



ANNO QUINTO

VICTORIÆ REGINÆ.

Sess. 2.

Cap. xxiv.

An Act for improving the Navigation of the *Severn* from the Entrance Lock of the *Gloucester* and *Berkeley* Canal, and from the Entrance Lock of the *Herefordshire* and *Gloucestershire* Canal, in the County of *Gloucester*, to *Gladder* or *Whitehouse Brook* in the County of *Worcester*.

[13th May 1842.]

WHEREAS the Navigation of the River *Severn* from the Entrance Lock of the *Gloucester* and *Berkeley* Canal, in the Eastern Branch of the said River at *Gloucester*, and from the Entrance Lock of the *Herefordshire* and *Gloucestershire* Canal, in the Western Branch of the said River near the City of *Gloucester*, to *Gladder* or *Whitehouse Brook* in the County of *Worcester* is at present imperfect, and Vessels passing thereon are subject to Delay in consequence of Shoals and other Obstructions existing in the said River, and it would be of great public Advantage if such Obstructions were removed, and the Navigation of such River otherwise improved: And whereas the same cannot be done, nor the

[Local.]

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necessary

Commis-
sioners
appointed.

necessary Funds be provided and raised 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 this present Parliament assembled, and by the Authority of the same, That *John Somerset Pakington, Thomas Charles Hornyhold, John Benbow, Henry Eustatius Strickland, Thomas Fulljames, William Henry Hyett, John Wheeley Lea, Edward Evans, Richard Evans, John Matthew Gutch, William Tupsley Washbourne, John Burrup, David Mowbray Walker, William Cother, Richard Poole King, George Allies, William Dowdeswell, William Anstice, Richard Blakemore, John Moseley Gilbert Cheek, Richard Heath, Joseph Rogers, the Honourable Edward Richard Littleton, Alexander Hordern, Isaac Spooner, John Brearley Payn, Thomas Marshall Sturge, John Aubrey Whitcombe, Sir James Kyrle Money, and Edward Gould Edgell*, and their Successors from Time to Time to be appointed in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for carrying this Act into execution.

Power to
elect new
Commis-
sioners.

II. And be it enacted, That as often as any Commissioner named in this Act shall die, refuse, resign, or become disqualified or incompetent to act as a Commissioner, the Justices of the Peace, Council, rated Inhabitants, Company of Proprietors, or Delegates, as the Case may be, who are mentioned in the Schedule (A.) to this Act annexed in conjunction with the Person whose Death, Refusal, Resignation, or becoming disqualified or incompetent shall have occasioned such Vacancy, shall within Three Calendar Months next after such Death, Refusal, Resignation, Disqualification, or Incompetency shall have occurred or been made known, elect some other Person to be a Commissioner in his Stead, and every such Person so elected to fill up such Vacancy shall have the same Powers as if he had been herein named as a Commissioner, and all Vacancies occasioned from Time to Time for ever thereafter by the Death, Refusal, Resignation, Disqualification, or Incompetency of the Person so elected and of the Persons from Time to Time elected in his Stead, shall be filled up in the like Manner by the same Electors and within the like Time as is herein-before provided with respect to the Vacancy occasioned by the Commissioner in this Act named.

Mode of
Election by
Inhabitants.

III. And be it enacted, That within Seven Days after the Death, Resignation, Refusal to act, Incompetency, or Disqualification of any Commissioner whose Vacancy is, in pursuance of this Act and the Schedule (A.) hereto annexed, to be supplied by the rated Inhabitants of the Hamlet of *Lower Mitton*, the Clerk of the Commissioners shall deliver to one of the Overseers of the Poor for the Time being of the said Hamlet of *Lower Mitton* a Notice requiring the said Overseer to call a Meeting of the Inhabitants of the said Hamlet, rated to the Relief of the Poor, to elect a Commissioner of the *Severn* Navigation; and such Overseer shall, within Ten Days after such Delivery, convene a Meeting of such of the Inhabitants of the said Hamlet as shall be duly rated to the Relief of the Poor in the same Hamlet, and who shall have duly paid the said Rate, and all

Arrears thereof, for the Year immediately preceding, and at such Meeting such Inhabitants as aforesaid shall elect One Person or Two Persons, as the Case may be, to be a Commissioner or Commissioners of the *Severn* Navigation in the Stead of the Person or Persons who shall have so as aforesaid died, resigned, refused, or become incompetent or disqualified; and such Meeting shall be convened by the Overseers in the Manner directed by any Act for the Time being in force for regulating Parish Vestries.

IV. And be it enacted, That the Clerks of the Peace or their respective Deputies for the Counties of *Worcester* and *Gloucester* for the Time being, and the respective Clerks or Treasurers for the Time being of the said Company of Proprietors of the *Staffordshire* and *Worcestershire* Canal, the Company of Proprietors of the *Birmingham* and *Worcester* Canal, the Company of Proprietors of the *Herefordshire* and *Gloucestershire* Canal, and the Company of Proprietors of the *Gloucester* and *Berkeley* Canal, the Company of Proprietors of the *Combe Hill* Canal, and the Proprietors of the Lower and Upper *Avon* Navigation, and the respective Town Clerks of the said Cities of *Worcester*, *Gloucester*, and *Bristol*, and of the Boroughs of *Droitwich*, *Tewkesbury*, *Wenlock*, and *Newport* in the said Schedule (A.) mentioned, and the Overseers for the Time being of the Hamlet of *Lower Mitton* shall, within Seven Days after the Election of any Commissioner, deliver to the Commissioners the Name of the Person so elected to be a Commissioner.

Clerks of the Peace, &c. to make Returns of Elections to the Commissioners.

V. And be it enacted, That if the Justices of the Peace, Council, rated Inhabitants, or Companies of Proprietors, or Proprietors to whom the Right of Election is hereby given, shall refuse or neglect to elect Persons to act as Commissioners in the Execution of this Act, or the Clerks of the Peace or their respective Deputies, or the Clerks or Treasurers of the respective Companies or Proprietors, Town Clerks, or Overseers, shall neglect to deliver a List of the Persons so elected as aforesaid, within the Times aforesaid, it shall be lawful for the Commissioners from Time to Time, at their next Meeting, to appoint such Persons as they shall think proper to supply any Vacancy which shall not then have been filled up, or to supply the Place of any Persons who may not have been elected, or whose Election shall not have been made known to the Commissioners as aforesaid.

Provision in case of Default in electing or returning Lists of Persons elected.

VI. Provided always, and be it enacted, That none of the Powers hereby given to the Commissioners shall be suspended or affected by reason of any Vacancy which may occur not having been filled up, if there shall be for the Time being a sufficient Number of Commissioners to constitute a Quorum, as herein-after mentioned.

Powers of Commissioners not suspended by reason of Vacancies.

VII. And be it enacted, That no Person hereby appointed, or hereafter to be appointed or elected a Commissioner as aforesaid, shall be capable of acting as such during the Time he shall hold or enjoy any Office or Place of Profit under or be concerned in any Contract made by virtue of this Act, upon Pain of forfeiting One hundred

No Person holding any Office to act as a Commissioner.

hundred Pounds for every Time he shall so act to any Person who shall sue for the same.

First and other Meetings of Commissioners.

VIII. And be it enacted, That the Commissioners for executing this Act shall hold their First General Meeting at the Guildhall in the City of *Worcester*, or some other convenient Place within the said City, upon the Fourth *Tuesday* after the passing of this Act, between the Hours of Ten of the Clock in the Forenoon and Four of the Clock in the Afternoon, and proceed to put this Act into execution; and at such Meeting they shall choose a Clerk, who shall keep regular Minutes of the Proceedings of the Commissioners at all their Meetings, and who shall have an Office at *Worcester*, where all Plans, Books, and Documents belonging to the Commissioners shall be deposited; and a General Meeting of the Commissioners shall be held on the Second *Monday* in *July* annually, in the City of *Worcester*, at the Place and between the Hours aforesaid, and it shall be lawful for the Commissioners present at such first or any subsequent Meeting from Time to Time to adjourn such Meeting to the same Place within the said City; and if at any such Meeting there shall not be Five Commissioners present within One Hour after the Time appointed for such Meeting, then it shall be lawful for the Commissioners present, or the major Part of them, or any One Commissioner if only One be present, to adjourn such Meeting to another Day, of which due Notice shall be given.

Meeting for the Choice of a Committee of Works.

IX. And be it enacted, That the said Commissioners shall at their First Meeting fix a Second Meeting of their Body to be held on a Day not being less than Four or more distant than Six Weeks from such First Meeting, and of which Second Meeting due Notice shall be given in a Newspaper published in the City of *Gloucester*, and in one published in the City of *Worcester*, at which Meeting the following Objects shall receive Effect; namely, first, the Meeting shall determine what Operations are to be undertaken during the immediately succeeding Year, and the general Nature of such Operations, and secondly, they shall choose a Committee of their Number to be denominated the Committee of Works, to whom shall be confided the Superintendence of the Operations so determined upon.

Committee of Works.

X. And be it enacted, That the said Committee of Works shall consist of Seven in Number, of whom Three shall be a Quorum, with Power to choose their own Chairman, that they shall meet on the First *Tuesday* of every Month at such Place as may be fixed upon by them at their immediately preceding Meeting, without Prejudice to their Chairman causing intermediate Meetings to be called for special Purposes, of which due Notice shall be given in Writing to the Members of the said Committee, and no Business shall be transacted at such Special Meetings excepting such as shall be set forth in such Notice.

Committee to make Annual Reports.

XI. And be it enacted, That the said Committee shall lay before the annual Meeting of Commissioners in the Month of *July* a detailed Report of all their Proceedings during the preceding Year, and it shall

shall be lawful for such General Meeting to make any Change in the Individuals comprising such Committee which they may deem fit, and such Committee shall be bound to observe and give effect to all Directions given to them by that or by any other Meeting of Commissioners.

XII. And be it enacted, That it shall be lawful for the said Commis- Special Meetings of Commissioners.
sioners to hold Special Meetings, and any Three or more of the Commissioners may require a Special Meeting to be held, but no such Meeting shall be held unless Seven Days Notice thereof shall be given.

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

XIV. And be it enacted, That all Notices of any Meeting to be How Notices of Meetings are to be given.
held under the Authority of this Act shall be in Writing, and shall be delivered or sent by the Post to the usual Place of Abode of each of the Commissioners, and shall also (with the Exception of the Meetings of the Committee), be inserted in some Newspaper published in the Cities of *Gloucester* and *Worcester* respectively, Seven Days at least previous to such Meeting, and every Notice shall be signed by the Clerk of the Commissioners, and shall specify the Time and Place of Meeting, and the Object thereof; and no Business shall be transacted at any Special Meeting except such as is stated in the Notice thereof.

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

XVI. And be it enacted, That besides the Committee of Works Meeting may appoint Committees,
herein-before provided, it shall be lawful for the said Commissioners at any Meeting to appoint One or more Committee or Committees, consisting of not less than Five of the Commissioners, for carrying into effect any of the Provisions of this Act, and at any Meeting to continue, alter, or discontinue any such Committee; but no such Duration of Committees,
Committee shall be appointed to act for a longer Term than until the Annual General Meeting of the Commissioners next following its Appointment.

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

XVIII. And be it enacted, That at every Meeting of the Com- Order of Business at Meetings of Commissioners and Committees,
missioners or Committee one of the Commissioners present shall be elected Chairman by the Majority of the Votes of the Commissioners present at such Meeting; and all Questions considered at any such Meeting shall be decided by the Votes of the Majority present; and

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if there be an equal Division of Votes, the Chairman, in addition to his own Vote as a Commissioner or Member of the Committee, shall have a casting Vote: Provided always, that if at any such Meeting there shall be an Equality of Votes in the Election of the Chairman, that one of the Commissioners, having equal Numbers of Votes, whose Name would stand first if the Names of the Commissioners present were alphabetically arranged shall be Chairman of such Meeting.

No Resolution of Commissioners to be revoked at a subsequent Meeting unless under certain Circumstances.

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

Commissioners interested not to vote.

XX. And be it enacted, That if any Question shall be discussed in which any Commissioner shall be interested in any other Manner than as a Commissioner, such Commissioner shall not be entitled to vote upon that Question, and if the Commissioner for the Time being in the Chair shall be so interested, then during the Discussion of that Question, but no longer, he shall leave the Chair, and during such Discussion the Chair shall be taken by any other Commissioner to be appointed for that Purpose.

Property in Lands, Cuts, Engines, &c. vested in Commissioners.

XXI. And be it enacted, That the Lands to be purchased by virtue of this Act, and all Buildings, Matters, and Things thereon, and all Cuts, Works, Matters, and Things which shall at any Time be made, built, or provided by virtue of this Act, and the Right and Property of and in all Engines, Implements, Materials, Goods, Articles, and Things provided or had for the Purposes of this Act, shall be and the same are hereby vested in the Commissioners.

For what Contracts may be made.

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

How to be signed.

XXIII. And be it enacted, That every such Contract shall be signed by any Three of the Commissioners and the other Parties thereto; and such Contracts shall be binding on the Commissioners, and Actions and Suits may be maintained thereon, and Damages and

Costs recovered, by or against the Commissioners, or the other Parties failing in the Execution thereof.

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

Materials for Works contracted for to be considered the Property of the Commissioners.

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

Indictments how to be preferred.

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

Commissioners not to be personally liable.

Liability of their Funds.

XXVII. And be it enacted, That in all Actions and Suits in respect of any Matter or Thing relating to the Execution of this Act, to be brought by or against the Commissioners, it shall be sufficient to state the Names of any Two of the Commissioners, or the Name of their Clerk, as the Party, Plaintiff or Defendant, representing the Commissioners in any such Action or Suit; and no such Action shall abate or be discontinued by the Death of any such Commissioner, or by the Death, Suspension, or Removal of such Clerk.

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

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

Executions against Goods of Commissioners.

XXIX. And be it enacted, That every such Commissioner or Clerk in whose Name any such legal Proceeding shall be carried on, either

Indemnity to Commissioners and Clerk.

either as Plaintiff or Defendant, on behalf of the Commissioners, shall be reimbursed out of the Monies which shall come into the Hands of the Treasurer of the Commissioners by virtue of his Office, all Damages, Costs, Charges, and Expences to which any such Commissioner or Clerk may be put, or with which he may become chargeable by reason of being so made Plaintiff or Defendant; and no such Commissioner or Clerk shall be personally liable for the Payment of the same, unless such Action or Suit have arisen in consequence of his own wilful Neglect or Default, or unless, if such Action have been brought by the Clerk or Two Commissioners, or more, as aforesaid, it have been so brought without the Order or Direction of the Commissioners.

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

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

Commissioners to appoint a Treasurer and other Officers,

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

Offices of Clerk and Treasurer to be separate,

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

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

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

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

If

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

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

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

Officer taking Fees to lose his Office and forfeit 50*l.*

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

Commissioners to take Security from all Officers intrusted with Money.

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

Officers to account.

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

Remedy against Officers failing to account.

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

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

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

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

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

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

Commitment
not to dis-
charge Sure-
ties.

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

Books of Ac-
count to be
kept, and to
be open to
Inspection.

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

aforesaid to inspect such Book, or to take Copies or Extracts as aforesaid, such Clerk shall for each such Default forfeit a Sum not exceeding Five Pounds.

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

Accounts to be examined and settled at the Annual Meeting.

To be final unless appealed from.

XL. Provided always, and be it enacted, That Ten Days at the least previously to such Examination and Settlement as aforesaid the Commissioners shall cause a full and true Statement and Account to be drawn out of all Contracts entered into, and of all Monies received and expended by virtue of this Act during the preceding Year, and also of all Debts then owing by the Commissioners, and they shall allow such Statement and Account to remain for Inspection at the Office of the Commissioners; and all Persons may, at all reasonable Times, inspect such Statement and Account, paying the Sum of One Shilling for every such Inspection; and the said Statement and Account shall be printed, and the Clerk shall, on Demand, furnish a printed Copy thereof to every Creditor without Fee; and Fourteen Days at the least previously to the Meeting for examining and settling such Accounts the Commissioners shall give public Notice of such intended Meeting, by Advertisement in one of the Newspapers printed and circulated in each of the Cities of *Worcester* and *Gloucester*, stating in such Notice that the said Statement and Account are at the Office of the Commissioners, ready for the Inspection of the Creditors, or other Parties interested.

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

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

Annual Account to be transmitted to the Clerk of the Peace.

the said Account, free of Charge, to the respective Clerks of the Peace for the Cities of *Gloucester* and *Worcester*, on or before the First Day of *September* then next, which Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection : Provided always, that if the said Commissioners shall omit to prepare and transmit such Account as aforesaid, they shall forfeit for every such Omission the Sum of Twenty Pounds.

Power to borrow on Mortgage.

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

Form of Mortgage.

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

Mortgages to be without Preference.

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

Expences of Mortgages.

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

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

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

XLVII. And

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

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

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

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

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

[Local.]

7 I

Notice

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

Commis-
sioners au-
thorized to
pay Interest
out of Money
borrowed.

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

Application
of Monies to
be borrowed.

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

Service of
Notice on
Commis-
sioners.

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

Authentica-
tion of
Notices.

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

Releases to
Witnesses.

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

LVII. And

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

Proof of
Debts in
Bankruptcy.

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

Tender of
Amends.

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

Lands to be
taken.

LX. And be it enacted, That, subject to the Provisions of this Act, it shall be lawful for the Commissioners to agree with the Owners of the Lands which they are hereby authorized to enter into and take for the Purposes of the Improvement of the said Navigation, for the absolute Purchase, for a Consideration in Money, of any such Lands, or such Parts thereof as they shall think proper, and of all subsisting Leases therein, and of all Rent-charges, Annuities, Mortgages, or Incumbrances affecting any such Lands, and all Commonable or other Rights to which such Lands may be subject, and all other Estates or Interests in such Lands of what Kind soever.

Power to
purchase
Lands.

LXI. And be it enacted, That it shall be lawful for all or any of the following Parties, being seised, possessed of, or entitled to any such Lands, or any such Estate or Interest therein as aforesaid, to sell and dispose of, and convey or release the same to the Commissioners, and to enter into all necessary Agreements for that Purpose; (that is to say,) all Corporations, Tenants for Life or in Tail, or for any other partial or qualified Estate or Interest, Married Women seised in their own Right or entitled to Dower, Guardians, Committees of Lunatics and Idiots, Trustees or Feoffees in Trust for charitable or other Purposes, Executors and Administrators; and the

Parties under
Disability en-
abled to sell
and convey.

Power

Power so to sell and convey as aforesaid may lawfully be exercised by all such Parties, not only on behalf of themselves and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, unborn, or not to be found; and as to such Married Women as if they were sole, and as to such Guardians on behalf of their Wards, and as to such Committees on behalf of the Lunatics and Idiots of whom they are the Committees respectively, and that to the same Extent as such Wives, Wards, Lunatics, and Idiots respectively could have exercised the same Power under the Authority of this Act, if they had respectively been under no Disability, and as to such Trustees, Executors, and Administrators, on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Femes Covert, or other Persons, and that to the same Extent as such Cestuique Trusts respectively could have exercised the same Powers under the Authority of this Act, if they had respectively been under no Disability.

Parties under Disability to exercise other Powers.

LXII. And be it enacted, That the Power herein-after given to enfranchise Copyhold Lands, as well as every other Power required to be exercised by the Lord of any Manor pursuant to the Provisions of this Act, and the Power to release Lands from any Rent, Payment, Charge, or Incumbrance, and to agree for the Apportionment of any such Rent, Charge, or Incumbrance, shall extend to and may lawfully be exercised by every Party herein-before enabled to sell and dispose of, or convey and release Lands to the Commissioners.

Consideration to be a gross Sum.

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

Acceptance of Compensation for Price of or Damage to Lands.

LXIV. And be it enacted, That the Owners of any such Lands, or of any such Estate or Interest therein as aforesaid, and all Parties by this Act enabled to convey any such Lands, may agree to accept, and, subject to the Restrictions in this Act contained as to the Payment thereof, may accept, Satisfaction for the Value of such Lands, or any Interest therein to which such Party shall be entitled; and in addition to Compensation for the Value of such Lands, or of the Interest therein to be so conveyed, such Parties shall be entitled to and may in like Manner accept Compensation for any Damage by them sustained by reason of the severing or dividing of such Lands, or otherwise owing to the Exercise of the Powers of this Act.

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

LXV. And with respect to the Consideration Money to be paid for any Lands to be purchased from any Party under any Disability or Incapacity, and not having Power to sell or convey, except under the Provisions in this Act contained, and the Compensation Money to be paid for any permanent Damage or Injury to any such Lands, be it enacted, That such Consideration Money or Compensation shall not, except where the same shall have been determined by the

Verdict of a Jury under the Provision herein-after contained, be less than shall be determined by the Valuation of Two able practical Surveyors, one of whom shall be nominated by the Commissioners, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Third Surveyor as any Two Justices shall for that Purpose nominate; and each of such Two Surveyors, if they agree, or if not then the Surveyor nominated by the said Justices, shall annex to the Valuation a Declaration of the Correctness thereof.

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

Compensation to absent Parties to be ascertained by Valuation.

LXVII. And be it enacted, That if any Person seised in Fee of, or entitled to dispose of absolutely for his own Benefit, any Lands authorized to be purchased for the Purposes of this Act, shall be willing to sell such Lands for a perpetual annual Rent-charge, in lieu of a Sum in gross, such Person may lawfully sell and convey such Lands, or any Part thereof, unto the Commissioners, in consideration of an annual Rent-charge payable by the Commissioners to the Person so selling and conveying, and to his Heirs and Assigns.

Purchase of Lands on Chief Rents.

LXVIII. And be it enacted, That the yearly Rents reserved by any such Conveyance shall be charged on the Tolls payable under this Act, and shall be paid by the Commissioners as such Rents become payable; and if at any Time any such Rents be not paid within Thirty Days after they so become payable, and after Demand thereof in Writing, the Person to whom any such Rent shall be payable may either recover the same from the Commissioners, with Costs of Suit, by Action of Debt in any of the Superior Courts, or it shall be lawful for him to levy the same by Distress of the Goods and Chattels of the Commissioners.

Payment of such Rents to be charged on Tolls.

LXIX. And be it enacted, That all Conveyances of Lands so to be purchased as aforesaid may be according to the Form in the Schedules (D.) and (E.) respectively to this Act annexed, or as near thereto as the Circumstances of the Case will admit; and all such Conveyances shall be effectual to vest the Lands thereby conveyed in the Commissioners, and shall operate to merge all Terms of Years attendant by express Declaration or by Construction of Law on the Estate or Interest so thereby conveyed, and to bar and to destroy all such Estates Tail, and other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever, of and in the Lands comprised in such Conveyances as shall have been purchased or compensated for by the Consideration therein mentioned;

Form of Conveyances.

[Local.]

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but

but although Terms of Years be thereby merged, they shall in Equity afford the same Protection, as if they had been kept on foot and assigned to a Trustee for the Commissioners to attend the Reversion and Inheritance.

Costs of
Conveyances.

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

Taxation of
Costs.

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

Purchase
Money pay-
able to par-
ties under
Disability
amounting to
200*l.* to be
deposited in
the Bank of
England.

LXXII. And for the Purpose of providing for the Deposit and Application of the Purchase Money or Compensation to be paid in respect of any such Lands which may belong to Parties under Disability, be it enacted, That if any such Purchase Money or Compensation shall be payable in respect of any such Lands or any Interest therein, which any Corporation, Tenant for Life or for any other partial or qualified Interest, Married Woman seised in her own

Right or entitled to Dower, Guardian, Committee of Lunatic or Idiot, Trustee, Executor, or Administrator, or Person under any Disability shall be entitled to, and shall under the Powers of this Act be enabled to convey or dispose of, the same shall, if it amount to or exceed the Sum of Two hundred Pounds, be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there, *ex parte* "The Commissioners for the Improvement of the River *Severn*," pursuant to the Method prescribed by an Act of the Twelfth Year of the Reign of His late Majesty King *George* the First, intituled *An Act for the better securing the Monies and Effects of the Sutors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and Indorsements thereon, and likewise Indorsements on South Sea Bonds*, and pursuant to the General Rules and Orders of the said Court, and without Fee or Reward, according to the Act of the Twelfth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act to empower the High Court of Chancery to lay out on proper Securities any Monies not exceeding a Sum therein limited, out of the common and general Cash in the Bank of England belonging to the Sutors of the said Court, for the Ease of the said Sutors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant General of the said Court*; and such Monies shall remain so deposited until the same be applied to some One or more of the following Purposes; (that is to say,)

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

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

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

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

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

12 G. 1. c. 32.

12 G. 2. c. 24.

Application
of Monies
deposited.Order for
Application.

ment and Application of the Interest, Dividends, and annual Proceeds thereof may be made on the like Petition.

Sums from 20*l.* to 200*l.* to be deposited or invested in Trustees.

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

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

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

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

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

subject to the Control and Disposition of the said Court; and upon Receipt of such Money the Cashier of such Bank shall give to the Commissioners, or to the Party paying in such Money, a Receipt for such Money, specifying therein for what and for whose Use (described as aforesaid) the same shall have been received, and in respect of what Purchase the same shall have been paid in, and thereupon all the Interest in such Lands in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Commissioners.

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

Application of Monies so deposited.

LXXVIII. Provided always, and be it enacted, That where any such Purchase Money or Compensation so paid into the Court of Chancery shall have been paid in respect of any Lease for Lives or Years, or any Estate in Lands less than the whole Fee Simple thereof, or of any Reversion dependent on any such Lease or Estate, it shall be lawful for the Court of Chancery, on the Petition of any Party interested in such Money, to order that the same shall be laid out, invested, accumulated, and paid in such Manner as the said Court may consider will give to the Parties interested in such Money the same Benefit therefrom as they might have legally had from the Lease, Estate, or Reversion in respect of which such Money shall have been paid, or as near thereto as may be.

Court of Chancery may direct Investment or Payment of Money in respect of Leases for Lives, Years, &c., or Reversions, as they may think just.

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

Party in Possession deemed to be the Owner.

LXXX. And with respect to Costs in Cases of Monies deposited in the Bank of *England*, be it enacted, That the Court of Chancery may in all such Cases, except where Monies shall have been so deposited by reason of the wilful Refusal of any Party entitled thereto to receive the same, or to convey or release the Lands in respect whereof the same shall be payable, order the Costs of the following Matters, including therein all reasonable Charges and Expences

Costs in Cases of Money deposited.

[Local.]

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incident

incident thereto, to be paid by the Commissioners; (that is to say,) the Costs of Purchase or of taking or using of the Lands, or which shall have been incurred in consequence thereof, other than such Costs as are herein otherwise provided for, and the Costs of the Investment of such Monies in Government or Real Securities, and of the Reinvestment thereof, or of the Government or Real Securities purchased therewith in the Purchase of other Lands; and also the Costs of obtaining the proper Orders for any of the Purposes aforesaid, and of the Orders for the Payment of the Dividends and Interest of the Government or Real Securities upon which such Monies shall be invested, and for the Payment out of Court of the Principal of such Monies, or of the Government or Real Securities whereon the same shall be invested, and of all other Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants.

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

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

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

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

LXXXIII. And

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

Decision of Justices not conclusive as to Commissioners Right.

LXXXIV. And be it enacted, That when the Commissioners shall require to purchase any of the Lands which by this Act they are authorized to purchase or take they shall give Notice thereof to all the Parties interested in such Lands, or enabled by this Act to sell and convey or release the same, or such of them as shall be known to the Commissioners, and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in such Lands, and of the Claims made by them in respect thereof; and every such Notice shall be in Writing, and shall state the Particulars of the Lands so required, and shall state that the Commissioners are willing to treat for the Purchase of the Interest of such Party in such Lands, and as to the Compensation to be made for the Damage that may be sustained by him by reason of the Execution of the Works by this Act authorized.

Notice of Intention to take Lands.

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

Parties interested in Lands to state their Claims.

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

Proceedings in case of Refusal to deliver Possession of Lands.

LXXXVII. And for the Purpose of making Provision for settling Cases of disputed Compensation arising under this Act, be it enacted, That if any Difference shall arise or if no Agreement can be come to between the Commissioners and the Owners of any Lands, or of any Interest in any such Lands, taken or required for or injuriously affected

Dispute as to Compensation to be settled by a Jury.

affected by the Execution of the Works by this Act authorized (including among such Owners all Parties by this Act enabled to sell or convey Lands), as to the Value of such Lands, or of any Interest therein, or as to the Compensation to be made in respect thereof, or if by reason of Absence any such Owner be prevented from treating, or if any such Owner shall fail to disclose or prove his Title to any such Lands or any Interest therein, or if by reason of any Impediment or Disability any such Owner be incapable of making any Agreement, Conveyance, or Release necessary for enabling the Commissioners to take such Lands, or to proceed in the Execution of the Works by this Act authorized; or if any such Difference arise as to the Amount of the Damages occasioned to any Lands by the temporary Occupation thereof in exercise of the Powers given by this Act, and for which any Party may be entitled to demand Compensation according to the Provisions of this Act; the Amount of the Compensation to be paid by the Commissioners in every such Case shall be settled by the Verdict of a Jury in manner herein-after mentioned.

Claims not exceeding 50*l.* to be settled by Two Justices.

LXXXVIII. Provided always, and be it enacted, That if the Compensation claimed in any of the Cases mentioned in the preceding Enactment shall not exceed Fifty Pounds the same shall be settled by Two Justices.

Notice by Commissioners of Intention to have Jury summoned.

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

Requisition by Party claiming Compensation that Jury be summoned.

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

Warrant for summoning Jury to be addressed to the Sheriff.

XCI. And be it enacted, That in every Case in which any such Question of disputed Compensation shall be required to be determined by the Verdict of a Jury, the Commissioners shall issue their Warrant to the Sheriff, under the Hands of any Three or more of them,

them, requiring him to summon a Jury for that Purpose; and if such Sheriff be interested in the Matter in dispute, such Application shall be made to some Coroner of the County in which the Lands in question, or some Part thereof, shall be situate; and if all the Coroners of such County be so interested, such Application may be made to some Person having filled the Office of Sheriff or Coroner in such County, and who shall be then living there, and who shall not be interested in the Matter in dispute; and with respect to the Persons last-mentioned, Preference shall be given to one who shall have most recently served either of the said Offices.

XCII. And be it enacted, That throughout the Enactments contained in this Act relating to the Reference to a Jury, where the Term "Sheriff" is used, the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his Place; and in every Case in which any such Warrant shall have been directed to any other Person than the Sheriff, such Sheriff shall, immediately on receiving Notice of the Delivery of the Warrant, deliver over, on Application for that Purpose, to the Person to whom the same shall have been directed, or to any Person appointed by him to receive the same, the Jurors Book and Special Jurors List belonging to the County where the Lands in Question shall be situate.

Provisions applicable to the Sheriff to apply to the Coroner.

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

Summoning of Jurymen.

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

Impanneling of Jury.

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

Notice of Inquiry.

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

Sheriff to preside;

Witnesses to be summoned.

[Local.]

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Matter

Matter in controversy, in like Manner as Views may be had in the Trial of Actions in the Superior Courts.

Oath of Jurymen.

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

Verdict of Jury to be for Purchase of Lands and for Damage, assessed separately.

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

Value of Interests previously purchased to be deducted.

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

Verdict and Judgment to be recorded.

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

Costs of the Inquiry.

CI. And be it enacted, That on every such Inquiry before a Jury where the Verdict of the Jury shall be given for the same or a greater Sum than the Sum previously offered by the Commissioners, all the Costs of such Inquiry shall be borne by the Commissioners, but if

the Verdict of the Jury be given for a less Sum than the Sum previously offered by the Commissioners one Half of the Costs shall be defrayed by the Owner of the Lands, and the other Half by the Commissioners: Provided always, that in every Case where by reason of Absence in Foreign Parts, or of any Disability, the Owner of the Land shall have been prevented from treating with the Commissioners, all the Costs shall be borne by the Commissioners.

CII. And be it enacted, That such Costs shall be settled by the Sheriff, and such Costs shall include all reasonable Costs, Charges, and Expences incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry; and with respect to any such Costs payable by the Commissioners, if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, the same shall be recoverable by Distress, and on Application to any Justice he shall give his Warrant accordingly; and with respect to any such Costs payable by the Owner of the Lands or of any Interest therein, the same may be deducted out of any Money awarded by the Jury to be paid to such Owner as so much Money advanced for his Use, and the Payment of the Remainder of such Money shall be a good Payment and Satisfaction of the whole thereof.

Particulars
of the Costs.

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

Penalty on
Sheriff and
Jury for
Default.

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

Penalty on
Witnesses
making
Default.

CV. And be it enacted, That if either Party desire any such Question of disputed Compensation as aforesaid to be tried before a Special Jury, and before the Commissioners have issued their Warrant to the Sheriff give Notice in Writing of such Desire, such Question shall

Special Jury
to be sum-
moned at the
Request of
either Party.

shall be so tried, and for that Purpose the Commissioners shall by their Warrant to the Sheriff require him to nominate a Special Jury for such Trial; and thereupon the Sheriff shall, as soon as conveniently may be after the Receipt by him of such Warrant, summon both the Parties to appear before him, by themselves or their Attornies, at some convenient Time and Place (not being less than Five Days from the Service of such Summons), appointed by him, for the Purpose of nominating a Special Jury; and at the Place and Time so appointed the Sheriff shall proceed to nominate and strike a Special Jury in the Manner in which such Juries shall be required by the Laws for the Time being in force to be nominated or struck by the proper Officers of the Superior Courts, and the Sheriff shall appoint a Day for the Parties or their Agents to appear before him to reduce the Number of such Jury, and thereof shall give Four Days Notice to the Parties; and on the Day so appointed the Sheriff shall proceed to reduce the said Special Jury to the Number of Twenty in the Manner used and accustomed by the proper Officers of the Superior Courts.

Deficiency of Jurymen.

CVI. And be it enacted, That the Special Jury on such Inquiry shall consist of Twelve of the said Twenty who shall first appear on the Names being called over, the Parties having their lawful Challenges against any of the said Jurymen; and if a full Jury do not appear, or if after such Challenges a full Jury do not remain, then, upon the Application of either Party, the Sheriff shall add to the List of such Jury the Names of any other disinterested Persons qualified to act as Special or Common Jurymen, who shall not have been previously struck off the aforesaid List, and who may then be attending the Court, or can speedily be procured, so as to complete such Jury, all Parties having their lawful Challenges against such Persons, and the Sheriff shall proceed to the Trial and Adjudication of the Matters in question by such Jury; and such Trial shall be attended in all respects with the like Incidents and Consequences as hereinbefore provided in the Case of a Trial by Common Jury.

Other Inquiries before same Special Jury, by Consent.

CVII. And be it enacted, That any other Inquiry than that for the Trial of which such Special Jury may have been struck and reduced as aforesaid may be tried by such Jury, provided the Parties thereto respectively should give their Consent to such Trial.

Special Jurymen not to attend more than Once.

CVIII. And be it enacted, That no Special Jurymen shall, without his Consent, be summoned or required to attend any such Proceeding as aforesaid more than Once in any Year.

Reference of Dispute as to Compensation to Justices.

CIX. And with respect to any such Question of disputed Compensation, or other Matter of Difference by this Act authorized to be referred to the Determination of Two Justices, be it enacted, That either Party may apply to such Justices in respect to any such Matter, and thereupon such Justices, in Presence of the Parties, or such of them as shall appear, being duly summoned for that Purpose, shall examine into the Matter in dispute, and shall award such an Amount of Compensation, or shall make such Determination in respect of the Matter so referred to them, as to them shall seem fit; and

and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall settle the Amount thereof; and in default of Payment of such Costs as directed by such Justices the same shall be levied by Distress, and the said Justices shall issue their Warrant accordingly.

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

Commissioners empowered to purchase the Interest in Lands the Purchase whereof may have been omitted by Mistake.

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

How Value of such Lands to be estimated.

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

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

[Local.]

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be settled by the proper Officer of the Court in which such Litigation took place.

Lands divided from Estates to be purchased.

CXIII. And be it enacted, That all Pieces or Parcels of Land, not required for the Purposes of this Act, which in making the said Cuts or Canals shall be separated from the several and respective Estates over or through which the said Cuts or Canals shall be made, shall be purchased and paid for by the said Commissioners, if required by the Owner thereof, and in the event of any less Quantity of Land than Half an Acre being left on the other Side thereof, the Commissioners shall, at the Request of the Owner thereof, either purchase the same, or at their own Expence throw it into any adjoining Land which the Owner thereof may happen to have, by removing the Fences and levelling the Sites.

Power to redeem Mortgages.

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

Deposit of Mortgage Money on Refusal to accept Redemption.

CXV. And be it enacted, That if in either of the Cases aforesaid, upon such Payment or Tender, any Mortgagee shall fail to convey or release his Interest in such Mortgage as directed by the Commissioners, or if he fail to adduce a good Title thereto to their Satisfaction, then it shall be lawful for the Commissioners, at any Time after such Failure, to pay into the Bank of *England*, in the Manner provided by this Act in Cases of Money directed to be deposited in such

Bank, the Principal and Interest, together with the Costs, if any, due on such Mortgage, and also, if such Payment be made before the Expiration of Six Months Notice as aforesaid, such further Interest as would at that Time become due; and thereupon, as well as upon such Conveyance by the Mortgagee, if any such be made, all the Estate and Interest of such Mortgagee, and of all Persons in Trust for him, or for whom he may be a Trustee, in such Lands, shall vest in the Commissioners, and they shall be deemed to be in the actual Possession thereof in case such Mortgagee were himself entitled to such Possession.

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

Sum to be paid when Mortgage exceeds Value of Lands.

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

Sum to be paid where Part only of mortgaged Lands taken

CXVIII. And

Deposit of
such Sum
when refused
on Tender.

CXVIII. And be it enacted, That if upon Payment or Tender to any such Mortgagee of the Amount of the Value or Compensation so agreed upon or determined, such Mortgagee shall fail to convey or release to the Commissioners, or as they shall direct, his Interest in the Lands in respect of which such Compensation shall so have been paid or tendered, or if he shall fail to adduce a good Title thereto to the Satisfaction of the Commissioners, it shall be lawful for the Commissioners to pay the Amount of such Value or Compensation into the Bank of *England*, in the Manner provided by this Act in the Case of Monies required to be deposited in such Bank; and such Payment or Deposit shall be accepted by such Mortgagee in satisfaction of his Mortgage Debt so far as the same will extend, and shall be a full Discharge of the Portion of the mortgaged Lands so required from all Money due thereon, and thereupon such Lands, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in Trust for him, shall become absolutely vested in the Commissioners, and they shall be deemed to be in the actual Possession thereof, in case such Mortgagee were himself entitled to the Possession thereof; nevertheless, every such Mortgagee shall have the same Powers and Remedies for recovering or compelling Payment of the Mortgage Money, or the Residue thereof (as the Case may be), and the Interest thereof respectively, upon and out of the Residue of such mortgaged Lands, or the Portion thereof not required for the Purposes of this Act, as he would otherwise have had or been entitled to for recovering or compelling Payment thereof upon or out of the Whole of the Lands originally comprised in such Mortgage.

Conveyance
of Copyhold
Lands to be
inrolled.

CXIX. And with respect to any such Lands which shall be of Copyhold or Customary Tenure, or of the Nature thereof, be it enacted, That every Conveyance of any such Lands to the Commissioners shall be entered on the Rolls of the Manor of which the same shall be held or Parcel; and on Payment to the Steward of such Manor of such Fees as would be due to him on the Surrender of the same Lands to the Use of a Purchaser thereof, he shall make such Enrolment; and every such Conveyance when so enrolled shall have the like Effect in respect of such Copyhold or Customary Lands as if the same had been of Freehold Tenure; nevertheless until such Lands shall have been enfranchised by virtue of the Powers herein-after contained, they shall continue subject to the same Fines, Rents, Heriots, and Services as were theretofore payable and of right accustomed.

Copyhold
Lands to be
enfranchised.

CXX. And be it enacted, That before the Commissioners shall make use of any such Copyhold or Customary Land for the Purposes of this Act they shall procure the same to be enfranchised, and for that Purpose they shall, within Three Months after the Enrolment of the Conveyance thereof, apply to the Lord of the Manor whereof such Lands are held to enfranchise the same, and shall pay to him and to his Lord, Farmer, or Lessee, if any, such Compensation in respect thereof as shall be agreed upon between the Commissioners and the Lord of such Manor, and to his Lord, Farmer, or Lessee; and if the Parties fail to agree respecting the Amount of the Compensation to be paid for such Enfranchisement, the same shall be determined as in other Cases of disputed Compensation; and in
estimating

estimating such Compensation, the Loss in respect of the Fines, Heriots, and other Services payable on Death, Descent, or Alienation which would be lost by the vesting of such Copyhold or Customary Lands in the Commissioners, or by the Enfranchisement of the same, shall be allowed for.

CXXI. And be it enacted, That upon Payment or Tender of the Compensation so agreed upon or determined, the Lord of the Manor whereof such Copyhold or Customary Lands shall be holden shall enfranchise such Lands, and the Lands so enfranchised shall for ever thereafter be held in Free and Common Soccage; and if upon such Payment or Tender to the Lord of the Manor as aforesaid he fail to enfranchise such Lands, or if he fail to produce a good Title to the Manor whereof such Lands shall be holden or Parcel, the Commissioners shall pay the Amount of such Compensation into the Bank of *England*, in manner required in other like Cases of Monies required to be deposited; and thereupon such Lands shall be deemed to be enfranchised, and shall be for ever thereafter held in Free and Common Soccage.

Lord of the Manor to enfranchise on Payment of Compensation.

CXXII. And be it enacted, That if any such Copyhold or Customary Lands be subject to any Customary or other Rent, and Part only of the Land subject to any such Rent be required to be taken for the Purposes of this Act, the Apportionment of such Rent may be settled by Agreement between the Owner of the Lands and the Lord of the Manor on the one Part, and the Commissioners on the other Part; and if such Apportionment be not so settled by Agreement, then the same shall be settled by Two Justices; and the Enfranchisement of any Copyhold or Customary Lands taken by virtue of this Act, or Apportionment of such Rents, shall not affect in other respects any Custom or Service by or under which any such Copyhold and Customary Lands not taken for the Purposes of this Act shall be held; and if any of the Lands so required be released from any Portion of the Rents to which they were subject jointly with any other Lands, such last-mentioned Lands shall be charged with the Remainder only of such Rents; and with reference to any such apportioned Rents, the Lord of the Manor shall have all the same Rights and Remedies over the Lands to which such apportioned Rents shall have been assigned or attributed as he had previously over the whole of the Lands subject to such Rents for the whole of such Rents.

Apportionment of Copyhold Rents.

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

Release of Lands from Rent-charges.

CXXIV. And be it enacted, That if Part only of the Lands charged with any such Rent-service, Rent-charge, Chief or other
[Local.] Rent,

Release of Part of Land from Charge.

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

Deposit in case of Refusal to release.

CXXV. And be it enacted, That upon Payment or Tender of the Compensation so agreed upon or determined to the Party entitled to any such Charge as aforesaid such Party shall execute to the Commissioners a Release of such Charge; and if he fail so to do, or if he fail to adduce a good Title to such Charge, to the Satisfaction of the Commissioners, they shall pay the Amount of such Compensation into the Bank of *England*, in the Manner provided by this Act in the like Cases of Monies required to be deposited in such Bank; and thereupon the Rent-service, Rent-charge, Chief or other Rent, Corn Rent in lieu of Tithes, Payment, or Incumbrance, or the Portion thereof in respect whereof such Compensation shall so have been paid, shall cease and be extinguished.

Charge to continue on Lands not taken.

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

Where Part only of Lands

CXXVII. And with respect to any such Lands which shall be comprised in a Lease for a Term of Years unexpired, Part only of
 1
 which

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

under Lease taken, Rent to be apportioned.

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

Tenants to be compensated.

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

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

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

Compensation to such Tenants.

CXXXI. And be it enacted, That if any Party claim Compensation in respect of any unexpired Term or Interest under any Lease or Grant

Production of Leases.

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

Compulsory
Purchase
limited to
Five Years.

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

Lands not
wanted to be
sold.

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

Lands not
so sold to
vest in Own-
ers of ad-
joining
Lands.

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

Lands to be
first offered to
the original
or adjoining
Owners.

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

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

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

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

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

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

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

Effect of Word "grant" in Conveyance.

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

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

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

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

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respective

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

Power to purchase Lands required for Stations, &c.

CXXXIX. And be it enacted, That for any of the following Purposes it shall be lawful for the Commissioners, in addition to the Lands authorized to be compulsorily taken by them as aforesaid, to contract with any Party willing to sell the same, for the Purchase of any Land, not exceeding in the whole Twenty Acres; (that is to say,)

For the Purpose of making and providing Yards, Wharfs, and Places for receiving, depositing, and loading or unloading Goods to be conveyed upon the River *Severn*, and for the Erection of Weighing Machines, Toll Houses, Offices, Warehouses, and other Buildings and Conveniences :

For any other Purpose which may be requisite or convenient for the Formation or Use of the several Works to be made under the Authority of this Act :

And it shall be lawful for all Parties, who under the Provisions herein-before contained would be enabled to sell and convey Lands required for the other Purposes of this Act, to sell and convey Lands required for any such additional Purposes as aforesaid.

Authority to Commissioners to sell and re-purchase such Lands.

CXL. And be it enacted, That it shall be lawful for the Commissioners to sell the additional Lands which they at any Time shall have so acquired, or any Part thereof, in such Manner, and for such Considerations, and to such Persons as the Commissioners may think fit, and again to purchase other Lands for the like Purposes, and afterwards sell the same, and so from Time to Time; but the total Quantity of Land to be held at any One Time by the Commissioners for the Purposes aforesaid shall not exceed Twenty Acres.

Restraint of Purchase from incapacitated Persons.

CXLI. And be it enacted, That the Commissioners shall not, by virtue of the Power to purchase Land for additional Purposes, purchase more than Twenty Acres from any Party under legal Disability, or who would not be able to sell and convey such Lands, except under the Powers of this Act; and if the Commissioners purchase the said Quantity of Land from any Party under such legal Disability, and afterwards sell the Whole or any Part of the Land so purchased, it shall not be lawful for any Party, being under legal Disability, to sell to the Commissioners any other Lands in lieu of the Land so sold or disposed of by the Commissioners, and all such Sales shall be void.

Power to Commissioners to improve the River between certain Limits by dredging, &c.

CXLII. And be it enacted, That it shall be lawful for the said Commissioners to improve and maintain and render more navigable the River *Severn* from the Entrance Lock of the *Gloucester* and *Berkeley* Canal in the East Branch of the said River and the Entrance Lock of the *Herefordshire* and *Gloucestershire* Canal in the West Branch of the said River to a certain Stream or Brook called *Gladder* or *Whitehouse Brook* in the Parish of *Areley Kings* in the County of *Worcester*, and to cleanse, scour, dredge, and deepen the
said

said River, and to dig and remove all or any Part of any Shoal or Bank or Bed of Mud, Sand, Soil, Rubbish, Gravel, Rock, and other Accumulations or Obstructions which may now or hereafter be in the Bed of the said River between the Limits aforesaid, and to use or dispose of the Gravel, Mud, Sand, Soil, Rubbish, and other Things that may be so dug and removed as aforesaid, as the Commissioners may think proper; and also between the Limits aforesaid to narrow or confine the Bed of the said River by setting up or erecting in the said River, or on the Banks thereof, artificial Embankments, or by any other Means whatsoever, and to shelve off, cut, and straighten the Banks of the said River: Provided always, that no Gravel, Mud, Sand, Soil, Rubbish, or other Thing so to be dug or removed as aforesaid, shall be deposited upon the available Surface of the Lands on either Side of the said River without the Consent of the Owner or Occupier of such Lands being first obtained.

CXLIII. And be it enacted, That it shall be lawful for the Commissioners to make and at all Times to maintain, vary, and improve the Cuts or Canals navigable and passable by Boats, which are hereinafter mentioned, in the Line or Course shown with respect to such Cuts or Canals, and according to the Mode exhibited in the Plan hereinafter mentioned; that is to say, One Cut or Canal to communicate at both Ends with the said River *Severn*, and to commence in or near a certain Grass Field, situate in the Parish of *Saint Peter the Great* at or near *Worcester*, belonging to or reputed to belong to the Honourable *James Somers Cocks* Clerk, and to terminate at or near certain Grass Fields in the same Parish belonging to or reputed to belong to *Mary Powell* Widow and *John Field* Clerk; One other navigable Cut or Canal to communicate at both Ends with the said River, and to commence in or near a certain River Bank and Grass Field, belonging to or reputed to belong to the Right Honourable *Arthur Moyses* Lord *Sandys*, situate in the Parish of *Ombersley*, and to terminate at or near a certain other Grass Field in the same Parish, belonging or reputed to belong to the said *Arthur Moyses* *William* Lord *Sandys*; and one other Cut or Canal to communicate at both Ends with the said River, and to commence in or near a certain Grass Field, situate in the Parish of *Astley*, belonging or reputed to belong to *Maria Henrietta Cookes* Widow, and to terminate in or near a certain other Grass Field, situate in the same Parish, belonging or reputed to belong also to the said *Maria Henrietta Cookes*.

Power to the Commissioners to make Cuts at the Side of the River.

CXLIV. And be it enacted, That it shall be lawful for the Commissioners to erect and maintain in such Manner and according to such Plan as they shall deem expedient, the Dams, Weirs, and Locks following; that is to say, One Dam or Weir in the Cut or Canal hereby authorized to be made in the Parish of *Astley*, One Dam or Weir in the Bed or Channel of the East Branch of the said River opposite *Bevere Island* in the County of *Worcester*, and One Dam or Weir in the Bed or Channel of the said River opposite each of the Two other Cuts or Canals hereby authorized to be made, and One Dam with a Lock or Locks therein in the Bed or Channel of the said River opposite the Cut or Canal hereby authorized to be made in the said Parish of *Astley*, One Dam with a Lock or Locks therein

Power for the Commissioners to erect Weirs and Locks.

therein in the West Branch of the said River opposite *Bevere Island* aforesaid, One Dam with a Lock or Locks therein in the Cut or Canal hereby authorized to be made in the Parish of *Ombersley*, and One Dam with Locks therein in the Cut or Canal hereby authorized to be made in the Parish of *Saint Peter the Great* at or near *Worcester*; provided that no Dam or Weir to be made as aforesaid shall exceed the Height marked for the same in the Section herein-after referred to: Provided also, that no such Dam or Weir, or any Works connected therewith, shall be made in the Channel of either Branch of the said River opposite *Bevere Island* aforesaid until a good and sufficient Fence or Barrier shall have been erected by the said Commissioners, so as to protect the Land on the East Side of the said River between *Bevere Island* aforesaid and *Hawford Wharf* against Injury by the Water of the said River washing and flowing against the same Land, which Fence or Barrier so to be erected shall for ever be maintained and kept in repair by the said Commissioners: Provided also, that for the more ready Passage of Boats through the Cut or Canal hereby authorized to be made in the said Parish of *Saint Peter the Great* at or near *Worcester*, it shall be incumbent upon the said Commissioners to make and maintain in such Cut or Canal Two Locks as nearly parallel to each other as may be, the Chamber of each of which said Locks shall be not less than One hundred Feet in Length nor less than Twenty Feet in Width.

Certain Works not to be constructed without Consent of the Admiralty.

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

No unnecessary Obstruction to the Works.

CXLVI. And be it enacted, That during the Time that the Works hereby authorized to be made shall be in progress of Construction the Commissioners shall take efficient Means to prevent any unnecessary Obstructions or Delay to the Vessels navigating upon the River.

Locks to be open Night and Day.

CXLVII. And be it enacted, That from and after the Completion of any Lock by this Act authorized to be made a proper Person shall be appointed for the Purpose of attending thereat, and affording Facilities for the Passage of Vessels through the same during the Night as well as Day.

Commissioners may make Drains, Culverts, Bridges, &c.

CXLVIII. And be it enacted, That it shall be lawful for the Commissioners to make, erect, maintain, and improve in connexion with such Cuts or Canals, and Dams or Weirs, such and so many Locks, Piers, Jetties, Side Drains, Sluices, Culverts, Machinery, Engines, Apparatus, and other Works as the Commissioners shall think proper, and also to construct, set up, and erect such and so many Swivel or other Bridges over or across such Cuts or Canals, Side Drains, Sluices, and Culverts, and such Towing Paths along the Side

Side of such Cuts or Canals, or otherwise in connexion therewith as the Commissioners shall think proper, and also to erect and build such and so many Houses and other necessary Buildings for the Habitation of Persons to be from Time to Time appointed by the Commissioners to superintend and manage such Works, or other the Affairs and Concerns of the Commissioners, as they shall think necessary or expedient: Provided always, that nothing in this Act contained shall authorize the said Commissioners, to take, use, or occupy for the Purposes of this Act, any Land or other Property belonging to the Company of Proprietors of the *Worcester and Birmingham* Canal Navigation, or in any respect to injure or alter any of the Works of the said Company, without the Consent of the said Company, in Writing under their Common Seal: Provided always, that nothing in this Act contained shall prevent or hinder the Company of Proprietors of the *Worcester and Birmingham* Canal Navigation from making and maintaining at their Expence at any Time thereafter a new navigable Communication for Boats, Barges, or other Vessels from their Canal or Basin at *Diglis* aforesaid with the River *Severn*; provided nevertheless, that such Communication or the Works connected therewith shall not in any respect injure or alter any Weir or Lock authorized by this Act to be made; provided also, that if any new Communication shall be made with the said River by the said Company of Proprietors, the Commissioners shall be authorized to gauge all Boats going in or coming out of the Lock of such new Canal at its Communication with the said River: Provided always, that nothing in this Act contained shall extend, or be deemed, taken, or construed to extend, to permit, authorize, or empower the said Commissioners, their Deputies, Contractors, Servants, Agents, Surveyors, Workmen, or any Person or Persons by them authorized, or acting through, from, or under them, to make, construct, or set up or erect on the Lands or Grounds now the Property of the said Lord *Sandys*, any House, Cottage, Warehouse, Depository for Goods, or other Erections or Buildings of any Description whatsoever, (except such Houses or Cottages and Buildings as may be necessary for the Habitation and Use of the Persons superintending the Lock, Weir, and Cut at *Holt Fleet*, authorized by this Act,) or to set up or erect any Steam or other Engines, Machinery, Apparatus, or other Works whatsoever, or to plant any Timber Trees, or to make Bricks, on any Part of the said Lands or Grounds, without the Licence and Consent of the said Lord *Sandys*, or the Owner for the Time being of the adjoining Lands, in Writing for that Purpose first had and obtained.

Commissioners not to interfere with Land or Works of Worcester and Birmingham Canal, &c.

CXLIX. Provided always, and be it enacted, That nothing in this Act contained shall authorize the said Commissioners to take, use, or occupy for the Purposes of this Act, any Land or other Property belonging to the Company of Proprietors of the *Gloucester and Berkeley* Canal, or in any respect to injure or alter any of the Works of the said Company without the Consent of the said Company in Writing under their Common Seal.

Not to interfere with Lands, &c. of Gloucester and Berkeley Canal Company.

CL. And in order that the said Commissioners may be able to test the Efficiency of any Kind of Weir which they may cause to be
[Local.] 7 Q erected

One Lock to be first erected.

erected in or across the said River *Severn*, be it enacted, That some one of the Weirs above *Worcester Bridge*, to be erected under the Provisions hereof, with the corresponding Lock, shall be completed and in use for the Space of Three Calendar Months at least, One of which shall be the Month of *January*, before any other Weir shall under the Provisions of this Act be erected in or across the said River.

As to the penning of Water at Holt Bridge.

CLI. And be it enacted, That the Commissioners shall not be authorized to raise the low Summer Water Level of the said River at *Holt Bridge* more than Eighteen Inches above the present Low Summer Water, as shown on the Section deposited with the Clerk of the Peace.

Commissioners not to interfere with River within certain Limits.

CLII. And be it enacted, That it shall not be lawful for the Commissioners to construct any Works, or otherwise in any Manner to interfere with the said River, below the Entrance Lock of the *Gloucester and Berkeley Canal*, in the Eastern Branch of the said River at the City of *Gloucester*, nor below the Entrance Lock of the *Herefordshire and Gloucestershire Canal*, in the Western Branch of the said River, near the said City of *Gloucester*, nor shall it be lawful for the Commissioners to demand, take, or recover any Tolls upon or in respect of Goods, Wares, or Merchandize carried exclusively upon the said River below the Entrance Locks of the said several Canals.

As to Coombe Hill Canal.

CLIII. Provided always, and be it enacted, That in case the Water at the Entrance of the *Coombe Hill Canal* shall be lowered from the cleansing, dredging, and deepening of the said River *Severn*, whereby the Boats shall be prevented entering the Lock of the said *Coombe Hill Canal*, or shall be inconvenienced thereby, then and in such Case the said Commissioners shall, and they are hereby required, at their own Costs and Charges, at any Time and from Time to Time, as Occasion may require, to sink the Sill and Chamber of the said Lock, and to do all other Matters and Things that shall be necessary to make the Navigation into the said *Coombe Hill Canal* as capable and perfect as it was before the passing of this Act.

As to Gloucester and Berkeley Canal.

CLIV. And be it enacted, That in case the Water over the lower Sill of the *Gloucester and Berkeley Canal Lock* at *Gloucester* shall be lowered by the cleansing, dredging, and deepening of the said River *Severn*, whereby the Boats shall be prevented entering the said Lock of the said Canal, or shall be inconvenienced thereby, then and in such Case the said Commissioners shall and they are hereby required, at their own Costs and Charges, at any Time and from Time to Time as Occasion may require, to sink the Sill and Chamber of the said Lock, and to do all other Matters and Things that shall be necessary to make the Navigation into the said *Gloucester and Berkeley Canal* as capable and perfect as it was before the passing of this Act.

For Protection of Diglis Sewer or Drain.

CLV. And be it enacted, That in case the new public Sewer or Drain at *Diglis* shall be in any Manner prejudicially affected by reason of any of the Works authorized by this Act to be made or done by

by the said Commissioners, then and in that Case the said Commissioners shall cause such new and sufficient Sewer or Drain to be made with such Fall as shall be sufficient to carry away all the Drainage and Soil of the said Sewer or Drain into the said River as effectually to all Intents and Purposes as the said Soil is now carried off by the said Sewer or Drain.

CLVI. Provided always, and be it enacted, That the deepening of the East and West Branches of the River from the *Herefordshire* and *Gloucestershire* Canal round the Island of *Alney* shall be effected simultaneously, and that the West Branch shall be dredged to the Level or Depth of the Sill of the Entrance Lock of the *Herefordshire* and *Gloucestershire* Canal, and of the Width of Twenty Feet at the Bottom; but that nothing in this Act contained shall authorize or empower the said Commissioners to dredge or deepen the Shoal in the said River called the *Maismore Shoal*, situate between the said Lock of the *Herefordshire* and *Gloucestershire* Canal and the *Upper Parting*, to a greater Depth than the Sill of the Entrance Lock of the said Canal, nor of a greater Width than Twenty Feet at the Bottom.

Works affecting Maismore Shoal.

CLVII. Provided always, and be it enacted, That if in the Exercise or Execution of any of the Powers or Authorities given in or by virtue of this Act any Obstruction, Impediment, or other Detriment or Injury shall be produced, done, arise, or be made in or to the Lower Navigation of the River *Avon*, or to the Lock or Sluice upon the same, at or near the Entrance of the said Navigation into the River *Severn*, then and in such Case the Commissioners for carrying this Act into execution shall immediately thereupon and they are hereby required, at the Request in Writing of the Owner or Owners for the Time being of the said Navigation, to do all such Acts, Matters, and Things as shall or may be requisite, necessary, or proper for the removing, curing, remedying, and doing away with any and every such Obstruction, Impediment, Detriment, or Injury, and for the making, putting, and placing the Entrance of the said Navigation of the River *Avon* into the said River *Severn* as convenient and available, and in as good Plight and Condition for all the Uses and Purposes thereof, as the same now is or was at or before the Time of passing this Act, any thing herein contained to the contrary notwithstanding.

To indemnify the Lower Avon Navigation in case of Damage.

CLVIII. And be it enacted, That in the Construction of the Weirs for the Purposes of this Act Means shall be provided for admitting the Passage of Salmon up and down the River in such Manner as may best effect the Object, without unduly wasting Water or otherwise impeding the Navigation of the said River.

Weirs to be constructed to admit Passage of Salmon.

CLIX. And be it enacted, That in case it shall hereafter be found that any of the said Weirs or Dams prevent or interrupt the Passage of any Fish in their Progress up or down the said River, the said Commissioners, at their own Cost and Charges, shall, on Proof thereof before the Justices of the Peace for the County of *Worcester*, in Quarter Sessions assembled, within such Time as the same Justices shall order or direct, adopt such Means as, without impeding the

In case of the Insufficiency of Weirs for the Passage of Salmon.

the Navigation of the said River, or unduly wasting Water, shall enable such Fish to pass freely up or down the said River, and if the said Commissioners shall refuse, or for the Space of Two Calendar Months after the Time or respective Times in this Behalf appointed by such Justices shall neglect to adopt such Means, they shall, from and after the Expiration of such Two Calendar Months, forfeit and pay the Sum of Fifty Pounds for every Month which shall elapse until such Alterations or Additions as aforesaid shall be made and completed, such Penalty to be from Time to Time recoverable by any Lord of a Manor or Owner of Land adjoining to the River *Severn* within the Limits aforesaid, with full Costs of Suit, in any of the Superior Courts.

Satisfaction to be made for Damages in execution of Works.

CLX. Provided always, and be it enacted, That the Commissioners shall make full Satisfaction to all Parties interested for all Damages sustained by them by reason of the Execution of such Works.

New Culverts to be made to the Distilleries and Works of John Williams and Francis Williams.

CLXI. And be it enacted, That the said Commissioners, before the Water of the said River shall be penned by the Works hereby authorized, shall, if required by the Parties next herein-after mentioned, make and form a new Culvert, Drain, or Watercourse from the said River *Severn* to the Distillery and Works in the Parish of *Saint Clements* in the Borough of *Worcester*, now in the Occupation of *John Williams* Esquire or his Under-tenant, and another new Culvert, Drain, or Watercourse from the said River to the Distillery and Works in the Parish of *All Saints* in the said Borough of *Worcester*, now in the Occupation of *Francis Williams* Esquire or his Under-tenant; such new Culverts, Drains, or Watercourses respectively to run in the same Direction and be in all respects similar to the Culverts, Drains, or Watercourses now extending from the said River to the said Distilleries and Works respectively, except that such new Culverts, Drains, or Watercourses respectively are to enter the said River at a Depth of not less than Two Feet below the permanent Level of the said River after the Works hereby authorized shall have been completed; and the Occupiers for the Time being of the said Two several Distilleries, Works, and Premises shall at all Times hereafter have free Liberty to use and enjoy the said new and present Culverts, Drains, or Watercourses respectively, without any Obstruction or Interruption from or by the said Commissioners or any other Person or Persons whomsoever, or from or by reason of any Matters or Things herein authorized to be made or done.

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

CLXII. And whereas Plans and Sections describing the Line or Course of the River *Severn* proposed to be improved, and describing the Line and Levels and Course and Situation of the before-mentioned Cuts, Canals, and Locks, and of the said Dams or Weirs, and the Lands upon, through, or over which the same Cuts or Canals, Locks, and Dams or Weirs are intended to be carried or made, and also Books of Reference containing the Names of the Owners, Lessees, and Occupiers, or reputed Owners, Lessees, and Occupiers, of such Lands, have been deposited with the Clerks of the Peace for the Counties of *Worcester* and *Gloucester*, and for the Cities and Counties of

of the Cities of *Worcester* and *Gloucester*; be it enacted, That all Persons interested may at all seasonable Times inspect such Plans, Sections, and Books of Reference, and may require to be furnished by any such Clerk of the Peace with Extracts therefrom or Copies thereof; and every such Clerk of the Peace shall give Access to such Documents, and if required furnish Copies thereof, or Extracts therefrom, and certify the same to be true Copies or Extracts; and in respect thereof he shall be entitled to Two Shillings and Sixpence for every Inspection of such Document, and Five Shillings for every Hour such Inspection shall continue beyond the first Hour, and Sixpence for every One hundred Words copied or extracted therefrom; and if any such Clerk of the Peace shall fail to comply with any of the Provisions aforesaid, he shall forfeit for every such Offence a Sum not exceeding Five Pounds.

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

Errors and Omissions to be corrected.

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

Copies of Plans, &c. to be Evidence.

CLXV. And be it enacted, That the Commissioners in making the said Cuts or Canals, Locks, and Dams or Weirs, shall have full Power and Authority to deviate from the Course or Direction thereof delineated in the Maps or Plans so deposited with the Clerks of the Peace as herein-before mentioned; provided that no such Deviation shall extend to a greater Distance than One hundred Yards, nor beyond the Line of Deviation marked upon such Plans, nor into the Lands or Property of any Person whose Name is not mentioned in the said Books of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been

Power to deviate from the Line laid down.

[Local.]

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omitted

omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in the Manner herein-before provided for in Cases of unintentional Errors in the said Books of Reference; but the Commissioners shall have full Power and Authority to extend their Weirs, Locks, or Dams in the Channel of the River to any Length they may think proper.

Houses and inclosed Grounds not to be taken.

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

Power to take temporary Possession of Land without previous Payment of Price.

CLXVII. And be it enacted, That, subject to the Provisions herein contained, it shall be lawful for the Commissioners when any of the Cuts, Canals, Dams, Weirs, or other Works of the Commissioners shall be damaged or destroyed by Floods or other unexpected Accidents, without making any previous Payment, Tender, or Deposit, to enter upon any Lands not being more than Fifty Yards distant from the Works so damaged or destroyed, and not being a Garden, Orchard, Park, Plantation, planted Walk, Avenue, or Ground planted and set apart as a Nursery for Trees, and not being nearer than Five hundred Yards to the Mansion House of the Owner of any such Lands, and to occupy the said Lands during such Time as may be necessary for the Repair or Restoration of the said Works, and to use the same for the Purpose of taking Earth or Soil and other Materials therefrom for the Restoration and Repair of the said Works, and to manufacture and work upon such Lands all such Earth, Soil, or other Materials.

Commissioners to give Notice previous to such temporary Possession.

CLXVIII. And be it enacted, That the Commissioners shall, before entering on any such Land (except in the Case of Accident requiring immediate Reparation), give Six Weeks Notice in Writing to the Owners and Occupiers of such Lands of their Intention to enter upon the same for such Purposes; and the Commissioners shall in such Notices respectively state the Substance of the Provisions herein-after contained respecting the Right of such Owner or Occupier to require the Commissioners to purchase any such Lands, or to receive Compensation for the temporary Occupation thereof, as the Case may be.

Power to Owner to object that other Lands ought to be taken.

CLXIX. And be it enacted, That if such Lands are required for any of the Purposes in respect of which a Notice of Six Weeks is herein-before required to be given, it shall be lawful for the Owner or Occupier of the Land entered into by the Commissioners, within Ten Days after Service of such Notice as aforesaid, to object to the Commissioners making use of such Lands, on the ground that other Lands lying contiguous or near thereto, and being such as the Commissioners are herein-before authorized to use for the Purposes aforesaid, might be occupied by the Commissioners as beneficially for such

such Purposes; and in such Case, if the Commissioners shall refuse to occupy such other Lands in lieu of those mentioned in the Notice, it shall be lawful for Two Justices, on the Application of such Owner or Occupier, to summon the Commissioners and the Owners and Occupiers of such other Lands to appear before them at any Time, not being more than Fourteen Days after such Application, nor less than Seven Days from the Service of such Summons, and on the Hearing pursuant to such Summons it shall be lawful for such Justices to determine summarily which of the said Lands shall be occupied by the Commissioners for the Purposes aforesaid, and to authorize the Commissioners to occupy the same accordingly.

CLXX. Provided always, and be it enacted, That if it shall appear to such Justices, upon the Inquiry before them, that the Lands of any other Party not summoned before them, being sufficient in Quantity, and such as the Commissioners are herein-before authorized to take or use for the Purposes aforesaid, would be more suitable to be used by the Commissioners than the Lands of the Person who shall have been so summoned as aforesaid, it shall be lawful for the said Justices to adjourn such Inquiry, and to summon such other Person to appear before them at any Time, not being more than Fourteen Days from such Inquiry, nor less than Seven Days from the Service of such Summons, and on the Hearing of such last-mentioned Summons to determine finally which Lands shall be occupied or used for the Purposes aforesaid, and to authorize the Commissioners to occupy the same accordingly.

Power to the Justices to summon other Owners before them.

CLXXI. And be it enacted, That before entering upon any such Lands with respect to the Entry of which Notice is required, the Commissioners shall, if required by the Owner or Occupier thereof, Seven Days at least before the Expiration of the Notice to take such Lands as herein-before mentioned, and in all other Cases shall when required by the Owner or Occupier of any Land entered into, find Two sufficient Persons, to be approved of by a Justice in case the Parties differ, who shall enter into a Bond to such Owner or Occupier in a Penalty of the Amount of Fifty Pounds *per* Acre, conditioned for the Payment of such Compensation as may become payable in respect of the same, in manner herein mentioned.

The Commissioners to give Sureties if required.

CLXXII. And be it enacted, That the Commissioners shall, when required so to do by the Owner or Occupier thereof, separate the Land to be used by them for the Purposes aforesaid by a sufficient Fence from the Lands adjoining thereto, and if the Commissioners shall refuse or neglect so to separate such Lands, their Right to use the same for the Purposes aforesaid shall cease and determine.

Commissioners to separate the Lands before using them.

CLXXIII. And be it enacted, That where the Commissioners shall in exercise of the Powers aforesaid enter upon any Lands for the Purposes aforesaid, it shall be lawful for the Owners or Occupiers of such Lands having such Estates or Interests therein as under the Provisions herein-before mentioned would enable them to sell or convey Lands to the Commissioners, at any Time during the Possession

Owners of Lands may compel Commissioners to purchase Lands so temporarily occupied.

sion of any such Lands by the Commissioners, and before such Owners or Occupiers shall have accepted Compensation from the Commissioners in respect of such temporary Occupation, to serve a Notice in Writing on the Commissioners requiring them to purchase the said Lands, or their Estates and Interests therein respectively; and in such Notice such Owners or Occupiers shall set forth the Particulars of their Estate or Interest in such Lands, and the Amount of their Claim in respect thereof, and the Commissioners shall thereupon be bound to purchase the said Lands, or the Estate and Interest therein of the Parties serving such Notice; and the Value of such Lands, and the Compensation payable therefor to such Owners and Occupiers, shall, in case of Difference, be determined as in other Cases of disputed Compensation under this Act.

Compensation to be made for temporary Occupation.

CLXXIV. And be it enacted, That where in any of the Cases aforesaid the Commissioners shall not be required to purchase such Lands it shall be incumbent on the Commissioners, within One Month after their Entry upon such Lands, upon being required so to do, to pay to the Occupier of the said Lands the Value of any Crop or Dressing that may be thereon, and to agree with the Owner and Occupier thereof for the Payment of an annual Sum, by way of Rent, during the Occupation thereof; and also within Six Calendar Months after they shall have ceased to occupy the said Lands, to pay to such Owner and Occupier Compensation for all Materials dug or taken from the said Lands, and for any Damage or Injury that may have been done to the said Lands in the Exercise of the Powers herein-before granted, and the Amount of such permanent Damage shall, in case of Difference, be determined as in other Cases of disputed Compensation under this Act; and the Value of any Crop, Dressing, or Cultivation which may be on the said Lands, and the Rent payable in respect thereof during the Possession of the Commissioners, whatever the Amount of Claim in respect of the same may be, shall, in case of Difference, be determined as other Cases of disputed Compensation under Fifty Pounds are determined under this Act.

Works to be erected by the Commissioners for the Protection and Accommodation of adjoining Lands.

CLXXV. And for the Purpose of making Provision respecting Works required for the Accommodation of the Owners and Occupiers of Lands adjoining the Navigation, be it enacted, That after any Part of the Cuts or Canals shall have been formed, and during the Construction thereof, the Commissioners shall make the following Works, at the Times herein-after mentioned; (that is to say,)

Such and so many convenient Gates upon or adjoining the Navigation as shall be necessary for the Purpose of making good any Interruptions caused by the Works of the Commissioners to the Use of the Lands through which the Navigation shall be made, and protecting such Lands from Trespass, or the Cattle of the Owners or Occupiers thereof from straying thereout by reason of the Navigation; and also such and so many Bridges, Arches, Hollows, Culverts, Fences, Ditches, Drains, and Passages over, under, or by the Sides of, or leading to or from the Navigation, as shall be necessary for the above Purposes; and such Works shall

shall be made forthwith, after the Part of the Navigation passing over such Lands shall have been laid out or formed :

Also sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences for separating the Land taken for the Use of the Navigation from the adjoining Lands not taken, with all necessary Gates made to open towards such adjoining Lands, and not towards the Navigation, and all necessary Stiles ; and such Works shall be made forthwith after the taking of any such Lands, if the Owners thereof shall so require :

Also all necessary Arches, Tunnels, Culverts, Drains, or other Passages, either over or under or by the Sides of the Navigation, of such Breadth, Depth, and Dimensions as will be sufficient at all Times to convey the Water as clearly from the Lands lying near to the Navigation as before the making of the Navigation ; and such Works shall be made from Time to Time :

Also proper Watering Places for Cattle where, by reason of the Navigation, the Cattle of any Person occupying any Lands lying near thereto shall be deprived of Access to their former Watering Places ; and such Watering Places shall be so made as to be at all Times sufficiently supplied with Water as theretofore, and as if such Navigation had not been made ; and for that Purpose the Commissioners shall make Watercourses and Drains by the Side of, along, or under the Navigation, or in, through, or over or across any Lands thereto adjoining, of sufficient Number and Dimensions, and in a sufficient Manner, and with proper and convenient Bridges over and Tunnels under the same respectively for the Purpose of conveying Water to the said Watering Places :

Provided always, that it shall be lawful for the Commissioners to make such Accommodation Works in such a Manner as will not prevent or obstruct the working or using of the Navigation.

CLXXVI. And be it enacted, That all Accommodation Works to be made as aforesaid shall be made at the Expence of the Commissioners, and at all Times thereafter the Commissioners shall at their own Expence maintain in sufficient Repair and in proper Condition the Works so made by them ; and for the Purpose of enabling the Commissioners to execute such Works and to keep them in repair, it shall be lawful for the Commissioners, according to the Provisions herein-before contained respecting the temporary Occupation of Lands by the Commissioners, their Agents or Workmen, to enter into any Lands adjoining or near to the Navigation, and load and carry the requisite Materials, in Carts and otherwise, upon and over such Lands, doing as little Damage as can be, and making full Compensation for any Damage done to the Owner or Occupier of such Lands.

Accommodation Works to be made and continued at the Expence of the Commissioners.

CLXXVII. And be it enacted, That if any Difference arise respecting the Kind of any such Accommodation Works required, or the Number of each Kind, or the Dimensions of the Works, or the Manner of executing them, or respecting the maintaining thereof, the same shall be determined by Two Justices, on the Application of any Owner or Occupier of Lands intersected or otherwise

Differences as to Accommodation Works to be settled by Justices.

[Local.]

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affected by the Navigation, or of any Person having a Right of Way interrupted thereby, and such Justices shall also appoint the Time within which such Works shall be executed by the Commissioners.

Execution of Works by Owners on Default by the Commissioners.

CLXXVIII. And be it enacted, That if, for Twenty Days next after the Time appointed by such Justices for the Execution or Repair (as the Case may be, of any such Accommodation Works the Commissioners fail to execute or to repair, as the Case may be, any such Accommodation Works, it shall be lawful for the Owners or Occupiers of the adjoining Lands aggrieved by such Failure themselves to execute the Works or Repairs; and the reasonable Expences of executing or repairing such Accommodation Works shall be repaid by the Commissioners to the Owners or Occupiers by whom the same shall have been executed or repaired; and if there be any Dispute about such Expences, the same shall be settled by Two Justices; and if such Expences be not repaid within Five Days after the same shall have been settled by such Justices, and after an Account thereof shall have been delivered to the Commissioners, and Demand thereof made upon the Commissioners, the same may be levied by Distress, and such Justices shall issue their Warrants accordingly: Provided always, that no such Owner or Occupier shall obstruct or injure the Navigation, or any of the Works connected therewith, for a longer Time, nor use them in any other Manner, than is unavoidably necessary for the Execution or Repair of such Accommodation Works.

Power to Owners of Lands to make additional Accommodation Works.

CLXXIX. And be it enacted, That if any of the Owners or Occupiers of Lands affected by such Navigation shall consider the Accommodation Works made by the Commissioners or directed by such Justices to be made by the Commissioners insufficient for the commodious Use of their respective Lands, it shall be lawful for any such Owner or Occupier to make Works for that Purpose, but such Works shall not be executed without the Consent of the Commissioners, or if such Consent be withheld, without the Authority of Two Justices, and for the Purpose of obtaining such Consent, such Owner or Occupier shall make a Request in Writing to the Commissioners, and if the Commissioners shall refuse, or for Ten Days after such Request delay to give such Consent, it shall be lawful for such Owner or Occupier to make Application to such Justices, and thereupon after hearing the Commissioners, or without hearing them if no Person attend on their Behalf after Notice for that Purpose, such Justices may either give or withhold their Authority for such Works being made as they shall think fit.

Costs of Application may be awarded by Justices.

CLXXX. And be it enacted, That if, on the Application by the Owner or Occupier of Lands to any Two Justices respecting the Execution of any such Accommodation Works, such Justices decide in favour of such Owner or Occupier, they may also award such reasonable Costs to such Owner or Occupier for his Loss of Time, Trouble, and Expence in making such Application as to such Justices shall seem proper, and the Circumstances of the Case shall warrant;

and such Costs shall be recoverable by the Party entitled thereto as Damages to a small Amount are herein made recoverable.

CLXXXI. And be it enacted, That the Commissioners shall not be compelled to make any further or additional Accommodation Works for the Use of Owners and Occupiers of Land adjoining the Navigation after Ten Years from the passing of this Act.

Accommodation Works limited to Ten Years.

CLXXXII. Provided always, and be it enacted, That nothing herein contained shall prevent the Owner of or any Person interested in any Ground adjoining the said Navigation, which shall not be taken by the said Commissioners for the Purposes of this Act, from appropriating or using the same for their own Use or the Use of the Public, in such Manner as if this Act had not been passed.

Reservation to Owners of Land of their Right to make Wharfs.

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

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

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

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

CLXXXV. And be it enacted, That after the Expiration of Seven Years from the passing of this Act all the Powers hereby granted to the Commissioners for making the said Cuts, Dams, Weirs, and Locks shall cease to be exercised, except as to so much thereof as shall then be completed, and except such Powers as shall hereby be declared to be continued for a longer Period.

Works to be completed in Seven Years.

CLXXXVI. And be it enacted, That it shall be lawful for the Commissioners from Time to Time and at all Times after the Improvement hereby authorized shall have been in manner in this Act mentioned declared to be completed, to demand, take, and recover for

Power to take Tolls.

for the Purposes of this Act the Tolls herein-after mentioned; (that is to say,)

On all Goods, Wares, and Merchandize carried upon the said River the whole Distance between the Lock of the *Herefordshire* and *Gloucestershire* Canal, or the Lock of the *Gloucester* and *Berkeley* Canal respectively, and the Entrance Lock of the *Birmingham* and *Worcester* Canal at *Diglis*, a Toll not exceeding the Sum of Sixpence *per Ton*;

On all Goods, Wares, and Merchandize carried upon the said River for any intermediate Distance between the Lock of the *Herefordshire* and *Gloucestershire* Canal, or the Lock of the *Gloucester* and *Berkeley* Canal respectively, and the said Entrance Lock at *Diglis*, a Toll not exceeding the Sum of One Farthing *per Ton per Mile*, but not exceeding for the whole Distance the Sum of Sixpence;

On all Goods, Wares, and Merchandize carried upon the said River the whole Distance between the said Entrance Lock at *Diglis*, and the Lock of the *Staffordshire* and *Worcestershire* Canal at *Stourport*, a Toll not exceeding the Sum of Sixpence *per Ton*;

On all Goods, Wares, and Merchandize carried upon the said River for any intermediate Distance between the said Entrance Lock at *Diglis*, and the Canal Lock at *Stourport*, a Toll not exceeding the Sum of One Halfpenny *per Ton per Mile*, but not exceeding for the whole Distance the Sum of Sixpence *per Ton*; and

On all Steam Vessels and Tug Boats navigating the said River between the Limits aforesaid, and carying Passengers for Pay or Hire, a Toll *per Mile* not exceeding One Farthing *per Ton* on the registered Tonnage of such Vessel.

Tolls on Goods passing from or into the River Avon.

CLXXXVII. Provided always, and be it enacted, That nothing herein contained shall empower the said Commissioners or their Successors to demand, take, or recover more than Two-pence Halfpenny *per Ton* upon any Goods, Wares, Merchandize, or any other Articles which shall pass out of the River *Avon* at *Tewkesbury* along the said River *Severn* to *Gloucester*, nor more than Two-pence Halfpenny *per Ton* upon any Goods, Wares, Merchandize, or other Articles which shall pass along the said River *Severn* from *Gloucester* aforesaid, into the said River *Avon*.

Report of Engineer that the River has been made navigable to be Evidence, and Tolls then to commence.

CLXXXVIII. And be it enacted, That a Report stating that the River *Severn*, between the Limits aforesaid has been made navigable so as to enable Boats drawing Six Feet of Water, at any Period of the Year, to navigate the same, signed by the Engineer for the Time being of the said Commissioners, and verified by his Affidavit or Declaration, which any Justice of the Peace is hereby authorized to take, shall be conclusive Evidence of the River having been improved as hereby directed between the Limits or Places aforesaid, and upon such Report being signed and verified as aforesaid the Commissioners shall call a Meeting of the said Commissioners as herein provided and declare the said Improvements to be completed, and thereupon the Payment of Tolls shall commence.

CLXXXIX. And

Amount: Provided always, that all Lenders shall be held as consenting who shall not dissent in Writing within the Period of Two Months after they shall have been applied to in Writing for such Consent by the Clerk of the Commissioners.

Exemption from Tolls on Goods laden Two Miles above Gladder or Whitehouse Brook.

CXCIV. And whereas Vessels belonging to and usually trading from any Place situate more than Two Miles above *Gladder* or *Whitehouse Brook* aforesaid will not, in navigating that Portion of the said River by this Act intended to be improved, derive any Benefit from such Improvement, and it is therefore reasonable that such Vessels should be exempted from the Tolls hereby authorized to be imposed, be it therefore enacted, That all Boats coming from any Place more than Two Miles above *Gladder* or *Whitehouse Brook*, shall pass upon the said River between the Limits or Places aforesaid, and upon the said Cuts or Canals, with any Goods and Cargo whatsoever, without paying to the said Commissioners any Tolls for the same, provided no fresh Goods or Cargo of any Description be taken in at any Place between the Limits or Places aforesaid, or at any Place within Two Miles of *Gladder* or *Whitehouse Brook*; and all Boats passing up the said River to above *Gladder* or *Whitehouse Brook* shall pass upon the said River, between the Limits or Places aforesaid, and upon or along the said Cuts or Canals with any Goods and Cargo whatsoever without paying to the said Commissioners any Tolls for the same, provided no Goods or Cargo of any Description be delivered or unladen at any Place between the Limits or Places aforesaid, or at any Place within Two Miles of the said Brook.

In case Improvements are extended as herein mentioned, the last Exemption to cease.

CXCV. Provided always, and be it enacted, That if at any Time hereafter the Navigation of the River *Severn* shall be improved to *Bewdley*, or to any Place which is Two Miles or more than Two Miles above *Gladder* or *Whitehouse Brook* in the Direction of *Bewdley*, then the Exemption from Tolls contained in the preceding Clause shall cease: Provided nevertheless, that nothing herein contained shall render liable to Toll the Cargoes of any Boats proceeding from or returning to any Place being Two Miles or upwards above the Terminus of such future Improvement, provided such Boats do not in descending the said River take in, or in ascending the same put out any Goods or Cargo whatever in their Passage, or within Two Miles of the Limits of the Improvement by this Act intended to be effected, or any such future Extension thereof.

No Boat laden with Manure to pay Toll.

CXCVI. Provided also, and be it enacted, That no Boat laden only with Manure, save and except Lime to be used for the Purposes of Agriculture, shall be subject or liable to any Toll authorized to be levied or taken under or by virtue of this Act.

Masters of Boats to give an Account of Lading.

CXCVII. And for the more easy Collection of the said Tolls hereby granted and directed to be paid, be it enacted, That the Master or other Person having the Care of any Boat passing on the said River *Severn* between the Limits or Places aforesaid, or on any Part thereof, shall give a just and true Account in Writing, signed by him, to the respective Collectors of the said Tolls or other Officers or Persons to be appointed in pursuance of this Act, at the Places where

where they shall respectively attend for that Purpose, of the several Qualities and Weight of the Goods which shall be in such Boat, and of the Place from whence the same shall be brought, and where he intends to unload or land the same, and also of the Qualities and Weight of such Goods as shall have been discharged from or taken out of any Boat between the Limits or Places aforesaid; and in case any such Master or other Person shall refuse to give such Account, or to produce his Invoice or Bill of Lading to any such Collector or other Officer or Person, or shall give a false Account, or shall deliver any Part of his Goods at any other Place than that mentioned in such Account, or do any Act to evade the Payment of the Tolls by this Act made payable, every Master, Owner, or other Person so offending shall upon Conviction forfeit and pay to the said Commissioners a Sum not exceeding Ten Pounds for every such Offence.

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

Application
of the Tolls.

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

When Money
borrowed
has been re-
paid, Tolls to
be reduced.

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

When re-
duced Tolls
are inad-
equate, they
may be
again ad-
vanced.

CCI. And with respect to the Collection of such Tolls, be it enacted, That such Tolls shall be paid to such Persons, and at such Places upon or near to the said Navigation, and in such Manner,
and

Taking and
Recovery of
Tolls.

and under such Regulations, as the Commissioners shall, by Notice to be annexed to the Account or List of Tolls, appoint; and if, on Demand, any Person fail to pay the Tolls due in respect of any Goods, or any Steam Vessel or Tug Boat, it shall be lawful for the Collector to detain and sell all or any Part of such Goods, or such Vessel or Boat, as the Case may be, and out of the Monies thence arising retain the Tolls payable in respect of such Goods, Vessel, or Boat, and all Charges and Expences of such Detention and Sale; and such Collector shall, upon Demand, render the Overplus, if any, of the Monies arising by such Sale, and such of the Goods as shall remain unsold, to the Person entitled thereto; and if such Goods, Vessel, or Boat happen to be removed before the Tolls payable in respect of the same be paid, then the Commissioners may recover such Tolls by Action at Law.

Disputes as to
the Amount
of Tolls
chargeable.

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

Differences
as to Weights,
&c.

CCIII. And be it enacted, That if any Difference arise between any Toll Collector or other Officer or Servant of the Commissioners and any Owner of or Person having the Charge of any Boat or of any Articles conveyed by such Boat, respecting the Weight or Quantity, such Collector or other Officer may lawfully detain such Boat, and examine, weigh, gauge, or otherwise measure all such Articles; and if upon such measuring such Articles appear to be of greater Weight or Quantity than shall have been stated in the Account given thereof, then the Person who shall have given such Account shall pay the Costs of such measuring, but if such Articles appear to be of the same or less Weight or Quantity than shall have been stated in such Account, then the Commissioners shall pay such Costs; and they shall also pay to such Owner of or Person having Charge of such Boat, and to the respective Owners of such Articles, such Damage (if any) as shall appear to any Justice, on a summary Application to him for that Purpose, to have arisen from such Detention.

List of Tolls
to be exhib-
ited on a
Board.

CCIV. And be it enacted, That a List of all the Tolls authorized by this Act to be taken, and which shall be exacted by the Commissioners, shall be published by the same being painted upon One Toll Board or more, in distinct Black Letters on a White Ground, or White Letters on a Black Ground, and by such Board being exhib-
bited

bited in some conspicuous Place on the Toll Houses or Places where such Tolls shall be payable.

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

Tolls to be taken only whilst Board exhibited.

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

Regulations as to Toll Collectors.

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

Penalties on Toll Collectors.

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

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

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

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

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

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

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

Toll Collector to be liable for wrongful Detention of Goods.

CCIX. And be it enacted, That if any such Collector of Tolls be discharged or suspended from his Office, or die, abscond, or absent himself,

Delivery of Matters in Possession or

[*Local.*]

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himself,

Custody of
Toll Collector
on Removal.

himself, and if such Collector so discharged or suspended, or the Wife, Widow, or any of the Family or Representatives of any such Collector so discharged or suspended, or who shall have died, absconded, or absented himself, refuse or neglect, after Seven Days Notice in Writing for that Purpose, to deliver up to the Commissioners, or to any Person appointed by them for that Purpose, any Toll House, Dwelling House, Office, or other Building, with its Appurtenances, or any Books, Papers, or other Matters belonging to the Commissioners, in the Possession or Custody of any such Collector at the Occurrence of any such Event as aforesaid, in right of his Appointment as Toll Collector, then upon Application being made by the Commissioners to any Justice, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon such Toll House or other Building, and to remove any Person found therein, and to take possession thereof, and of any such Books, Papers, or other Matters, and to deliver the same to the Commissioners or any Person appointed by them for that Purpose.

Bye Laws.

CCX. And be it enacted, That it shall be lawful for the Commissioners from Time to Time to make such Bye Laws as they shall think fit for all or any of the following Purposes; (that is to say,)

For governing and regulating the Use of the Locks and other Works hereby authorized to be made :

For regulating the placing and removing of Vessels within the Limits aforesaid, and for the good Order and Government of all such Vessels :

For regulating the passing and navigating of Vessels in the said River between the Limits aforesaid :

For regulating the Duties and Conduct of all Persons, as well the Servants of the Commissioners as others, who shall be employed at the Locks and Premises of the Commissioners :

For preventing Damage or Injury to any Vessels, Goods, Articles, or Things in or on the Premises under the Control of the Commissioners :

For regulating the Use of the Cranes, Weighing Machines, Weights, and Measures belonging to the Commissioners, and the Duties and Conduct of all Weighers and Meters appointed by them :

For regulating the Duties and Conduct of the Carriers employed on the Premises of the Commissioners, and fixing the Rates to be paid to them for carrying any Goods, Articles, or Things from or to the same :

And it shall be lawful for the Commissioners from Time to Time, as they shall think fit, to repeal, alter, or amend any such Bye Laws, provided such Bye Laws be not repugnant to the Laws of *England* or the Provisions of this Act, and be reduced into Writing and signed by the Clerk of the Commissioners, and, if affecting other Persons than the Officers and Servants of the Commissioners, be printed and published as herein provided.

Penalty for
enforcing
Bye Laws.

CCXI. And be it enacted, That it shall be lawful for the Commissioners, by the Bye Laws so to be made by them, to impose such reasonable Penalties as they shall think fit, not exceeding Five Pounds

for each Offence ; provided always, that such Bye Laws be so framed as to allow the Justices before whom any Penalty imposed thereby is sought to be recovered to order the Whole or Part only of such Penalties to be paid.

CCXII. And be it enacted, That no such Bye Law which shall be made by the Commissioners under the Authority of this Act, except such as may relate solely to the Commissioners or their Officers or Servants, shall be valid or binding unless the same shall be allowed by some Judge of one of the Superior Courts, or by the Justices assembled at some General Meeting or Quarter Sessions of the Peace for either of the Counties of *Worcester* or *Gloucester*, and it shall be incumbent on such Justices, on the Request of the Commissioners, to inquire into any Bye Laws which may be tendered to them for that Purpose, and to allow or disallow of the same as they shall think meet : Provided always, that no such Bye Law shall be confirmed unless Notice of the Intention to apply for a Confirmation of the same shall have been given in One or more Newspapers of the County of *Worcester* or *Gloucester* One Month at least before the hearing of such Application ; and any Person aggrieved by any such Bye Law, on giving Notice of the Nature of his Objection to the Commissioners Ten Days before the hearing of such Application, may by himself or his Attorney or Agent be heard thereon, but not so as to allow more than One Party to be heard on the same Matter of Objection.

Bye Laws to be confirmed.

CCXIII. Provided always, and be it enacted, That for One Month at least previous to any such Application a Copy of such proposed Bye Laws shall be kept at the principal Office of the Commissioners ; and it shall be lawful for all Persons at all seasonable Times to inspect such Copy without Fee or Reward, and to be furnished by the Commissioners with a Copy thereof, or of any Part thereof, on Payment of Sixpence for every One hundred Words.

A Copy of proposed Bye Laws to be open to Inspection One Month previous to Application.

CCXIV. And be it enacted, That such Bye Laws when confirmed shall be painted on Boards, and hung up, affixed, and continued on the Front or some conspicuous Part of the principal Office of the Commissioners, and also on some conspicuous Part of the Works of the said Commissioners ; and such Boards shall be from Time to Time renewed as often as the same or any Part thereof may be obliterated or destroyed.

Publication of Bye Laws.

CCXV. And be it enacted, That such Bye Laws when so confirmed shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Parties acting under the same.

Bye Laws to be binding on Parties.

CCXVI. And be it enacted, That the Production of a written or printed Copy of the Bye Laws of the Commissioners, authenticated by the Signature of the Clerk of the Commissioners, shall be Evidence of the Existence and of the due making of such Bye Laws in all Prosecutions under the same ; and with respect to the Proof of the Publication thereof, it shall be sufficient that painted Boards containing a Copy thereof were affixed or continued in the Manner by this

Evidence of Bye Laws.

this Act directed; and in case of any of such Boards being afterwards destroyed or obliterated, it shall be sufficient to prove that such Board was replaced or restored as soon as conveniently might be, unless Proof be adduced by the Party complained against that such painted Boards did not contain a Copy of the Bye Law under which he shall be prosecuted, or that Boards were not affixed or continued to be affixed as required by this Act.

Penalty on pulling down Boards on which Bye Laws are painted.

CCXVII. And be it enacted, That any Person who shall destroy or pull down, injure or deface any Board on the Premises of the Commissioners, on which any Bye Law of the Commissioners, or any Rate to be taken under this Act shall be painted, shall for every such Offence forfeit a Sum not exceeding Five Pounds.

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

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

CCXIX. And

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

Boats lying so as to obstruct Navigation to be removed.

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

Boats may be unloaded or removed to prevent Obstruction.

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

Sunken Boats to be weighed up.

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

Penalty for Offences ;

Every Person who shall suffer the Lading of any Boat being on the said River *Severn* between the Limits or Places aforesaid, or the said Cuts or Canals, to lie over the Sides thereof so as to obstruct the Passage of any other Boat, or to do any Damage thereto, or to any Weir or Dam, Lock or other Works hereby authorized to be made, or shall load or unload any Goods in any Lock hereby authorized to be made :

Obstructing Navigation by the Lading in any Boat lying over the Sides.

Every Person who shall navigate or cause to be navigated any Boat upon the said River between the Limits or Places aforesaid, or on the said Cuts or Canals, without a Rudder to guide the same :

Navigating without Rudder.

Every Person who shall float any Timber in or upon the said River between the Limits or Places aforesaid, or on the said Cuts or Canals, or shall wilfully obstruct or prevent any Person in the Execution of this Act.

Floating Timber.

[Local.]

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CCXXIII. And

Penalty for
malicious
Injuries.

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

If, without the Authority of the Commissioners, he wilfully throw any Ballast, Gravel, Dirt, Stone, or Rubbish, or other Matter or Thing, into the River *Severn* between the Limits herein-before mentioned, or into the said Cuts or Canals or Lock:

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

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

Damage to
be made
good.

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

Provision for
Damages not
otherwise
provided for.

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

Justices to
examine
Parties and
Witnesses.

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

Distress
against Com-
missioners.

CCXXVII. And with respect to any Sum of Money under the Provisions of this Act adjudged by any Justice to be paid by the Commissioners, for which no other Mode of Proceeding is provided by this Act, be it enacted, That if such Money be not paid by the Commissioners to the Party entitled to receive the same within Fourteen Days after Demand thereof in Writing, stating the Order of the

Justice for the Payment of such Money, the Amount may be recovered by Distress, and the Justice by whom such Sum of Money shall have been ordered to be paid, or any other Justice on Application, shall issue his Warrant accordingly; and if sufficient Goods or Effects of the Commissioners cannot be found whereon to levy such Sum of Money the same may be recovered by Distress of the Goods of the Treasurer of the Commissioners, and the Justice aforesaid, or any other Justice, on Application, shall issue his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due and demanding Payment thereof, have been given to such Treasurer or left at his Residence.

Distress
against Treas-
urer.

CCXXVIII. And be it enacted, That if such Treasurer pay any Money under any such Distress as aforesaid he may retain the Amount so paid by him, and all Costs and Expences occasioned thereby, out of any Money belonging to the Commissioners coming into his Custody or Control, or he may sue for the same against the Commissioners by Process of Law.

Reimburse-
ment of
Treasurer.

CCXXIX. And for the Purpose of providing for the due Publication of all Penalties and Forfeitures exigible under this Act or any Bye Law of the Commissioners, affecting other Persons than the Commissioners or their Officers or Servants, be it enacted, That from Time to Time the Commissioners shall publish the short Particulars of the several Offences for which any such Penalty is imposed by this Act, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Commissioners, and, where any such Penalties are of local Application, shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have reference, and such Particulars shall be renewed as often as the same, or any Part thereof, is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required.

Publication
of Penalties.

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

Defacing
Boards put
up for such
Publication.

CCXXXI. And for the Purpose of providing for the Recovery of Penalties or Forfeitures imposed by this Act, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for; be it enacted, That every such Penalty or Forfeiture may

Penalties to
be summarily
recovered
before One
or more
Justices.

may be recovered by summary Proceeding upon Complaint made before One or more Justices, and on the Complaint being made to any such Justice he shall issue a Summons requiring the Party complained against to appear on a Day and at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person, or by leaving the same with some Inmate at his usual Place of Abode; and either upon the Appearance, or upon the Default to appear, of the Party offending, it shall be lawful for any One or more Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for any One or more Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties to be levied by Distress.

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

Imprisonment in default of Distress.

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

Application of Penalties.

CCXXXIV. And with respect to the Application of any Penalties or Forfeitures recovered by virtue of this Act, the Application whereof is not herein otherwise provided for, be it enacted, That the Justice by whom any such Penalty or Forfeiture shall be imposed shall award one Half thereof to the Commissioners and the other Half thereof to the Informer, or any Person suing for the same; or if the Commissioners be the offending Party, shall award one
Half

of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not
unlawful for
Want of
Form.

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

Parties may
appeal to
Quarter
Sessions on
giving
Security.

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

Court to
make such
Order as
they think
reasonable.

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

Costs.

River not to
be subject to
Commis-
sioners of
Sewers.

CCXLIV. And be it enacted, That the said River between the Limits and Places aforesaid, and the said Cuts or Canals and other Works to be made in pursuance of this Act, shall not be subject to the Control, Direction, Survey, or Order of any Commissioners of Sewers, or to any Law or Statute relative to Sewers.

To make
good Towing
Paths where
diverted or
altered.
43 G.3.c.129.

CCXLV. And whereas by an Act passed in the Forty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for extending and making the Horse Towing Path or Road on the Banks of the River Severn, from Bewdley Bridge in the County of Worcester, to the deep Water at Diglis below the City of Worcester*, the Persons therein named, their Successors, Executors, Administrators, and Assigns, were united into a Company for the better carrying

carrying on, extending, improving, completing, and maintaining a Road, Passage, or Towing Path for hauling or drawing with Horses or other Beasts any Boats, Barges, or other Vessels navigating on the said River between *Bewdley Bridge* and the deep Water at or near *Diglis* below *Worcester*, by the Name of "The Company of Proprietors of the River *Severn* Horse Towing Path Extension:" And whereas by an Act passed in the Fifty-first Year of the said Reign, intituled *An Act for extending the Horse Towing Path on the Banks of the River Severn from Worcester Bridge to a certain Place below the City of Gloucester called the Lower Parting situate at the Corner of Portham Mead in the County of Gloucester*, the Persons therein named, their Successors, Executors, Administrators, and Assigns, were united into a Company, for the better carrying on, extending, improving, completing, and maintaining a Road, Passage, or Towing Path for hauling or drawing with Horses or other Beasts any Boats, Barges, or other Vessels navigating on the said River *Severn* between *Worcester Bridge* and the *Lower Parting* aforesaid, by the Name of "The Company of Proprietors of the *Gloucester* and *Worcester* Horse Towing Path:" And whereas in some Cases the Towing Paths which have been made by virtue of the said Acts, or some Part thereof, will be diverted or altered in carrying into execution the Provisions of this Act; be it therefore enacted, That if in the Exercise of any of the Powers of this Act it be found necessary to divert or interfere with any Part of the said Towing Paths, or either of them, so as to impede or in any Manner to inconvenience or endanger the Passage along the same, or render the same, by reason of the making of any Cuts or Channels as herein-before authorized, or otherwise, useless or inapplicable for the Purposes of the said Companies or either of them, the Commissioners shall, before such Interference therewith, cause another Towing Path to be made in lieu of or in addition to the Towing Path or the Part of the Towing Path so to be interfered with, and such substituted or new Towing Path shall, at the Expence of the Commissioners, be made and maintained, to the Satisfaction of the Surveyor of the Company to whom the Towing Path or Part of the Towing Path interfered with may belong, in a State, Course, and Direction, as nearly as Circumstances will admit, and in such Manner, as that the said Companies respectively shall have the free Use and Enjoyment of a Towing Path as well on the Bank of the said River as alongside of every Collateral Cut to be made by the said Commissioners, equally convenient for all the Purposes of such Company as their present Towing Paths.

CCXLVI. And be it enacted, That if the said Commissioners do not cause such other sufficient Towing Path to be so made before they interfere with any such existing Towing Path as aforesaid, they shall forfeit Five Pounds for every Day during which such substituted Towing Path shall not be made after the existing Towing Path shall have been in any Manner interrupted or interfered with, which Penalty shall be paid to the Company to whom the Towing Path so interfered with may belong, and may be recovered by them, in default of Payment, in like Manner as other Penalties are by this Act directed to be recovered.

Penalty for not providing a sufficient Towing Path before interfering with any now existing.

CCXLVII. And

If existing Towing Paths cannot be restored, new Towing Paths to be put into a permanent substantial Condition.

CCXLVII. And be it enacted, That if the existing Towing Path which may be so interfered with as aforesaid cannot be restored to its original State consistently with the Alterations by this Act authorized, the said Commissioners shall, within Six Months from their first Interference with such existing Towing Path, and to the Satisfaction of the Surveyor of the Company to whom the same may belong, cause such new Towing Path to be put into a permanently substantial Condition, equally safe and convenient for all the Purposes of such Company as the Towing Path or the Part of the Towing Path for which the same may be substituted, and if such existing Towing Path can be restored compatibly with such Alterations as aforesaid, such Restoration shall be made, and the former Towing Path shall be restored within the same Period of Six Months after the first Interference therewith.

Penalty on not restoring or substituting Towing Path.

CCXLVIII. And be it enacted, That if any such Towing Path be not restored, or substituted Towing Path not completed as aforesaid, within the Period herein-before fixed for that Purpose, the Commissioners shall forfeit Five Pounds for every Day after the Expiration of that Period during which such Towing Path shall not be so restored, or such substituted Towing Path be not completed in such Condition as aforesaid, and such Penalty shall be paid to the Company to whom the Towing Path interfered with may belong, and in default of Payment may be recovered by them in the like Manner as other Penalties are by this Act directed to be recovered.

New Towing Path to be vested in the Company for whom provided.

CCXLIX. And be it enacted, That any substituted or new Towing Path which the said Commissioners may provide for either of the said Companies under the Provisions herein-before contained shall be vested in such Company as fully and amply, to and for all Intents and Purposes, as the Towing Path or the Part of the Towing Path for which the same may be substituted, and the said Commissioners shall keep the same in repair, to the Satisfaction of the Surveyor of such Company, for the Space of One Year from the Period when the same shall have been completed and rendered fit for Use, and the said Commissioners shall also pay and satisfy unto or otherwise save harmless and indemnify the Company to whom the Towing Path or Part of the Towing Path for which a new Towing Path may be substituted shall belong, and all their Property and Effects, from and against all Rents or other annual Payments or Allowances, and all other Liabilities to which such Company may be subject for or in respect of the Towing Path or the Part of the Towing Path for which any such new Towing Path may be substituted.

Bridges, Culverts, &c. connected with Towing Path to be maintained by the Commissioners.

CCL. And be it enacted, That all Bridges, Culverts, and other Works in any Manner connected with any Towing Path which it may be necessary to make, alter, or vary in the Exercise of any of the Powers of this Act, shall from thenceforth be maintained and kept in repair by and at the sole Expence of the said Commissioners and their Successors; and it shall be lawful for the Towing Path Company in or to whom such Towing Path may be vested or belong, on Refusal or Neglect by the said Commissioners to repair or make
good

good the same for the Space of Fourteen Days after Notice so to do, to cause the same to be put in a good and sufficient State of Repair; and in every such Case it shall be lawful for any Two Justices of the Peace acting for the County in which the said Bridges, Culverts, or other Works aforesaid shall be situate, and they are hereby authorized and required, upon Request to them made by or on behalf of such Towing Path Company, to determine and adjust from Time to Time what Sum or Sums of Money shall be paid by the said Commissioners and their Successors to such Towing Path Company as the Amount and in Satisfaction and Discharge of such Expences as aforesaid, and to direct the Payment thereof at such Time and Place as to them the said Justices shall seem meet; and in default of Payment of the same, at such Time and Place as aforesaid, the same may be recovered by such Company in like Manner as any Damages, the Recovery whereof is not herein otherwise particularly provided for, may by this Act be recovered.

CCLI. And be it enacted, That it shall not be lawful for the said Commissioners to take, use, obstruct, or interfere with any Part of the Towing Paths, Bridges, Culverts, or other Works belonging to either of the said Towing Path Companies before or until they shall have given One full Calendar Month's Notice of their Intention so to do to such Towing Path Company, and the said Commissioners and their Successors shall and they are hereby required to make full Compensation to each of the said Towing Path Companies for and in respect of all Damage, Loss, or Inconvenience which they shall or may respectively sustain by reason of such taking, using, obstructing, or Interference with their said Towing Paths, Bridges, Culverts, or Works, or any of them, and also by reason of any Interruption to the Receipt of Tolls by them in consequence of any of the Works by this Act authorized.

Not to obstruct or interfere with Towing Paths, &c. until after One Month's Notice given by Commissioners.

CCLII. And be it enacted, That all Damage done by the said Commissioners, or by means of their Works, at any Time to any of the Towing Paths, Bridges, Culverts, or Works belonging to either of the said Towing Path Companies shall from Time to Time be repaired and made good by the said Commissioners and their Successors to the Satisfaction of the Surveyor for the Time being of the Towing Path Company to whom the same may belong, or in default thereof shall and may be repaired and made good by the same Company, and the Expences thereof shall and may be recovered from and against the said Commissioners and their Successors in like Manner as other Damages, the Mode of Recovery whereof is not otherwise hereby specifically provided for, are by this Act directed to be recovered.

Commissioners to make good Damage to Towing Paths, &c.

CCLIII. And whereas the Mayor, Aldermen, and Burgesses of the City of *Worcester*, or their Water Bailiff to their Use, are or is entitled to certain Tolls, Rates, or Duties for all Coals, Goods, Wares, and Merchandize carried or conveyed upon or by Water into, through, or out of the said City, and which Tolls, Rates, or Duties are called or generally known by the Name of the Water Bailiff's Tolls: And whereas the said Mayor, Aldermen, and Burgesses have

Compensation to the Mayor, &c. of Worcester in lieu of Rights.

[Local.]

7 Z

agreed

agreed to take the annual Sum of Twenty Pounds in lieu and stead of the said Water Bailiff's Tolls, for all Coals, Goods, Wares, Merchandize, Articles, and Things whatsoever carried or conveyed into, through, or out of the said City upon the said River *Severn*; be it therefore enacted, That no Water Bailiff's Toll, Rate, or Duty whatsoever shall hereafter be payable to or demanded by the said Mayor, Aldermen, and Burgesses for or in respect of any such Coals, Goods, Wares, Merchandize, Articles, or Things as aforesaid; and that in consideration and lieu of such Water Bailiff's Tolls the said Commissioners shall pay to the Mayor, Aldermen, and Burgesses of the City of *Worcester* the clear annual Sum of Twenty Pounds of lawful Money of *Great Britain*, by equal Half-yearly Payments, in every Year for ever, the First Payment thereof to be made at the Expiration of Six Calendar Months from the Time the said Commissioners shall commence taking Tolls upon the said River.

For Recovery
of such Com-
pensation.

CCLIV. And be it enacted, That the said annual Sum of Twenty Pounds shall be charged on the Tolls payable by virtue of this Act, and in case the said annual Sum or any Part thereof shall be in arrear for the Space of Twenty-one Days next after the same shall become payable and shall have been demanded, it shall be lawful for any Two Justices of the Peace for the said County or City of *Worcester*, by any Order under their Hands, to appoint any Persons to receive the Tolls hereby granted, and to pay the same to the Mayor, Aldermen, and Burgesses of the City of *Worcester*, until such Arrear of the said annual Sum, with the Costs and Charges of recovering and receiving thereof, shall be fully paid, or the said Mayor, Aldermen, and Burgesses may sue for and recover the same, with full Costs of Suit, in any of Her Majesty's Superior Courts, by Action of Debt, or may recover the same, together with the Costs attending the Recovery thereof, by such Means as are herein provided for the Recovery of Damages for the Recovery of which no special Provision is herein contained: Provided always, that nothing herein contained shall affect or interfere with the Right of the said Mayor, Aldermen, and Burgesses to receive from the Company of Proprietors of the *Worcester* and *Birmingham* Canal Navigation the annual Sum of Forty Pounds, secured and made payable to the Mayor, Aldermen, and Burgesses of the said City of *Worcester* under or by virtue of an Act passed in the Thirty-first Year of the Reign of King *George* the Third, intituled *An Act for making and maintaining a navigable Canal from or from near to the Town of Birmingham in the County of Warwick, to communicate with the River Severn near to the City of Worcester*.

31 G.3. c. 59.

Not to affect
Rights of the
Mayor, &c.
of Gloucester.

CCLV. Provided always, and be it enacted, That nothing in this Act contained shall extend to suspend, lessen, take away, prejudice, or extinguish the Payment of any River Dues or other Dues or Tolls, or any Right, Privilege, Immunity, Jurisdiction, or Authority granted or belonging to, or enjoyed or legally claimed or received, by immemorial Custom or Usage or otherwise, by the Mayor, Aldermen, and Burgesses of the City of *Gloucester*, or any Officer belonging to them for the Time being.

CCLVI. Pro-

CCLVI. Provided always, and be it enacted, That nothing herein contained shall extend to affect or prejudice the Right of any Lord of any Manor or Proprietor of any Lands adjoining to the said River between the Limits or Places aforesaid to any Fishery in any Part of such River vested in such Lord or Proprietor immediately before the passing of this Act.

Not to affect the Rights of Lords of Manors or Land Owners to Fisheries.

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

Interpretation Clause.

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

Words importing the Masculine Gender shall include Females :

The Word "Month" shall mean Calendar Month :

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

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

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

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

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

The Word "Toll" shall include any Rate or Charge or other Payment payable under this Act for any Goods, Merchandize, Articles, Matters, or Things conveyed on the Navigation :

The Expression "the Navigation" or "between the Limits or Places aforesaid," shall mean the River *Severn* within the Limits herein-before contained, and Works connected therewith by this Act authorized to be made :

The

The Word "Boat" shall include Barges, Trows, and all other Vessels of what Nature or Kind soever :

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

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

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

<i>Names of Commissioners.</i>	<i>By whom Vacancies are to be supplied.</i>
John Somerset Pakington	} Justices of the Peace for the County of Worcester in General Quarter Sessions assembled.
Thomas Charles Hornyhold	
John Benbow	
Henry Eustatius Strickland	} Justices of the Peace for the County of Gloucester in General Quarter Sessions assembled.
Thomas Fulljames	
William Henry Hyatt	
John Wheeley Lea	} The Council of the City of Worcester.
Edward Evans	
Richard Evans	
John Matthew Gutch	
William Tupsley Washbourne	} The Council of the City of Gloucester.
John Burrup	
David Mowbray Walker	
William Cother	
Richard Poole King	The Council of the City of Bristol.
George Allies	} The Council of the Borough of Droitwich in the County of Worcester.
William Dowdeswell	} The Council of the Borough of Tewkesbury in the County of Gloucester.
William Anstice	} The Council of the Borough of Wenlock in the County of Salop.
Richard Blakemore	} The Council of the Borough of Newport in the County of Monmouth.
John Moseley Gilbert Cheek	} The Proprietors of the Lower Avon Navigation, and the Proprietors of the Upper Avon Navigation, and the Council of the Borough of Evesham successively ; the first Election after the passing of this Act to be made by the Proprietors of the Lower Avon Navigation, and the next by the Proprietors of the Upper Avon Navigation.

Richard

missioners," to bearing Date the Day of
 for securing the Sum of and Interest, [*or,*
if such Transfer be by Endorsement, the within Security,] and all my
 Right, Estate, and Interest in and to the Money thereby secured,
 and in and to the Tolls, Money, and Property thereby assigned.
 Dated this Day of One thousand eight hundred
 and .

SCHEDULE (D.)

Form of Conveyance.

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

SCHEDULE (E.)

Form of Conveyance on Chief Rent.

I of in consideration of the
 Rent-charge to be paid to me, my Heirs and Assigns, as herein-
 after mentioned, by "The Severn Navigation Commissioners," esta-
 blished by virtue of an Act passed, &c., intituled, &c., do hereby
 convey to the said Commissioners, their Successors and Assigns, all
 [*describing the Premises to be conveyed*], together with all Ways,
 Rights, and Appurtenances thereunto belonging, and all my Estate,
 Right, Title, and Interest in and to the same, and every Part thereof;
 to hold the said Premises to the said Commissioners, their Successors
 and Assigns for ever, according to the true Intent and Meaning of
 the said Act; they the said Commissioners, their Successors and
 Assigns, yielding and paying unto me, my Heirs and Assigns, One
 clear yearly Rent of by equal quarterly [*or* half-yearly,
as agreed upon,] Portions, henceforth on the [*stating the Days*], clear
 of all Taxes and Deductions. In witness whereof I have hereunto
 set my Hand and Seal, this Day of
 in the Year of our Lord .

SCHE-

SCHEDULE (F.)

Form of Conviction.

to wit.

BE it remembered, That on the _____ Day of _____ in
the Year of our Lord _____ *A. B.* is convicted
before me, *C. D.*, One of Her Majesty's Justices of the Peace for the
County of *L.* [*here describe the Offence generally, and the Time,
Place, when and where committed*], contrary to the Severn Navigation
Act, 1841. Given under my Hand and Seal, the Day and Year
first above written. *C. D.*

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1842.

