners of Woods.

Save as in this Act mentioned, sales of any part of the Forest shall be void.

Appropriation of
balance of
railway
money set
apart for the
benefit of
Her Majesty
and the
commoners.

11. The balance of purchase money paid into the Bank of England in pursuance of the eighteenth section of the Southampton and Dorchester Railway Act, 1845, being part of the price paid for the lands of the Crown sold under the authority of that Act, and set apart for the benefit of Her Majesty, and the parties entitled to rights of common over the uninclosed portions of the Forest, shall be expended for the benefit of Her Majesty and

the parties entitled to such rights of common as aforesaid within the period of six years immediately succeeding the passing of this Act in such manner as may be determined by the verderers with the assent of the Treasury.

A.D. 1877.

Saving for Rights of Crown.

12. Nothing in this Act shall take away, abridge, or prejudicially affect any estate, right, title, power, claim, or privilege of Her Majesty in, over, or to the Forest except in so far as is by this Act provided in relation to the exercise of the right of inclosure and the exercise of the right of enforcing the fence month and winter heyning during the payment of such acknowledgment as is in this Act on that behalf mentioned; and in the event of the Forest being disafforested and separate allotments being made to Her Majesty, and to the persons entitled to rights of common in or over the Forest, every estate, right, title, power, claim, and privilege of Her Majesty in, over, or to the Forest, and the rights of the persons so entitled as aforesaid, shall respectively be estimated, valued, and allowed as they would have been if this Act had not been passed, and it is hereby declared that the right of Her Majesty, her heirs and successors, to common of pasture and other rights of common over the Forest in respect of any property belonging to Her Majesty in severalty is unimpaired.

Saving for
rights of
Crown.

13. Nothing in this Act shall affect or prejudice any right of the Crown to any dues or sums hitherto payable by the commoners or other persons.

Saving of
rights to
dues on the
part of the
Crown.

Amended constitution of Court of Verderers.

14. The verderers of the New Forest as constituted under this Act shall consist of six elective verderers and of one official verderer.

Constitution
of verderers.

No oath or declaration shall be required to be taken by a verderer on his entering on his office.

The official verderer shall be from time to time nominated by Her Majesty under Her sign manual and shall hold office during Her Majesty's pleasure.

The first official verderer shall be nominated by Her Majesty on or before the last day of October one thousand eight hundred and seventy-seven, but he shall not enter on his office of verderer until the day appointed for holding the first court of swainmote under this Act.

The elective verderers shall be elected by the persons and in manner in this Act mentioned.

A.D. 1877.

Qualification
of elective
verderers.

15. A person shall not be qualified to be an elective verderer unless he is the owner of not less than seventy-five acres of land to which some right or rights of common, in or over the Forest are attached.

Disqualifica-
tion of
elective
verderers.

16. A person shall be disqualified from being an elective verderer who—

- (1.) Holds any office or place of profit under the verderers ; or,
- (2.) Participates in the profits of any work done by order of the verderers ; or,
- (3.) Is concerned in or participates in the profit of any contract entered into by the verderers.

Qualification
of electors.

17. Every person shall be qualified to vote at the election of an elective verderer who possesses the qualifications following, or either of them ; that is to say,

- (1.) Whose name is entered on the list for the time being in force of parliamentary voters of any parish or township which, or any part of which, is situate within the perambulation of the Forest ; or
- (2.) Whose name is entered on the register of persons for the time being entitled to rights of common in or over the Forest, and in this Act referred to as the register of commoners.

A person shall not be qualified to have more than one vote, although he possesses both the above-mentioned qualifications, and save as in this section mentioned no person shall be qualified to vote at the election of a verderer.

A person shall not be entitled to have his name entered on the register of commoners under this Act unless his name appears as entitled to rights of common in or over the Forest on the register of common rights made in pursuance of the Act of 1854, or unless such person derives title from some person whose name appears on such deposited register.

Time at
which ver-
derers under
Act come
into office.

18. The verderers as constituted under this Act shall come into office on the day appointed for holding the first court of swainmote under this Act.

Rotation of
elective
verderers.

19. The elective verderers shall, as soon as conveniently may be, after their election, divide themselves into three classes by agreement, or if they cannot agree, by lot. The offices of the first class shall be vacated at the expiration of the second year succeeding the day of their coming into office, the offices of the second class shall be vacated at the expiration of the fourth year succeeding the day of their coming into office, and the offices of the third

class shall be vacated at the expiration of the sixth year succeeding the day of their coming into office. A.D. 1877.

The offices of vacating verderers shall be filled up by an equal number of new verderers to be elected in manner in this Act provided, and every newly elected verderer shall hold his office for the term of six years and no longer unless re-elected.

20. Any person on ceasing to be an elective verderer shall, unless disqualified, be re-eligible.

21. An elective verderer may resign on notifying in writing his intention so to do to any court of swainmote, and thereupon shall be deemed to create a casual vacancy.

Any casual vacancy in the office of an elective verderer shall be filled up by the elective verderers themselves, but the verderer so chosen shall retain his office so long only as the vacating verderer would have retained the same if such vacancy had not occurred.

An elective verderer dying between the time of his being elected a verderer and the time of his entering his office, shall be deemed to create a casual vacancy.

An elective verderer shall also vacate his office if he absents himself from all courts of swainmote or other meetings of the verderers for not less than six months, unless he is prevented from attending by illness, or unless the verderers resolve that it is expedient that such verderer should not vacate his office.

Status and Powers of Verderers.

22. (1.) The verderers as constituted under this Act shall be a body corporate by the name of the Verderers of the New Forest, having a perpetual succession and a common seal, with power to make contracts, and sue and be sued, for the purposes of their constitution, and to hold lands so far as may be necessary for offices or otherwise :

(2.) An act or proceeding of the verderers shall not be questioned on account of any vacancy or vacancies in their body :

(3.) A defect in the qualification or election of any elective verderer shall not vitiate any proceedings of a court of swainmote in which he or they have taken part in cases where the majority of verderers, parties to such proceedings, are duly entitled to act :

(4.) Any minute made of administrative proceedings at meetings of a court of swainmote, if signed either at the meeting of the court or at the next ensuing meeting of the court, by any person purporting for the time being to be chair-

Vacating
elective
verderers to
be re-eligible.

Resignation
and casual
vacancies of
elective
verderers.

Legal status
of verderers.

A.D. 1877.

man of the court, shall be receivable in evidence of such proceedings in all legal proceedings without further proof; and until the contrary is proved every court where minutes have been so made of the proceedings shall be deemed to have been duly convened and held :

- (5.) A verderer by being party to, or executing in his capacity of verderer, any contract or other instrument on behalf of the verderers, or otherwise exercising any of the powers of the verderers, shall not be subject individually to any action, suit, trial, prosecution, or other legal proceedings, and the verderers may apply any moneys from time to time coming into their hands to the payment of any costs of legal proceedings or damages they may incur in execution of their powers :
- (6.) Any appointment and any contract or other document which is not required by law to be under seal shall be deemed to be well executed if signed by the chairman for the time being of a court of swainmote, such signature being expressed to be by or on behalf of the Verderers of the New Forest.

Enumera-
tion of
powers of
verderers.

23. The verderers as constituted under this Act shall have power,—

- (1.) From time to time to appoint and dismiss, with power to increase or diminish their number, such officers and servants as they may deem necessary for the purpose of carrying into effect their duties as verderers, and to assign to each officer so appointed his duty and salary ; and
- (2.) To make drifts of the Forest at such time and in such manner as they may think expedient ; and
- (3.) To levy from the commoners in the Forest such sums as the verderers may require for paying the expenses of and incidental to carrying into effect their duties as verderers by means of a rate and payments not exceeding the scales specified in the first schedule hereto ; and
- (4.) To inquire into all unlawful inclosures, purprestures, encroachments, and trespasses whatsoever within the Forest, and to impose on any person or persons offending for every such offence any fine not exceeding ten pounds, and by summary order to direct every such inclosure, purpresture, encroachment, and trespass to be abated ; and
- (5.) To punish all such offences, and perform all such acts, powers, authorities, matters, and things, and exercise all

such jurisdiction, as the verderers or any two of them, or the verderers in their court of attachments or swainmote, are by any law, statute, or custom directed, authorised, or empowered to punish, do, exercise, or perform.

A.D. 1877.

24. The verderers as constituted under this Act shall hold courts of swainmote for the despatch of the administrative and judicial business to be transacted by them, and shall from time to time make such regulations with respect to the summoning, notice, place, and adjournment of such courts, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions :

Courts of swainmote to be held by verderers.

- (a.) The first court of swainmote under this Act shall be summoned on such day in the month of January one thousand eight hundred and seventy-eight as may be appointed by the official verderer, or if he fail to appoint a day on or before the fourteenth day of that month, then as may be appointed by the chairman for the time being of the quarter sessions for the county of Southampton, on the application of any commoner or other person interested ; and,
- (b.) A court may be summoned at any time on the requisition in writing of any three verderers, or of the official verderer ; and,
- (c.) Every question shall be decided by a majority of votes of the verderers present and voting on that question ; and,
- (d.) A court, where another number is not prescribed by this Act, shall be constituted by the presence of three verderers ; and,
- (e.) The official verderer shall be chairman of the court ; and,
- (f.) If at any court the chairman is not present at the time appointed for holding the same, or within a quarter of an hour afterwards, the verderers present shall choose some one of their number to be chairman of the court ; and,
- (g.) In case of an equality of votes at any court when transacting administrative business, the chairman for the time being of such court shall have a second or casting vote.

Byelaws.

25. The verderers as constituted under this Act may from time to time, at any court of swainmote at which not less than five of their number are present, if they think fit, make, and when made alter, add to, or repeal byelaws with respect to any of the following matters ; (that is to say,)

Power of verderers to make bye-laws.

A.D. 1877.

- (1.) The prevention of the spread of contagious or infectious disease in the Forest by excluding or removing from the Forest any animal infected or suspected of being infected, or coming from a place infected, or suspected of being infected with a contagious or infectious disease; and
- (2.) The conditions as to time, breed, and otherwise under which stallions, bulls, or other male entire commonable animals are to be allowed to roam at large in the Forest; and
- (3.) The removal from the Forest of the cattle and other animals belonging to persons not being commoners in the Forest; and
- (4.) The regulation of the rights of common by the commoners.

Fines (to be recovered summarily) may be imposed by any such byelaws on persons breaking the same, provided that no fine exceeds for any one offence the sum of two pounds, or in the case of a continuing offence the sum of ten shillings for every day during which such offence is continued after conviction for the first offence.

Any byelaw made in pursuance of this section, and any alteration or addition made therein or thereto, and any repeal of a byelaw, shall not be of any validity until it has been confirmed by the court of general or quarter sessions for the county of Southampton.

A byelaw made under this Act shall not nor shall any alteration therein or addition thereto or repeal thereof be confirmed by the said court until the expiration of one month after notice of the intention to apply for confirmation of the same has been given by the verderers in one or more newspapers circulating in the said county; and any person aggrieved by any such proposed byelaw or alteration in or addition to or repeal of a byelaw may forward notice of his objection to the said court of quarter sessions, which shall take the same into consideration.

Application of Schedules.

Application of provisions in schedules.

26. The provisions contained in the second and third schedules hereto with respect to the register of commoners and the election of elective verderers shall be of the same force as if they were enacted in the body of this Act.

Supplemental Provisions.

Remedy in case of difficulty of holding first election of verderers under Act.

27. On the application of the official verderer, or of any ten persons qualified under this Act to vote at the election of verderers, and on proof that it is impracticable or inconvenient to hold the first election of verderers as constituted under this Act at the time

appointed, the justices of the county of Southampton in general or quarter sessions assembled may postpone the time of holding such election for such period not exceeding two months as they may think fit, and may also postpone the date for holding the first court of swainmote under this Act to such time, not being more than one month after the date to which the election of verderers is postponed, as they may think fit.

A.D. 1877.

28. If the verderers as constituted under this Act make default in holding their first court of swainmote in pursuance of this Act they shall not thereupon become disqualified from acting, but the justices of the county of Southampton in general or quarter sessions assembled, on the application of any commoner, may make such order as they think fit for the holding of such court of swainmote at some other time, and any order so made shall be deemed to be an order capable of being removed into the High Court of Justice in pursuance of the Act passed in the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter forty-five, and may be enforced accordingly; and the costs of any such application to the court of general or quarter sessions in pursuance of this section shall, unless the court otherwise directs, be defrayed out of the general fund in the hands of the verderers.

Default of
verderers in
holding first
court of
swainmote.

29. It shall be the duty of Her Majesty's High Court of Justice, upon the application of any person who may be aggrieved by or complain of the election of any verderer, or any proceeding, act, or matter touching the same (reasonable notice having been given by the adverse party to those affected thereby of such intended application), to proceed forthwith, and in a summary way, to hear the affidavits, proofs, and allegations of the parties, or otherwise to inquire into the matter or cause of complaint, and either to confirm the election so complained of, or to order a new election, or to make such order and give such relief in the premises as right and justice may appear to the court to require; but no such application as aforesaid shall be entertained by the court unless it is made within one month after the election has taken place in respect of which the complaint is made; and no such election shall be declared invalid by reason of any defect in the title of the returning officer.

Appeal to
High Court
of Justice
in respect of
invalid elec-
tion.

30. If the returning officer refuses or neglects to comply with any enactment of this Act relating to the election of verderers he shall be liable, on summary conviction before two justices of the peace, to a fine not exceeding twenty pounds.

Fine on
neglect of
duty by
returning
officer.

31. Any person who personates any person entitled to vote at any election of a verderer, or falsely assumes to act in the name or

Fine on
illegal acts
in respect
of election.

A.D. 1877. on behalf of any person so entitled to vote, shall be liable, on summary conviction before two justices of the peace, to a fine not exceeding ten pounds, or, in the discretion of the court by whom he is convicted, to imprisonment, with or without hard labour, for any period not exceeding one month.

Mandamus to verderers making default in duty.

32. If the verderers make default in causing any act or thing to be done which may be required or authorised to be done in relation to the register of commoners or otherwise for the purpose of the election of verderers in pursuance of this Act, Her Majesty's High Court of Justice may, upon the application of any person entitled or claiming to be entitled to vote at the election of the verderers, made in a summary manner, issue a mandamus for remedying each default.

Legal Proceedings.

Every verderer to have powers, &c. as if he were a justice of the peace, and court of swainmote to be deemed court of petty sessions.

33. Each of the verderers as constituted under this Act shall, for all the purposes of his office, have the same powers and jurisdiction as if he were a justice of the peace acting in and for the Forest, and such Forest were a county; and a court of swainmote when transacting judicial business shall have the same power and jurisdiction as if it were a court consisting of two or more justices of the peace, sitting for the transaction of business within the purview of their commissions as justices at some court or other public place at which justices are for the time being accustomed to assemble for holding special or petty sessions, and as if the Forest were a petty sessional division.

Where any seal is required to be affixed to any summons, warrant, conviction, or other document in pursuance of the Summary Jurisdiction Act in this Act mentioned, the seal of the verderers shall be deemed to be a proper and sufficient seal.

Recovery of fines.

34. Every sum of money which the verderers are empowered to collect or levy under this Act may be recovered as a fine, and all offences and fines capable of being prosecuted or recovered before a court of swainmote or before the verderers or any two of them, or the verderers in their court of attachments, shall be prosecuted and recovered in manner provided by the Summary Jurisdiction Act.

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to sum-

“ many convictions and orders,” inclusive of any Acts amending the same. A.D. 1877.

35. Any person disobeying any summary order of a court of swainmote made in pursuance of this Act shall incur a fine not exceeding one pound for every day during which such disobedience continues ; moreover, if any person so in default persists in disobeying any requirement of any such order for a period of not less than seven days or such other period less than seven days as may be prescribed by such order, the court may, in addition to any fine it may impose, appoint any person or persons to carry into effect such order, and all expenses incurred by any such person or persons to such amount as may be allowed by the court shall be deemed to be a debt due from the person in default to the person or persons executing such order, and may be recovered accordingly as a fine in the court of swainmote. Disobedience to order of court of swainmote.

36. Any person aggrieved by a decision of a court of swainmote under this Act may appeal therefrom, subject to the conditions and regulations following : Appeal from decision of court of swainmote.

- (1.) The appeal shall be made to the next practicable court of general or quarter sessions for the county of Southampton, holden not less than twenty-one days after the giving of the decision from which the appeal is made ; and
- (2.) The appellant shall, within ten days after the giving of the decision from which the appeal is made, give notice in manner prescribed by the verderers to the other party and to the court of swainmote of his intention to appeal, and the ground thereof ; and
- (3.) The appellant shall, within three days after giving such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security, by deposit of money or otherwise, as the justice may allow ; and
- (4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody :
- (5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of swainmote, or remit the matter

A.D. 1877.

to the court, with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Exclusion of certiorari.

37. An order or conviction made by a court of swainmote shall not be quashed for want of form, and shall not be removed by certiorari or otherwise, at the instance either of the Crown or of any private party, into any superior court.

Provided that nothing in this section shall prevent the removal of a special case stated for the opinion of a superior court, or of any order or conviction to which such case relates. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

Application of Moneys.

Application of fines and other moneys received by verderers.

38. All fines and other moneys recovered in the court of the verderers, or received by the verderers under this Act, shall be carried by them to the account of a general fund, and shall be applied in payment of the salaries of the officers and servants employed by them, and in defraying their other expenses under this Act.

An account of the moneys paid into such fund and of the application thereof shall be made out annually, and shall be audited by a person to be annually appointed by the court of general or quarter sessions for the county of Southampton, and there shall be paid to such auditor in respect of his services by the verderers such sum as may be fixed by the said court of general or quarter sessions.

A summary of the annual accounts of the verderers at each audit thereof shall be published in some newspaper circulating in the county of Southampton, and any commoner shall be entitled to a printed copy of such summary on payment of such sum, not exceeding one shilling, as may be prescribed by the verderers.

Any commoner may on payment of such sum, not exceeding five shillings, as may be prescribed by the verderers, inspect at any reasonable hour the accounts of the verderers, and take copies of or extracts from such accounts on payment of a further sum not exceeding five shillings for every hour during which he may be occupied in taking such copies or extracts.

Temporary Provisions.

A.D. 1877.

39. The verderers in office at the date of the passing of this Act shall continue in office until the day appointed for holding the first court of swainmote under this Act and no longer.

Saving as to existing verderers.

Any one or more of the verderers in office at the date of the passing of this Act, who on or before the first day of December one thousand eight hundred and seventy-seven notifies in writing to the official verderer his wish to be an elective verderer, shall be entitled to take his seat as an elective verderer under this Act, in the same manner in all respects as if he had been in fact elected an elective verderer at the first election of verderers held under this Act, and the provisions of this Act relating to qualification shall not apply to him.

If any vacancy occurs in the office of verderer before the day appointed for holding the first court of swainmote under this Act, the remaining verderers for the time being in office may elect a person qualified to be an elective verderer under this Act to fill the office of verderer, but the person so appointed shall continue in office only until the day appointed for the holding of such first court as aforesaid.

The verderers for the time being in office before the day appointed for holding the first court of swainmote under this Act are in this Act referred to as existing verderers.

A.D. 1877.

SCHEDULE 1.

Maximum Rate and Scale of Contributions to be levied by Verderers.

1. An annual rate upon property to which rights of common of pasture, turbary, or pannage attach, not exceeding one penny in the pound on the rateable value of such property; and

2. Payments for the following matters, viz.:—

	Not to exceed
(a.) For marking every head of cattle, including horses, donkeys, and mules, entitled to be in the Forest - - - - -	}
	Two shillings and sixpence.
For marking every sheep entitled to be in the Forest - - - - -	}
	One shilling.
(b.) For every thousand turves - - - - -	Sixpence.
(c.) For every pig turned out in pannage time - - - - -	One shilling.

The contributions in this schedule mentioned are independent of any dues or sums payable to the Crown.

SCHEDULE 2.

Register of Commoners.

Register of commoners for purpose of election of verderers.

A register of commoners shall be kept by the verderers at Lyndhurst, on which they shall insert the name of any person entitled to rights of common in or over the Forest on his making application to have his name so inserted, and on his adducing such proof as may be required by the verderers that the name of the applicant appears on the register of common rights made in pursuance of the Act of 1854, or that the applicant derives title from some person whose name appears on such deposited register.

The applications of claimants to be entered on the register shall be in such form and be made at such time or times in the months of September or October in every year as may from time to time be prescribed by the verderers. The verderers shall give notice in such manner as they may think best calculated to give information to the commoners of the right of persons to claim to have their names entered on the register of commoners, and of the time or times at which and the mode in which such claims are to be made.

Where any commoner is a minor, or of unsound mind, or a married woman, the guardian, committee, or husband shall be entitled to be entered in the list as a voter in the place of such minor, person of unsound mind, or married woman.

Where a corporation aggregate, a joint stock or other company, or any body of proprietors is entitled to rights of common, including Her Majesty the Queen, such corporation, company, or body of proprietors, including as aforesaid, shall be entitled to vote as one proprietor by proxy appointed in writing under the common seal in the case of a corporation, or under the hands of three directors or other persons having the direction or management in the case of an unincorporated body, or under the hands of the Commissioners of Woods, or either of them, in the case of Her Majesty the Queen.

Where several persons are joint tenants, coparceners, or tenants in common in respect of rights of common, they shall in respect of such rights be considered as one proprietor only, and such one of them only and no other shall be entitled to vote in respect of such rights as may be entered on the register of commoners, with the consent in writing of the majority of the persons interested, or in the case of such persons being equally divided as may be selected by the verderers.

The verderers shall, in the first week in November in every year, publish a notice in some newspaper circulating in their district stating that the register of commoners is prepared and ready for inspection at the office of the verderers at Lyndhurst, and appointing, in the month of November, a day or days at which any person interested may apply to the verderers to correct the register by inserting or expunging the name of any commoner.

The verderers shall, on the appointed day or days, hear any objections or claims that may be made. They shall allow such claims or objections as appear to them to be established, and shall amend the register accordingly.

The register as settled by the verderers in the month of November in every year shall be conclusive evidence of the persons entitled to vote as commoners at any election of verderers during the ensuing twelve months.

The verderers may alter the several dates prescribed for doing the several acts and things in this schedule mentioned, so that they do not give a less time than is by this schedule given for doing the said acts and things.

A.D. 1877.

The existing verderers shall, so far as respects any act or thing to be done by the verderers in pursuance of this schedule before the date at which the first court of swainmote is holden, be held to be verderers within the meaning of this schedule, and any two of them may perform any act or thing by this schedule required or authorised to be done by the verderers at such place and in such manner as the verderers think best calculated to do justice and to carry into effect the purposes of this schedule.

SCHEDULE 3.

Election of Verderers.

Regulations
as to election
of verderers.

The first election of verderers under this Act shall be held at such time in the month of December one thousand eight hundred and seventy-seven as may be directed by the official verderer, but the verderers so elected shall not enter on their office until the day appointed for holding the first court of swainmote under this Act.

Every subsequent election shall be held on such day as the verderers may direct, not being less than fourteen days before the day appointed for the retirement of the verderers whose places are to be filled up by such election.

The sheriff of the county of Southampton shall be the returning officer.

On every occasion of the election of verderers the returning officer shall convene a meeting of the electors at Lyndhurst for the purpose of such election, and shall give notice of such meeting, and of the time and place at which it is to be held, and the number of vacancies to be filled up,—

- (a.) By advertisement in some one or more of the local newspapers circulating in the county of Southampton; and
- (b.) By causing a copy of such notice to be affixed at all places where notices of parochial business are usually affixed in Lyndhurst.

The returning officer shall preside and regulate the proceedings at such meeting, but he may be assisted in his duties by such number of officers as he may appoint.

The meeting shall, so far as relates to the nomination of candidates, be deemed to be at an end at the expiration of two hours from the time appointed for the holding of such meeting.

At any such meeting as aforesaid any person or persons may, if he or they consent thereto, be nominated by any elector, and seconded by any other elector, as a verderer or verderers.

If at the expiration of the said two hours no more candidates stand nominated than there are vacancies to be filled up, the returning officer shall forthwith declare the candidates who may stand nominated to be elected, and shall publish in such manner as he thinks best calculated to give information to the electors the names of the candidates elected.

If at the expiration of the said two hours more candidates stand nominated than there are vacancies to be filled up, the returning officer shall, if a poll is demanded, adjourn the election and take a poll in manner in this Act mentioned, but if no poll is demanded shall ascertain by show of hands, or otherwise in such manner as he thinks best, the decision of the meeting as to the candidates to be elected, and the decision of the returning officer as to the election of such candidates shall be final.

A demand for a poll may be withdrawn in writing at any time before the close of the meeting, and if so withdrawn shall be deemed never to have been made.

When a poll is demanded the returning officer shall cause a poll to be taken at Lyndhurst and such other place or places, if any, within or near the Forest as he may think fit, on such day as he may appoint, not being less than one clear day nor more than three clear days after the day fixed for the election, and shall give public notice in such manner as he thinks best of the place or places at which, and the day on which, such poll is to be taken.

Mode of
taking poll.

In the case of a poll votes shall be given personally.

The poll shall be opened at nine o'clock of the forenoon of the appointed day, and shall close at four o'clock in the afternoon of the same day, except in the case of disturbance, when the closing of the poll may be fixed to take place at such time as the returning officer directs.

The poll at any place of voting may be closed at any time before four of the clock if one hour has elapsed during which no vote has been tendered at such place of voting.

The returning officer shall cause to be entered in the polling books the name and address of every voter, and the manner in which he votes.

As soon as possible after the close of the poll the returning officer shall sum up the votes, and the candidate or candidates who have obtained the greatest number of votes shall be deemed to be elected.

A.D. 1877.

The returning officer shall publish in such manner as he thinks best calculated to afford information to the electors, the names of the candidates elected, and the total number of votes given for each candidate, whether elected or not.

Where an equality of votes is found to exist between any candidates the returning officer may give a casting vote, but the returning officer shall not in any other case be entitled to vote at the election.

General
provisions as
to elections.

Whenever the day appointed for the performance of any act in relation to any election is a Sunday, a bank holiday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following, unless it is one of the days excluded as aforesaid, and in that case on the day following such excluded day.

The expenses of an election of verderers shall be paid out of any funds in the hands of the verderers, and if and so far as those funds prove deficient, the deficiency shall be borne rateably by all the candidates nominated with their own consent at such election.

If from any cause whatever an election of verderers does not take place on the day appointed for such election, the retiring verderers, if any, shall continue in office during the time for which their successors would have continued in office.

If from any cause whatever on the occurrence of an election where two verderers ought to be elected one only is elected, such one of the retiring verderers as the other verderers may select shall continue in office during the term for which his successor would if elected have held his office.