



Highway Act 1835

1835 CHAPTER 50

Repeal of 6 G. 1. c. 6. in part, except as to London ;

That so much of an Act passed in the Sixth Year of the Reign of King *George* the First, intituled *An Act for preventing the Carriage of excessive Loads of Meal, Malt, Bricks, and Coals within Ten Miles of the Cities of London and Westminster*, as relates to the Carriage of Bricks, except so far as the same relates to the City of *London*.; and, also an Act passed in the Eighteenth Year of the Reign of King *George* the Second, intituled *An Act to repeal a Clause made in the Third Year of the Reign of King William and Queen Mary, relating to Carts used by Persons inhabiting within the Limits of the Weekly Bills of Mortality, and to allow such Carts to be drawn with Three Horses, and to prevent the Misbehaviour of the Drivers of Carts in Streets within the said Limits*, except so far as the same relates to the City of *London*; and also so much of an Act passed in the Twenty-fourth Year of the Reign of King *George* the Second, intituled *An Act for the more effectual Preservation of the Turnpike Roads in that Part of Great Britain called England, and for the Disposition of Penalties given by Acts of Parliament relating to the Highways in that Part of Great Britain called England, and for enforcing the Recovery thereof; and for the more effectual preventing the Mischiefs occasioned by the Drivers riding upon Carts, Drays, Carrs, and Waggons in the City of London and within Ten Miles thereof*, as relates to the preventing Mischief occasioned by the Drivers riding upon Carts, Drays, Carrs, and Waggons in the City of *London* or within Ten Miles thereof, except so far as the same relates to the City of *London* ; and also an Act passed in the Thirtieth Year of the Reign of King *George* the Second, intituled *An Act to explain and amend an Act made in the Eighteenth Year of His present Majesty's Reign, to prevent the Misbehaviour of the Drivers of Carts in the Streets in London, Westminster, and the Limits of the Weekly Bills of Mortality, and for other Purposes in this Act mentioned*, except so far as the same relates to the City of *London*; and also an Act passed in the Thirteenth Year of the Reign of King *George* the Third, intituled *An Act to explain, amend, and reduce into One Act of Parliament the Statutes now in being for the Amendment and Preservation of the public Highways within that Part of Great Britain called England, and for other Purposes*; and also an Act passed in the Thirty-fourth Year of the Reign of King *George* the Third, intituled *An Act for the more effectually repairing of such Parts of the Highways of this Kingdom as are to be repaired by Two Parishes*; and also an Act passed in the same Thirty-fourth Year of the Reign of *George* the Third, intituled *An Act for varying some of the Provisions in an Act of the Thirteenth Year of His present Majesty's Reign, respecting the public Highways within that Part*

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*of Great Britain called England, which relate to the Performance of Statute Duty; and also so much of an Act passed in the Forty-second Year of the Reign of King George the Third, intituled *An Act for amending the Laws relating to the Militia in England, and for augmenting the Militia*, as relates to the Exemption of any Serjeant, Corporal, Drummer, or Private of the Militia from performing Highway Duty, commonly called Statute Duty ; and also an Act passed in the Forty-fourth Year of the Reign of King George the Third, intituled *An Act to alter and amend so much of an Act passed in the Thirty-fourth Year of His present Majesty as relates to the Amount of the Sums to be paid by Persons compounding for the Performance of Statute Duty* ; and also an Act passed in the Fifty-fourth Year of the Reign of King George the Third, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, to explain, amend, and - reduce into One Act the Statutes now in force for the Amendment and Preservation of the public Highways within England, and for other Purposes*; and also an Act passed in the Fifty-fifth Year of the Reign of King George the Third, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, for the Amendment and Preservation of the public Highways, in so far as the same relates to Notice of Appeal against turning or diverting a public Highway, and to extend the Provisions of the same Act to the stopping up of unnecessary Roads* ; shall be and the same are hereby repealed.*

II Not to revive repealed Acts.

Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend so as to revive or give any Force or Effect to any Act repealed by the said recited Acts or any of them, but such Acts shall be and continue repealed in such and the like Manner as if this Act had not been made.

III As to the Recovery of Penalties incurred for Offences against Acts repealed.

Provided always, and be it further enacted, That nothing herein contained shall extend or be deemed or construed to interfere with any Acts done or Contracts or Agreements heretofore made under the Authority of any of the said recited Acts, or to extend to prevent the suing for or Recovery of any Penalty incurred by any Offence committed against the Provisions of the said recited Acts or any of them previous to the Repeal of the said Acts in and b this Act, or to prevent or defeat any Prosecution commenced or to be brought for such Offence ; but all Penalties and Forfeitures incurred may be sued for and recovered, and all Contracts and Agreements may be enforced, and all Encroachments, Nuisances, and other Offences made or committed previous to the Repeal of the said Acts, against the Provisions of the said Acts or any of them, may be abated or prosecuted by the Surveyor appointed under this Act, in the same Manner to all Intents and Purposes as if this Act had not been passed.

IV Present Surveyor to continue until a Surveyor is appointed.

Provided always, and be it further enacted, That the Surveyor appointed under the Authority of any of the said recited Acts shall continue to act, and shall have the same Powers, Authorities, and be subject to the Discharge of the same Duty, and be liable to the same Penalties, as the Surveyor to be appointed under the Authority of this Act, until such Appointment shall have been made.

V Interpretation Clause.

And be it further enacted, That in the Construction of this Act the Word " Surveyor " shall be understood to mean Surveyor of the Highways, or Waywarden ; the Word " Parish " shall be construed to include Parish, Township, Tithing, Rape, Vill, Wapentake, Division, City, Borough, Liberty, Market Town, Franchise, Hamlet, Precinct, Chapelry, or any other Place or District maintaining its own Highways ; and wherever any thing in this Act is prescribed to be done by the Inhabitants of any Parish in Vestry assembled, the same shall be construed to extend to any Meeting of Inhabitants contributing to the Highway Rates in Places where there shall be no Vestry Meeting, provided the same Notice shall have been given of the said Meeting as would be required by Law for the assembling of a Meeting in Vestry ; and that the Word " Highways " shall be understood to mean all Roads, Bridges (not being County Bridges), Carriageways, Cartways, Horseways, Bridleways, Footways, Causeways, Churchways, and Pavements; and that the Word " Justices " shall be understood to mean Justices of the Peace for the County, Riding, Division, Shire, City, Town, Borough, Liberty, or Place in which the Highway may be situate or in which the Offence may be committed; and that the Word " Church " shall be understood to include Chapel; and that the Word " Division " shall be understood to include Limit; and that the Word " Owner " shall be understood to include Occupier; and " Inhabitant " to include any Person rated to the Highway Rate ; and the Words "Petty Session" or " Petty Sessions" to mean the Petty Session of Petty Sessions held for the Division or Place; and wherever in this Act, in describing or referring to any Person or Party, Animal, Matter, or Thing, the "Word importing the Singular Number or the Masculine Gender only is used, the same shall be understood to include and shall be applied to several Persons or Parties as well as One Person or Party, and Females as well as Males, and several Animals, Matters, or Things as well as One Animal, Matter, or Thing, respectively, unless there be something in the Subject or Context repugnant to such Construction; and all the Powers hereby given to, and Notices, Matters, and Things required for, and Duties, Liabilities, and Forfeitures imposed on, Surveyors, shall be applicable to all Persons, Bodies Politic or Corporate, liable to the Repair of any Highway.

VI Surveyor to be elected annually. May be re-elected.

And be it further enacted, That the Inhabitants of every Parish maintaining its own Highways, at their First Meeting in Vestry for the Nomination of Overseers of the Poor in every Year, shall proceed to the Election of One or more Persons to serve the Office of Surveyor in the said Parish for the Year then next ensuing: Provided always, that any outgoing Surveyor shall continue to act until his Successor shall be appointed, and shall be re-eligible, and may be re-elected, and shall in such Case continue to act and remain in Office, any thing herein contained to the contrary notwithstanding; and in such Case Notice of such Election shall be given by the Chairman to the Person elected and to the outgoing Surveyor: Provided always, that in any Parish where there is no Meeting in the Year for the Nomination of Overseers of the Poor, the Inhabitants contributing to the Highway Rate shall meet at their usual Place of public Meeting upon the Twenty-fifth Day of *March*, or if that should happen to be a *Sunday* or *Good Friday*, then on the Day next following, or within Fourteen Days next after the said Twenty-fifth Day of *March* in every Year, to elect One or more Persons to serve the Office of Surveyor for the said Parish ; which Surveyor shall repair and keep in repair the several Highways in the said Parish for which he is appointed, and which are now or hereafter may become liable to be repaired by the said Parish.

VII Qualification of Surveyor.

And be it further enacted, That any Person living within the Parish or any adjoining Parish, and having an Estate in Houses, Lands, Tenements, or Hereditaments lying within such Parish, in his own Right or in Right of his Wife, of the Value of Ten Pounds by the Year, or a Personal Estate of the Value of One hundred Pounds (such Person not living within the Parish being willing to serve the Office), or being an Occupier or Tenant of Houses, Lands, Tenements, or Hereditaments (whether resident within the Parish or within any adjoining Parish) of the yearly Value of Twenty Pounds, shall be eligible to be elected a Surveyor for the Purposes of this Act: Provided nevertheless, that no Person who is now exempted by Law from serving the Office of Overseer of the Poor shall be compellable to serve the Office of Surveyor: Provided also, that any Person who may be chosen and elected to serve the said Office of Surveyor may provide a sufficient Deputy, such Deputy to be approved of by the Justices at a Special Sessions for the Highways, who shall by Writing under their Hands testify their Consent thereto.

VIII Penalty on Surveyor not acting when chosen.

And be it further enacted, That if any Person who shall be so chosen and elected, and who is not exempt as aforesaid from serving the said Office, shall refuse or neglect to take upon himself the Office of Surveyor, or to provide a sufficient Deputy, to be approved of as aforesaid, he shall forfeit, on Conviction before any Two Justices, any Sum not exceeding Twenty Pounds, unless he can show to the said Justices good and sufficient Cause why he should not be called upon to serve the said Office : Provided also, that every Deputy so provided and approved of shall have the same Powers and Authorities, and be subject to the Discharge of the same Duty, and be liable to the same Penalties as any Surveyor appointed under the Authority of this Act.

IX Surveyor may be appointed with a Salary.

And be it further enacted, That, instead of electing such Surveyor as herein-before mentioned, it shall be lawful for the Majority of the Inhabitants so assembled as aforesaid in any Parish for the Election of Surveyors as aforesaid to nominate and elect any One Person of Skill and Experience to serve the said Office of Surveyor of such Parish, and to fix such Salary for the Execution of such Office as they shall think fit; which said Appointment shall be in Writing on Paper without Stamp, and signed by the Chairman of such Meeting; and such Surveyor, when so appointed, shall be invested with the same Powers, and subject to the same Duties, Forfeitures, and Penalties as any Surveyor appointed under the Authority of this Act would have been ; and such Salary shall be paid out of the Money raised under the Authority of this Act, at such Times and in such Manner as shall have been agreed upon between the Inhabitants so assembled as aforesaid and the Person so nominated and elected as aforesaid: Provided nevertheless, that if such Surveyor shall cease to act, and be dismissed in the Manner herein-after described, such Salary shall also in like Manner cease and determine.

X Surveyor, on verifying his Accounts, to name his Successor.

And be it further enacted, That the Surveyor or Surveyors, at the Time of passing his or their Accounts as herein mentioned, shall deliver to the Justices a Statement in Writing of the Name and Residence of the Person appointed to succeed him or them as Surveyor or Surveyors.

XI Power to Justices in certain Cases to appoint a Surveyor.

And be it further enacted, That in case it shall appear on Oath to the Justice's at a Special Sessions for the Highways that the Inhabitants of any Parish have neglected or refused to nominate and elect a Surveyor or Surveyors in manner and for the Purposes aforesaid, or that the outgoing Surveyor, except he had been directed by the Inhabitants so to do, has delivered no Statement of the Name and Residence of his or their Successor or Successors, or that the Surveyor is dead, or has ceased to possess the Qualification, or is or has become disqualified in any Manner herein mentioned, or that he has neglected to act, or refused to carry into operation the Duties imposed upon him by this Act, it shall and may be lawful for such Justices, and they are hereby authorized and required, by Writing under their Hands, at their next succeeding Special Sessions for the Highways to dismiss such Surveyor so neglecting to act or refusing to carry into operation the Duties imposed upon him by this Act, and to appoint any Person whom they may think fit to be a Surveyor for such Parish til the Annual Meeting then next ensuing for the Nomination of Overseers or for the Election of Surveyors as aforesaid, and. with or without such Salary, as to the said Justices shall seem fit and proper; and the said Surveyor, when so appointed, shall be invested with the same Powers, and be subject to the same Duties, Forfeitures, and; Penalties as any Surveyor elected by the Inhabitants of any Parish as aforesaid would have been.

XII When Parish is situate in more than One County.

And be it further enacted, That when a Parish is situated in more than One County, Division, or Liberty, the Surveyor so to be appointed, as last aforesaid shall be appointed by the Justices at a Special Sessions for the Highways assembled in that County, Division, or Liberty in. which the Church of the said Parish shall, be situate.

XIII Parishes may direct Application to be made to Justices at Sessions for forming them into Districts.

And whereas it is expedient that in many Cases Parishes should be formed into Districts for the Purpose of having One sufficient Person to be the District Surveyor, who should have the Superintendence and Management of the Funds to be raised and levied, under the Provisions of this Act in each Parish forming Part of such District; be it therefore enacted, That it shall and may be lawful for the Inhabitants of any Parish in Vestry assembled, if they shall think fit, to empower and direct One of the Churchwardens of such Parish, or the Chairman of the said Vestry, to make Application to the Justices assembled at the Quarter Sessions for the County, or, where the Parishes to be united shall be situated in the same Division, at some Special Sessions for the Division in which such Parish shall be situate; for the Purpose of being united with One or more Parishes to form, a District for the Purposes aforesaid, and at the same Time to nominate One fit and proper Person to be returned to the said Justices to be appointed as such District Surveyor, together with the Amount of the yearly Salary which the said Inhabitants in such. Vestry assembled shall agree to pay to such District Surveyor ; which Application, with the Name of such last-mentioned Person shall be forthwith: made: in "Writing, signed by the Churchwardens of the said Parish; or by the Chairman of the said Vestry as aforesaid, and. forwarded to the Clerk of the Peace in and for the said County, or to the Clerk of the Justices in and for the said Division, as the Case may be, who shall lay the same before the Justices at the Quarter Sessions then next holden in and for the said; County, or at the Special Sessions as aforesaid.

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XIV Justices at Sessions may unite such Parishes into Districts, and select and appoint a District Surveyor.

And be it further- enacted, That on such Application: as aforesaid being made by Two or more Parishes to the said Justices, they are hereby authorized at the said Quarter Sessions or at some Special Sessions as aforesaid to take the same into their Consideration, and to unite such and so many of the Parishes so applying as aforesaid, as they shall think fit, into a District or Districts for the Purposes of this Act; and the said-Justices shall select and appoint out of the Persons so nominated as aforesaid by the several Parishes so united into One District One fit and: competent Person to be the Surveyor for such District composed' as aforesaid, which Appointment shall be in Writing.

XV Names of Parishes arid of District Surveyor to be recorded, and a Copy thereof sent to each Churchwarden, &c. Parishes when united to form a District for Three Years and until Twelve Months after any one Parish shall give Notice of Intention to cease to form one of siad District.

And- be it farther enacted, That the Names of the said Parishes so united, and the Name of the Person so appointed as District Surveyor, shall be reduced into Writing, signed by the' Chairman of the said Quarter Sessions, or by the Majority of the Magistrates, present at such Special Sessions, and shall be transmitted by him or them to the Clerk of the Peace, who shall lay the same before the Justices assembled at the Quarter Sessions in and for the said County, or at some Adjournment thereof, who are hereby authorized and required to cause the same to be enrolled with the Records of the Court; and a Copy thereof shall be sent by such Clerk of the Peace to each of the Churchwardens or the Surveyor of each of the said Parishes so united; and such Parishes so united shall continue to: form a District for the Purposes of this Act for the Space of Three Years then next following, and from thenceforward until the Churchwarden of any one of the said Parishes so united, or the Chairman of the Vestry, shall, by Direction and in pursuance of a Resolution of the Inhabitants in Vestry assembled, give Twelve Months Notice to the Churchwardens and Surveyor of each of the other Parishes, and to the said District Surveyor appointed by the said Justices, and to the Clerk of the Peace of the County in which the said Parishes are situate, of the Intention of the said Parish to cease to form a Part of the said District; in which Case, from and after the Expiration of the said Twelve Months Notice, the Union of the said Parishes into such District as aforesaid, and the Appointment of the said District Surveyor, shall cease and determine so far as may concern or be binding on the said Pariah so giving such Notice as aforesaid.

XVI District Surveyor to have Power, &c. of Surveyor, except in levying Rate. Salary of District Surveyor how to be paid.

And be it further enacted, That such' District Surveyor when so appointed shall for all the Purposes of this Act, except the making, assessing, and levying the Rate in and by this Act authorized to be made, assessed, and levied, have, as far as the same are applicable, the same Powers, and be subject and liable to the same Duties, Penalties, and Forfeitures, as any Surveyor elected under the Provisions of this Act is invested with and liable to, and shall have the laying out and Application of all the Funds raised and levied under the Authority of this Act: Provided nevertheless, that such District Surveyor shall not expend any Monies levied in any one of the said united Parishes except for the Use and Benefit of the Parish in which it is so levied, unless with the Consent of the Inhabitants of such Parish in Vestry assembled, for the Purpose of

carrying on Repairs or beneficial Improvements under the Provisions of this Act for the common Benefit of the said united Parishes ; and such District Surveyor shall annually receive from each of the Parishes composing his District respectively such Salary as shall have been agreed upon by the several Parishes in manner aforesaid, which Salary shall be paid to such District Surveyor by the Surveyor of the Highways, out of the Money raised in each of such Parishes under the Authority of this Act; and in case of Nonpayment thereof, the same shall be recoverable from the Surveyors of the Highways of such Parishes, to and for his own Use, in the same Manner as any Forfeiture is recoverable under this Act.

XVII When Parishes are united, a Surveyor to be appointed to make Rate, &c.

And be it further enacted, That in each of the Parishes so united into a District as aforesaid a Surveyor shall be elected, as herein mentioned, in addition to the District Surveyor so appointed as aforesaid : Provided nevertheless, that such Surveyor shall only be authorized and required to make, assess, and levy the Rate herein directed to be made, assessed, and levied, and from Time to Time pay over the Money arising therefrom to such District Surveyor.

XVIII Appointment of a Board directing Repairs in large Parishes. Powers of the Board.

And whereas it is expedient in large and populous Parishes that the Repairs of the Highways should be under the Direction and Control of a certain Number of Inhabitants, to be chosen and appointed as a Board for that Purpose, with necessary Powers ; be it therefore further enacted, That in any Parish where the Population by the then last Census, taken from the Returns made to Parliament, exceeds the Number of Five thousand, if it shall be determined by a Majority of Two Thirds of the Votes of the Vestrymen present at such Meeting as aforesaid, to form a Board for the Superintendence of the Highways of the said Parish, and for the Purpose of carrying the Provisions of this Act into effect, it shall be lawful for the said Vestry to nominate and elect any Number of Persons, not exceeding Twenty nor less than Five, being respectively Householders and residing in and assessed to the Rate for the Relief of the Poor of the said Parish, and also liable to be rated to the Repair of the Highways in the said Parish under and by virtue of this Act, to serve the Office of Surveyors of the Highways for the Year ensuing; and such Persons so to be nominated and elected as such Surveyors or any Three of them, shall and are hereby authorized to act as a Board, and to be called The Board for Repair of the Highways in the Parish of " (as the Case may be), and to carry into effect the Powers, Authorities, and Directions in this Act contained; and such Board are hereby authorized to appoint a Collector, or any Number of Collectors, of the Rates to be made under the Authority of this Act, and also to employ a Person of Skill and Experience to act as an Assistant Surveyor to the said Board, and also a Clerk to attend the said Board, and to keep the Accounts and Minutes of the Proceedings thereof; such Assistant Surveyor and Clerk to be paid such reasonable Salaries out of the said Rates as the said Board shall determine; and upon such Board being so nominated and elected as aforesaid all and every the Powers and Authorities given and created by this Act, and granted to or vested in the Vestry, and in any Person or Persons as Surveyor, shall, for the Purposes of the Parish so nominating and electing such Board, be and the same are hereby declared to be vested in the said Persons so to be elected, or any Three of them acting as such Board as aforesaid; and such Persons, or any Three of them at a Meeting to be convened for that Purpose, may and they are hereby authorized to nominate and appoint a fit and

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proper Person to be Treasurer for the Deposit of the Monies to be collected for the Purposes of this Act, and to take from such Person good and sufficient Security for the Monies to be deposited in his Hands as aforesaid; and all Monies to be drawn from such Treasurer for the Purposes of this Act shall be drawn by Drafts or Cheques to be signed by the said Persons so to be nominated and elected as aforesaid, or any Three of them, at some one of their Meetings to be held under this Act, and such Drafts shall be respectively signed and entered in their Books by the said Clerk to be appointed as aforesaid; Provided always, and it is hereby declared, that upon the Expiration of the Year for which such Board shall be elected as aforesaid, and before or on the Day for the Nomination and Election of Persons as Surveyors under the Authority of this Act, the said Board shall and are hereby directed to present to the Vestry of the Parish for which they shall have acted Copies of all their Accounts and also of the Minutes of their Proceedings during the preceding Year.

XIX Board may hire or purchase Premises.

And be it further enacted, That it shall and may be lawful to and for such Board to rent, or with the Consent of the Vestry of any Parish to purchase, a fit and convenient Piece of Ground or other Premises for the keeping of the Implements and Materials necessary for the Reparation of the Highways, or for the preparing the Materials for the same respectively, and to determine and direct how and in what Manner the Highways in the said Parish, or any or either of them, or any and what Part or Parts thereof, shall be curbed or paved with Stone or otherwise.

XX Penalty on Surveyor, &c. for Neglect of Duty.

And be it further enacted, That if any Surveyor or District Surveyor or Assistant Surveyor shall neglect his Duty in any thing required of him by this Act, for which no particular Penalty is imposed, he shall forfeit for every such Offence any Sum not exceeding Five Pounds,

XXI As to Repair of Highways adjoining Bridges hereafter to be built. Raised Causeways, &c.

And be it further enacted. That if any Bridge shall hereafter be built, which Bridge shall be liable by Law to be repaired by and .at the Expence of any County or Part of any County, then and in such Case all Highways leading to, passing over, and next adjoining to such Bridge shall be from Time to Time repaired by the Parish, Person, or Body Politic or Corporate, or Trustees of a Turnpike Road, who were by Law before the Erection of the said Bridge bound to repair the said Highways: Provided nevertheless, that nothing herein contained shall extend or be construed to extend to exonerate or discharge any County or any Part of any County from repairing or keeping in repair the Walls, Banks, or Fences of the raised Causeways and raised Approaches to any such Bridge, or the Land Arches thereof.

XXI Powers for getting Materials and preventing Nuisances to extend to County Bridges and Roads at the Ends thereof.

And be it further enacted, That the several Powers and Authorities hereby vested in the Surveyor of Highways, as well for ,the getting of Materials, as the preventing and removing of all Nuisances and Annoyances, shall be and the same are hereby vested in the Surveyor of County Bridges, and the Roads at the Ends thereof repairable

therewith ; and the several Penalties, Forfeitures, Matters, and Things in this Act contained relating to Highways shall be and the same are hereby extended and applied, as far as the same are applicable, to such Bridges, and the Roads at the Ends thereof as aforesaid, the said Surveyor or Surveyors of County Bridges making Satisfaction and Compensation for all Trespass and Damage done in the Execution of the Powers of this Act, in such and the same Manner as the Surveyors of Highways are required to make under the Provisions of this Act.

XXIII When new Highways are to be kept in repair by Parishes. Proviso.

And be it further enacted, That no Road or Occupation Way made or hereafter to be made by and at the Expence of any Individual or private Person, Body Politic or Corporate, nor any Roads already set out or to be hereafter set out as a private Drift way or Horse path in any Award of Commissioners under an Inclosure Act, shall be deemed or taken to be a Highway which the Inhabitants of any Parish shall be compellable or liable to repair, unless the Person, Body Politic or Corporate, proposing to dedicate such Highway to the Use of the Public shall give Three Calendar Months previous Notice in Writing to the Surveyor of the Parish of his Intention to dedicate such Highway to the Use of the Public, describing its Situation and Extent, and shall have made or shall make the same in a substantial Manner and of the Width required by this Act, and to the Satisfaction of the said Surveyor and of any Two Justices of the Peace of the Division in which such Highway is situate in Petty Sessions assembled, who are hereby required, on receiving Notice from such Person or Body Politic or Corporate to view the same, and to certify that such Highway has been made in a substantial Manner, and of the Width required by this Act, at the Expence of the Party requiring such View, which Certificate shall be enrolled at the Quarter Sessions holden next after the granting thereof, then and in such Case, after the said Highway shall have been used by the Public, and duly repaired and kept in repair by the said Person, Body Politic or Corporate, for the Space of Twelve Calendar Months, such Highway shall for ever thereafter be kept in repair by the Parish in which it is situate: Provided nevertheless, that on Receipt of such Notice as aforesaid the Surveyor of the said Parish shall call a Vestry Meeting of the Inhabitants of such Parish, and if such Vestry shall deem such Highway not to be of sufficient Utility to the Inhabitants of the said Parish to justify its being kept in repair at the Expence of the said Parish, any One Justice of the Peace, on the Application of the said Surveyor, shall summon the Party proposing to make the new Highway to appear before the Justices at the next Special Sessions for the Highways to be held in and for the Division in which the said intended Highway shall be situate ; and the Question as to the Utility as aforesaid of such Highway shall be determined at the Discretion of such Justices.

XXIV Direction Posts, where and how to be erected.

And be it further enacted, That the Surveyor of every Parish, other than a Parish the Whole or Part of which is within Three Miles of the General Post Office in the City of *London*, shall, with the Consent of the Inhabitants of any Parish in Vestry assembled, or by the Direction of the Justices at a Special Sessions for the Highways, cause (where there are no such Stones or Posts) to be erected or fixed in the most convenient Place where Two or more Ways meet a Stone or Post, with Inscriptions thereon in large legible Letters, not less than One Inch in Height and of a proper and proportionate Breadth, containing the Name of the next Market Town, Village, or other Place to which the said Highways respectively lead, as well as Stones or Posts to mark the Boundaries of the Highway, containing the Name of the Parish wherein situate ; and

that the Surveyor of every Parish shall, at the several Approaches or Entrances to such Parts of any Highways as are subject to deep or dangerous Floods, cause to be erected graduated Stones or Posts, as he shall judge to be necessary, for the guiding of Travellers in the best and safest Track through the Floods; and also to secure Horse Causeways and Foot Causeways, by Posts, Blocks, or Stones fixed in the Ground, or by Banks of Earth cast up or otherwise, from being passed over and spoiled by Waggons, Wains, Carts, or Carriages ; and the said Surveyor shall be reimbursed, out of the Monies which shall be received by him pursuant to the Directions of this Act, the Expences of providing and erecting and of keeping in repair such Stones, Posts, or Blocks already erected or fixed, or which may hereafter be erected or fixed.

XXV Power to use adjoining Ground as a temporary Road.

And be it further enacted, That it shall be lawful for the Surveyor to make a Road through the Grounds adjoining to any ruinous or narrow Part of any Highway, (not being the Site or Ground whereon any House stands, nor being a Garden, Lawn, Yard, Court, Park, Paddock, Plantation, planted Walk or Avenue to any House, or inclosed Ground set apart for Building Ground, or as a Nursery for Trees,) to be made use of as a public Highway whilst the old Road is repairing or widening, making such Recompence to the Proprietor and Occupier of such Grounds for the Damages they may thereby sustain as the Justices at a Special Sessions for the Highways assembled may think reasonable, such Sum so awarded as a Recompence to be recoverable in the same Manner as any Fines and Forfeitures are recoverable under this Act.

XXVI Surveyor to remove Snow, &c.

And be it further enacted, That if any Impediment or Obstruction shall arise in any Highways from Accumulation of Snow, or from the falling down of the Banks on the Side of such Highways, or from any other Cause, the Surveyor is required from Time to Time, and within Twenty-four Hours after Notice thereof from any Justice of the Peace of the County in which the Parish may be situate, to cause the same to be removed.

XXVII Surveyor to make Rate. Rate to be allowed by Justices.

And in order to raise Money for carrying the several Purposes of this Act into execution, be it further enacted, That a Rate shall be made, assessed, and levied by the Surveyor upon all Property now liable to be rated and assessed to the Relief of the Poor; provided that the same Rate shall also extend to such Woods, Mines, and Quarries of Stone, or other Hereditaments, as have heretofore been usually rated to the Highways ; and provided also, that every such Rate shall be signed by the said Surveyor, and allowed by Two Justices of the Peace, and published in the same Way as Poor Rates are now allowed and published.

XXVIII Surveyor may inspect Rate Book, and obtain Copies or Extracts.

And in order to enable the Surveyor to form a proper Judgment of any Rate to be made in pursuance of this Act, be it further enacted, That it shall be lawful for the Surveyor, and he is hereby authorized and empowered, at all reasonable Times, to inspect, or by Writing signed by him to grant Authority to any Person appointed by him to inspect, any of the Rates made towards the Relief of the Poor of the Parish of which he is Surveyor, or the Books wherein the Assessments thereto shall be entered, without

Fee or Reward; and the Surveyor, or Person by him authorized as aforesaid, shall be allowed to make a Copy of such Rate or Books, or to take any Extracts therefrom ; and if any Person in whose Custody or Power any of the said Hates or Books shall be shall, when thereunto required in manner aforesaid, refuse or neglect to produce the same to the Surveyor, or Person so by him authorized as aforesaid, as the Case may be, or to allow such Copy or Extract to be made or taken, at all reasonable Hours in the Daytime, he shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

XXIX Form and Amount of Rate.

And be it further enacted, That every Rate shall contain the Names of the Occupiers, the Description of the Premises or Property they occupy, and the full annual Value of such Premises or Property, and shall also specify the Sum in the Pound at which it is made ; and no Rate to be levied or assessed as aforesaid shall exceed at any One Time the Sum of Ten-pence in the Pound, or the Sum of Two Shillings and Sixpence in the Pound in the whole in any One Year : Provided nevertheless, that with the Consent of Four Fifths of the Inhabitants of any Parish contributing to the Highway Rate assembled at a Meeting specially called for that Purpose, Ten Days previous Notice of the same having been given by the Surveyor of the said Parish, the Rate to be levied and assessed as aforesaid may be increased to such Sum as the said Inhabitants so assembled may think proper.

XXX Surveyor to have Power to enforce Composition in certain Parishes.

Provided always, and be it further enacted, That in Parishes in which the Overseers of the Poor have Power by Local Acts of Parliament to compound with or require Composition for Poor Rates from the Landlords of certain Houses, Tenements, or Hereditaments, and, in case of their Refusal to compound, to rate such Land lords as the Occupiers, the Surveyor shall have the same Powers, Remedies, and Privileges to compound and enforce Composition, and, in case of Refusal by the Landlords, to assess them in the same Proportions to the Rates authorized to be made by this Act, as the Overseers of the Poor have by such Acts for assessing and recovering any Rate made for the Relief of the Poor, or the Compositions entered into for the same.

XXXI Errors in Rates may be rectified.

And be it further enacted, That whenever it shall appear to the said Surveyor as aforesaid that there has been any Omission or Error in any Rate or Assessment made in pursuance of this Act of or in the Name of any Person, Parson, or Vicar, or of any House, Shop, Warehouse, Coach-house, Stable, Cellar, Vault, Building, Workshop, Manufactory, Garden Ground, Land, Tenement, Wood, Tithe, Mines, Pits or Quarries of any Mineral, Stone, or other Matter whatsoever, or Hereditament, liable to be rated for the Purposes of this Act, it shall be lawful for the said Surveyor as aforesaid, with the Consent and Approbation of the Justices at a Special Sessions for the Highways, to cause to be added or corrected in the said Rate or Assessment the Name of the Person, Parson, or Vicar omitted or Erroneously stated, and a Description of the Property in respect of which he ought to be rated; and every such Addition or Correction made in any of the said Rates, and signed by such Justices, shall be as valid and effectual as if the same had been Part of the original Rate, at the Time when it was first made.

XXXII Persons may be excused by Justices from Payment of Highway Rate.

And be it further enacted, That it shall and may be lawful for the Justices at a Special Sessions for the Highways, on Application made to them by any Person rated to any Rate under the Authority of this Act to be discharged therefrom, on Proof of his Inability through Poverty to pay such Rate, the Surveyor having been first summoned to appear on the Part of the Parish, to order and direct that such Person shall be excused from the Payment of such Rate; and which Order of the said Justices is hereby declared to be final with respect to such Rate.

XXXIII Certain Persons not liable to Payment of Highway Rate.

And be it further enacted, That when Property, or the Owner or Occupier in respect thereof, has, previous to the passing of this Act, been legally exempt from the Performance of Statute Duty, or from the Payment of any Composition in lieu thereof, or of Highway Rate, the said Property and the Owners and Occupiers thereof shall be exempt from the Payment of the Rate hereby imposed.

XXXIV Rates how to be recovered.

And be it further enacted, That, for levying and recovering the said Rate by this Act authorized to be made, the Surveyor shall have the same Powers, Remedies, and Privileges as the Overseers of the Poor in the Parish have by Law for the Recovery of any Rate made for the Relief of the Poor.

XXXV Rate-payers may divide among themselves the Conveyance of Stone, &c. for Repair of Highways, which shall be paid for by the Surveyor.

And be it further enacted, That it shall be lawful for Two Rate-payers of any Parish, within Six Days next after the annual Appointment of the Surveyor, by a Notice in Writing, to require the said Surveyor to call a Meeting of the Rate-payers of the said Parish for the Purpose hereafter mentioned, and the said Surveyor shall call such Meeting within Eight Days after the Receipt of such Notice, and shall give Six Days previous Intimation of such Meeting; and if at such Meeting a Majority of the Rate-payers then and there assembled shall signify their Consent thereto, it shall and may be lawful for the Rate-payers keeping a Team or Teams of Two or more Horses or Beasts of Draught to divide among themselves, in proportion to the Amount of Rate to which they may respectively be assessed, the carrying of the Material which may be required by the said Surveyor for the Repairs of the Highways within such Parish, and that they shall be paid by the said Surveyor for such carrying or Task-work, within One Calendar Month after having performed such Service, after such Rate *per* Cubic Yard of Material *per* Mile, and so in proportion for any less Distance than a Mile, as shall be fixed by the Justices at their first Meeting in Special Sessions for the Highways after the Twenty-fifth Day of *March* in every Year, which Rate the said Justices are hereby required to fix at such Special Sessions: Provided always, that such carrying or Task-work shall be performed at such Times and Places and in such Manner as the said Surveyor may direct (the Periods of Spring, Seed-time, and Harvest always excepted); and that in case the said Surveyor shall not approve of the Manner in which such carrying or Task-work shall be performed, it shall be lawful for the Justices at a Special Sessions for the Highways to hear the Complaint of such Surveyor in that respect, and to award such pecuniary Redress or Forfeiture against the Party offending as to them shall appear reasonable.

XXXVI Surveyor, with Consent of Vestry, may appoint Collector of Rates.

And be it further enacted, That the Surveyor of any Parish, the Consent of the Majority of the Inhabitants in Vestry assembled being first had and obtained, may from Time to Time appoint any Number of Collectors of the said Rates, and may remove any such Collector and appoint another in his Stead, and make such Allowance to such Collector, out of the Monies to be received under this Act, as the said Inhabitants in Vestry assembled shall think reasonable ; and the said Collector is hereby declared to have all the same Powers, Remedies, and Privileges for the levying and enforcing the Payment of such Rates as the Surveyor nominated or appointed under the Authority of this Act.

XXXVI Security to be taken from Collector.

And be it further enacted, That it shall be lawful for the said Surveyor and he is hereby required to take Security from every Collector appointed by virtue of this Act, for the due Execution of his Office of Collector, which Security shall be to the full Amount of the Sum likely to be in the Hands of the said Collector at any One Time, and shall be by Bond without Stamp.

XXXVI Collector to make out Accounts of all Monies received under this Act, &c.

And be it further enacted, That every Collector appointed by virtue of this Act shall under his Hand, and at such Time and in such Manner as the Surveyor may direct, deliver to the said Surveyor as aforesaid true and perfect Accounts in Writing of all Monies which shall have been by such Collector received by virtue of this Act, and also a List of the Names of all such Persons as shall have neglected or refused to pay their respective Rates, and of the Monies due from them respectively ; and that every such Collector shall pay all such Monies as shall remain due from him to the said Surveyor as aforesaid; and if any such Collector shall refuse or neglect to make and render such Account, or to produce and deliver up the List of Persons neglecting and refusing to pay their Rates as aforesaid, or to make Payments as aforesaid, or shall refuse or wilfully neglect to deliver to the said Surveyor as aforesaid, or to such Person as he shall appoint to receive the same, within Three Days after being thereunto required by the said Surveyor as aforesaid by Notice in Writing under his Hand given to or left at the usual Place of Abode of such Collector, all Books, Papers, and Writings in his Custody or Power relating to the Execution of this Act, or to give Satisfaction to the said Surveyor as aforesaid respecting the same, then and in every such Case, upon Complaint made by the said Surveyor as aforesaid of any such Refusal or wilful Neglect as aforesaid, to any Justice of the Peace, such Justice may and he is hereby authorized and required to issue a Summons under his Hand for the Collector so refusing or neglecting to appear before any Two Justices of the Peace; and upon the said Collector appearing, or having been so summoned and not appearing without some sufficient or reasonable Excuse, or not being found, it shall be lawful for the said Two Justices to hear and determine the Matter; and if, upon Confession of the Party, or by the Testimony of any credible Witness on Oath, it shall appear to such Justices that any Monies remain due from such Collector, such Justices may and they are hereby authorized and required, upon Nonpayment thereof, by Warrant under their Hands, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Collector ; and if no Goods and Chattels of such Collector shall be found sufficient to answer and satisfy the said Money, and the Charges of distraining and selling the said Goods and Chattels, then and in every such Case such Justices shall and they are hereby required to commit such Offender to the Common Gaol or House of Correction

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for the County, City, or Place where such Offender shall be or reside, there to be kept to hard Labour for a Period not exceeding Six Calendar Months, or until he shall have paid such Monies as aforesaid, or compounded with the Surveyor as aforesaid for such Money (which Composition the said Surveyor; with the Consent of the Inhabitants in Vestry, or, in any Parish where they do not meet in Vestry, with the Consent of the Inhabitants contributing to the Highway Rate at a public Meeting assembled, is hereby empowered to make and receive); or if it shall appear to such Justices that such Collector had refused or wilfully neglected to render and give such Accounts, or to produce and deliver the List of Persons neglecting and refusing to pay their Rates as aforesaid, or that any Books, Papers, or Writings relating to the Execution of this Act remained in the Hands or in the Custody of Power of such Collector, and he refused or wilfully neglected to deliver or give Satisfaction respecting the same as aforesaid, then and in every such Case such Collector shall, on Conviction thereof, forfeit for such Offence any Sum not exceeding Twenty Pounds, and in default of Payment thereof shall be committed to the Common Gaol or House of Correction for the County, City, or Place where such Offender shall be or reside, there to be kept to hard Labour for a Period not exceeding Four Calendar Months, or until he shall have given a true and perfect Account as aforesaid, and delivered such List as aforesaid, and delivered up such Books, Papers, and Writings, or give Satisfaction in respect thereof to the said Surveyor : Provided always, that no Conviction or Imprisonment of such Collector as aforesaid shall exonerate or discharge any Security taken from him on his Appointment as aforesaid.

XXXIX Separate Accounts to be kept.

And be it further enacted, That the Surveyor in every Parish shall keep separate and distinct Accounts of the Monies levied for the Highway Rate; and such Accounts shall specify the different Sums, and the Times when and the Persons to whom and by whom the same shall have been collected and paid.

XL Surveyor to keep Books, and Account of Monies received, &c. to be open to Inspection of rated Inhabitants.

And be it further enacted, That the said Surveyor, District Surveyor, or Assistant Surveyor, as the Case may be, shall and he is hereby required from Time to Time to keep a Book, in which shall be entered a just and true and particular Account of all Money which shall have come to his Hands as Surveyor, District Surveyor, or Assistant Surveyor of the Parish for the Purposes of this Act, and to whom, and on what Occasion, and for what Work, and in what Place, and on what Day he shall have paid or applied the same, and also an Account of all Tools, Materials, Implements, and other Things provided by him for the Repair of the said Highways ; and such Book shall at all reasonable Times be open to the Inspection of every Inhabitant rated to the Highway Rate of the Parish, or of any of the Parishes united into a District, without Fee or Reward, and every such Inhabitant may take Copies or Extracts from the said Book, or any Part thereof, without paying for the same ; and in case the said Surveyor, District Surveyor, or Assistant Surveyor shall neglect to provide such Book, or to enter therein every Sum received or paid by him within One Week after the same shall have been received or paid, or shall refuse to permit or shall not permit any such Inhabitant as aforesaid at any reasonable Time to inspect the same or take Copies or Extracts as aforesaid, such Surveyor, District Surveyor, or Assistant Surveyor shall forfeit and pay any Sum not exceeding Five Pounds for each Default, to be levied and applied in manner herein provided.

XLII The Properly in all Books, &c. to be vested in Surveyor for the Time being.

And be it further enacted, That all the said Books, Papers, Writings, and Accounts, and all Materials, Tools, and Implements which shall be provided in pursuance of this Act for repairing or preserving the Highways, and also the Scrapings of the said Highways, shall be vested in the Surveyor for the Time being; or in case a District Surveyor shall be appointed, then all such Books, Papers, Writings, and Accounts, and all Materials, Tools, Implements, and Scrapings shall be invested in the District Surveyor.

XLIII Surveyor, on quitting Office, to deliver Books, &c. to succeeding Surveyor. Penalty for Neglect.

And be it further enacted, That the said Surveyor, District Surveyor, or Assistant Surveyor shall, within, Fourteen Days after leaving his Office, deliver such Books and Accounts verified as herein directed, together with all such Sums of Money as shall be due from him, and likewise all Tools, Materials, Implements, and other Things as aforesaid, to his Successor in Office, or retain the same in his Hands and account for them in his next Account if he shall be continued Surveyor or District Surveyor of such Parish in the succeeding Year ; and in case such Surveyor or District Surveyor shall neglect to deliver within such Time as aforesaid the said Books, Papers, Writings, and Accounts, and such Tools, Materials, Implements, and other Things, in manner aforesaid, he shall for every such Offence forfeit any Sum not exceeding Five Pounds; and in case he shall make Default in the paying or accounting for the Money so due from him within the Time and according to the Directions aforesaid, he shall forfeit Double the Money so due.

XLIV In case of Death of Surveyor, Executors to account.

And be it further enacted, That in case of the Death of any such Surveyor, District Surveyor, or Assistant Surveyor, before he shall have paid and fully satisfied all the Monies which he shall have received by virtue of this Act, then and in every such Case the Executors or Administrators of such Surveyor, District Surveyor, or Assistant Surveyor so dying shall pay and satisfy the same out of his Estate and Effects unto the succeeding Surveyor, District Surveyor, or Assistant Surveyor, in like Manner as other Debts are directed by Law to be discharged by such Executors or Administrators, and also shall deliver up all Books; Papers, Writings, Assessments, Tools, Materials, and Implements, and other Things concerning his Office, which shall have come to the Hands of such Executors or Administrators, who shall and may plead such Payment in any Action or Suit which may be brought against them on account of the said Estate and Effects, and give the same in Evidence; And in case of the Nonpayment of such Monies, or the Non-delivery of -such Books, Papers, Writings, Assessments, Tools, Materials, Implements, and Things, for the Space of One Calendar Month after Demand made- thereof in Writing by' or on behalf of the said succeeding Surveyor, it shall be lawful for the said succeeding Surveyor to commence and prosecute an Action or Actions in any of His Majesty's Courts of Record at *Westminster* against such Executors or Administrators for the Recovery of the said Monies, or for the Recovery of Damages for the Detention of such Books, Papers, Writings, Assessments, Tools, Materials, Implements, and Things, in which Action or Actions full Costs of Suit shall be recovered by the said succeeding Surveyor,

XLV Yearly Accounts to be made by Surveyors, &c. and laid before the Justices at a Special Sessions for the Highways. Subject to appeal. Surveyors appointed under

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the Act of 13 G. 3. to pass their Accounts at Special Sessions after 25th March 1834.

And be it further enacted, That within Fourteen Days after the Election or Appointment of Surveyor as herein directed, the Accounts as aforesaid made in Writing, and signed by the Surveyor, District Surveyor, or Assistant Surveyor for the Year preceding, of all Monies received and disbursed by virtue of this Act, ending on the Day of the Election or Appointment of Surveyor, shall be made up, balanced, and laid before the Parishioners in Vestry assembled, who may, if they think fit, order an Abstract thereof to be printed and published; and within One Calendar Month after the Election or Appointment of Surveyor as herein directed the said Accounts shall be signed by the Surveyor, District Surveyor, or Assistant Surveyor for the Year preceding, and laid before the Justices of the Peace at a Special Sessions for the Highways holden at the Place nearest to the Parish or District for which such Surveyor shall have been appointed, and such Justices are hereby authorized and required to examine him as to the Truth of the said Accounts or of any Charge contained therein: Provided always, that if any Person chargeable to the Rate authorized; to be made by this Act has any Complaint against such Accounts or the Application of the Monies received by the said Surveyor, it shall be lawful for any such Inhabitant to make his Complaint thereof to such Justices at the Time of the Verification of such Accounts as aforesaid, and the said Justices are hereby required to hear such Complaint, and, if they shall think fit, to examine such Surveyor upon Oath, and to make such Order thereon as to them shall seem meet: Provided nevertheless, that the several Surveyors appointed under the Authority of the said Act passed in the Thirteenth Year of the Reign of His late Majesty King *George* the Third shall produce such Books and Statement and pass their Accounts before the Justices at a Special Sessions for the Highways to be holden within their respective Divisions in the Week next after that in which the Twenty-fifth Day of *March* shall be in the Year of our Lord One thousand eight hundred and thirty-six, and pay the Balances thereof to the Surveyor to be chosen in pursuance of this Act, in the same Manner as they would have done to the Surveyors to have been appointed if this Act had not been passed.

XLV Justices to hold Special Sessions for Purposes of this Act. At such Sessions Surveyor to verify Accounts, and make Returns of the State of the Roads, &c.

And be it further enacted, That it shall and may be lawful for the Justices of the Peace within their respective Divisions, or any Two or more of them, and they are hereby required, to hold not less than Eight nor more than Twelve Special Sessions in every Year for executing the Purposes of this Act, the Days of the holding thereof to be appointed at a Special Sessions to be held within Fourteen Days after the Twentieth Day of *March* in every Year: Provided always, that it shall not be necessary to cause any Notice to be given or sent to any Justice acting and residing within such Limits of the Day or Time of the holding thereof; and at the said Special Sessions held next after the Twenty-fifth Day of *March* in every Year the Surveyor of each of the Parishes within their respective Divisions shall verify his Accounts, and shall make a Return in Writing to such Special Sessions of the State of all the Roads, common Highways, Bridges, Causeways, Hedges, Ditches, and Watercourses appertaining thereto, and of all Nuisances and Encroachments, if any, made upon the several Highways within the Parish for which he was Surveyor, as well as the Extent of the different Highways which the said Parish is liable to repair, what Part thereof has been repaired, and with what Materials, at what Expence, and what was the Amount levied during the Time he was Surveyor of the said Parish. ,

XLVI Surveyor may contract for getting and carrying Materials ; but not to share in any Contract, or get to hire any Team, or dispose of any Timber, Stones, &c. without Licence from Two Justices. Penalty.

And be it further enacted, That in every Parish the Surveyor may and is hereby authorized, with the Consent of the Inhabitants in Vestry assembled, to contract for purchasing, getting, and carrying the Materials required for the Repair of the Highway ; and if any Surveyor shall have any Part, Share, or Interest, directly or indirectly, in any Contract or Bargain for Work or Materials to be made, done, or provided upon, for, or on account of any of the Highway or other Works whatsoever under his Care or Management, or shall upon his own Account, directly or indirectly, use or let to hire any Team, or use or sell or dispose of any Materials, to be used or employed in making or repairing such Highway or other Works as aforesaid, (unless a Licence in Writing for the Sale of any such Materials, or to let to hire any such Team, be first obtained from Two Justices of the Peace in Special Sessions assembled,) he shall forfeit for every such Offence, on Conviction, any Sum not exceeding Ten Pounds, and be for ever after incapable of being employed as a Surveyor with a Salary under the Authority of this Act.

XLVII Penalty on taking away Materials belonging to Surveyor.

And be it further enacted. That if any Person shall, without the Consent of the Surveyor, take away Materials which shall have been purchased, gotten, dug, or gathered for the Repair or Use of any Highway, or any Materials out of any Quarry which shall have been made, dug, or opened for the Purpose of getting Materials for any Highway, before the Surveyor and his Workmen shall have discontinued working therein for the Space of Six Weeks, (except the Owner of any private Grounds, and Persons authorized by such Owner to get Materials in such Quarry for his own private Use, and not for Sale,) every Person so offending shall for every such Offence forfeit and pay, on Conviction thereof, any Sum not exceeding Ten Pounds.

XLVIII Land allotted to the Parish for Materials, when exhausted, may be sold.

And whereas, under Acts of Parliament heretofore made and which may hereafter be made for the inclosing of Waste Land, Parcels of Land have been and may be expressly allotted to Parishes or to the Surveyor of the Highways for the Purpose of obtaining Materials for the Repair of the Highways in such Parish, and the Materials in such Parcels of Land have been and may be exhausted; be it therefore enacted, That in such Cases it shall and may be lawful for the Surveyor of such Parish for the Time being, by and with the Consent of the Vestry, and he is hereby authorized and required, with the Consent in Writing of the Justices of the Peace at a Special Sessions for the Highways, to sell and convey to some Person whose Lands adjoin thereto, or, if he refuse to purchase, to any other Person, the said Parcels of Land from which the said Materials have been so exhausted as aforesaid, at and for such Price as the said Justices may deem fair and reasonable, and with the Money arising therefrom, and with such Consent as aforesaid, to purchase other Lands in lieu thereof.

XLIX Tenant for Life, &c. may renounce Damages.

And be it further enacted, That it shall be in the Power of Tenants for Life, Ecclesiastical and Lay Corporations, and the Proprietors of Entailed Estates, and of the Trustees and Guardians of any Person under any legal Disability or Incapacity, to give up and renounce every Claim of Damage or Compensation for such Ground and

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Materials as any Highway may occupy on their respective Properties, and that such Renunciation shall be equally binding on the Heirs and Successors of such Persons : Provided nevertheless, that such Renunciation of Claim of Damage or Compensation be in Writing, and signed by such Tenant for Life, Proprietor, Trustee, or Guardian, in the Presence of Two Witnesses, or in the Case of Corporations in such Manner and Form as is usually adopted by such Corporations respectively; and such Renunciation shall be enrolled at the Quarter Sessions which shall be held next after the signing or Execution thereof.

L Persons enfeoffed with Lands for Maintenance of Highways, &c. shall let them to farm at the most improved Value, with Consent of Justices.

And be it further enacted, That when any Lands or Tenements have been or shall be given for Maintenance of Highways, the Profits and Proceeds of which are to be applied and disposed of for no other Use, Intent, or Purpose whatsoever, all Persons who are or shall be enfeoffed or trusted with any such Lands or Tenements shall and they are hereby authorized and required to let them to farm at the most improved yearly Value, without Fine, for any Term not exceeding Ninety-nine Years : Provided nevertheless, that previous to the granting of such Lease the Consent of the Justices at a Special Sessions for the Highways, neither of such Justices being interested therein, by Writing under their Hands, shall be obtained as to the Amount of Rent to be received and the Duration of the Term.

LI Materials where and in what Manner to be taken by Surveyors. Power to gather Stones without making Satisfaction, but Satisfaction to be made for Damages done by carrying them away.

And be it further enacted, That it shall and may be lawful for every such Surveyor, in any Waste Land or Common Ground, River or Brook, within the Parish for which he shall be Surveyor, or within any other Parish wherein Gravel, Sand, Stone, or other Materials are respectively likely to be found, (in case sufficient cannot be conveniently had within the Parish where the same are to be employed, and sufficient shall be left for the Use of the Roads in such other Parish,) to search for, dig, get, and carry -away the same, so that the said Surveyor doth not thereby divert, or interrupt the Course of such River or Brook, of prejudice or damage any Building, Highway, or Ford, nor dig or get the same out of any River or Brook within the Distance of One hundred and fifty Feet above or below any Bridge, nor within the like Distance of any Dam Or Wear ; and likewise to gather Stones lying upon any Lands Or Grounds within the Parish where such Highway shall be, for such Service and Purpose, and to take and carry away so much of the said Materials as by the Discretion of the said Surveyor shall be thought necessary to be employed in the Amendment of the said Highways, without making any Satisfaction for the said Materials, but Satisfaction shall be made for all Damages done to the Lands or Grounds of any Person or Persons by carrying away the same, in the Manner herein-after directed for getting and carrying Materials in inclosed Lands or Grounds; but no such Stones shall be gathered without the Consent of the Owner of such Lands or Grounds, or a Licence for that Purpose from Two Justices at a Special Sessions for the Highways, after having summoned such Owner to come before him, and heard his Reasons, if he shall appear and give any, for refusing his Consent.

LII Not to extend to Sea Beach, &.

Provided always, and be it further enacted, That nothing in this Act contained relative to the gathering or getting of Stones or other Materials shall extend to any Quantity of Stones or other Materials thrown up by the Sea, commonly called Beach, where the Removal of the same would cause any Damage or Injury by Inundation to the Lands adjoining, or increased Danger of Encroachment by the Sea.

LIII Notice to be given before Materials are taken from private Lands. If the Occupier shows Cause against the Removal, Two Justices shall decide thereon.

And be it further enacted, That it shall not be lawful for any Surveyor, or any other Person acting under the Authority of this Act, to dig, gather, get, take, or carry away any Materials for making or repairing any Highway out of or from any inclosed Land or Ground, until One Calendar Month's Notice in Writing, signed by the Surveyor, shall have been given to the Owner Of the Premises from which such Materials are intended to be taken, or to his known Agent, and to the Occupier of the Premises from which such Materials are intended to be taken, or left at the House or last or usual Place of Abode of such Owner or Agent, and also of such Occupier, to appear before the Justices at a Special Sessions for the Highways, to show Cause why such Materials shall not be had therefrom; and in case such Owner, Agent, or Occupier shall attend, pursuant to such Notice, but shall not show sufficient Cause to the contrary, such Justices shall, if they think proper, authorize such Surveyor or other Person to dig, get, gather, take, and carry away such Materials at such Time or Times as to such Justices shall seem proper; and if such Owner, Agent, or Occupier shall neglect or refuse to appear by himself or his Agent, the said Justices shall and may (upon Proof on Oath of the Service of such Notice) make such Order therein as they shall think fit as fully, and effectually to all Intents and Purposes as if such Owner or Occupier, or his Agent, had attended.

LIV If sufficient Materials cannot be found in Waste Lands, &c. Surveyor may take them from the several or inclosed Lands or Grounds, making Satisfaction to the Owners.

And be it further enacted, That it shall be lawful for every such Surveyor, for the Use aforesaid, by Licence in Writing from the Justices at a Special Sessions for the Highways, to search for, dig, and get Materials, if sufficient cannot be had conveniently within such Waste Lands, Common Grounds, Rivers, or Brooks, in or through any of the several or inclosed Lands or Grounds of any Person whomsoever (such Lands or Grounds not being a Garden, Yard, Avenue to a House, Lawn, Park, Paddock, or inclosed Plantation, or inclosed Wood not exceeding One hundred Acres in extent,) within the Parish where the same shall be wanted, or within any other Parish adjoining or lying near to the Highway for which such Materials shall be required, if it shall appear to such Justices that sufficient Materials cannot be conveniently had in the Parish where such Highways lie, or in the Waste Lands or Common Grounds, Rivers or Brooks of such adjacent Parish, and that a sufficient Quantity of Materials will be left for the Use of the Parish where the same shall be, and to take and carry away so much of the said Materials as by the Discretion of the said Surveyor shall be thought necessary to be employed in the Amendment of the said Highways; the said Surveyor making such Satisfaction for the Materials which may be got or taken away, and also for the Damage done to such Lands or Grounds by the getting and carrying away the same, as shall be settled and ascertained by Order of the Justices at a Special Sessions for the Highways.

LV If Surveyor shall make Pits or Holes in getting Materials, he shall cause them to be filled up or sloped down, and fenced off ; and in like Manner all those already made. Penalties on Surveyor for Neglect herein.

And be it further enacted, That if any Surveyor or Person employed by him shall, by reason of the searching for, digging, or getting any Materials for repairing any Highways, make any Pit or Hole in Lands, Common Grounds, Rivers, or Brooks as aforesaid wherein such Materials shall be found, he shall forthwith cause the same to be sufficiently fenced off, and such Fence supported and repaired during such Time as the said Pit or Hole shall continue open, and within Three Days after such Pit or Hole shall be opened or made, where no Materials shall be found, cause the same to be forthwith filled up, levelled, and covered with the Turf or Clod which was dug out of the same, and where any such Materials shall be found, within Fourteen Days after having dug up sufficient Materials in such Pit or Hole, cause the same to be filled up or sloped down, and fenced off, if required by the Owner of the Land or Ground, and so continued ; and every Surveyor shall within Twenty-one Days after he shall have been appointed to that Office cause all the said Pits and Holes which shall then be open and not likely to be further useful to be filled up or sloped down in manner aforesaid, and if they are likely to be further useful he shall secure the same by Posts and Rails or other Fences to prevent Accidents to Persons or Cattle; and in case such Surveyor or Person shall neglect to fill up, slope down, or fence off such Pit or Hole in manner and within the Time aforesaid, he shall forfeit the Sum of Ten Shillings for every such Default; and in case such Surveyor or Person shall neglect to fence off such Pit or Hole, or to slope down the same, as herein-before directed, for the Space of Six Days after he shall have received Notice for either of those Purposes from any Justice of the Peace, or from the Owner or Occupier of such several Ground, River, or Brook, or any Person having Right of Common within such Common or Waste Lands as aforesaid, and such Neglect and Notice shall be proved upon Oath before the Justices at a Special Sessions for the Highways, such Surveyor, Person or Persons, shall forfeit and pay any Sum not exceeding Ten Pounds for such Neglect, to be determined and adjudged by such Justices, and to be laid out and applied in the fencing off, filling up, or sloping down such Pit or Hole, and toward the Repair of the Roads in the Parish where the Offence shall be committed, in such Manner as the said Justices shall direct and appoint; which Forfeiture, in case the same be not forthwith paid, shall be levied as other Forfeitures are herein-after directed to be levied.

LVI Penalty on Surveyor allowing any Heap of Stone, &c. to remain on Highway at Night.

And be it further enacted, That if any Surveyor or District Surveyor shall lay or cause to be laid any Heap of Stone or any other Matter or Thing whatsoever upon any Highway, and allow the same to remain there at Night to the Danger or personal Damage of any Person passing thereon, all due and reasonable Precaution not having been taken by the said Surveyor to guard against the same, he shall forfeit for every such Offence any Sum not exceeding Five Pounds.

LVII Surveyor damaging Mills, Dams, &c. by digging Materials, to forfeit not exceeding 5l.

And be it further enacted, That if any Surveyor shall dig or cause to be dug Materials for the Highways, whereby any Bridge, Mill, Building, Dam, Highway, Occupation Road, Ford, Mines, or Tin Works, or other Work, may be damaged or endangered, he shall forfeit for every such Offence, on Conviction, any Sum not exceeding Five

Pounds, at the Discretion of the Justices before whom the Complaint thereof shall be made, notwithstanding his Liability to any Civil Action to which he may make himself liable by such Act.

LVIII Where a Highway lies in Two Parishes, the Justices to determine what Parts shall be repaired by each. Proviso in case of Highway repaired by Party, racione tenurae, &c.

And whereas it frequently happens that the Boundaries of Parishes pass across or through the Middle of a common Highway, and one Side of such Highway is situated in one Parish, and the other Side in another Parish, whereby great Inconveniences often arise in repairing the same ; be it enacted, That the Justices at a Special Sessions for the Highways, on Complaint of any Surveyor of any Parish, (stating in Writing, and on a Plan thereunto annexed, that there is such a Highway, one Side whereof ought to be repaired by one Parish, and the other Side by another, and particularly describing the same by Metes, Bounds, and Admeasurement thereof,) may issue their Summons, with a Copy of such Writing and Plan thereunto annexed, to the Surveyor of, such other Parish, to appear before them on a Day mentioned in such Summons ; and if the Parties appear such Justices may then proceed finally to decide the Matter, in manner herein mentioned, in case all the Parties shall consent thereto; but in case the Surveyor summoned shall not appear on such first Summons, or appearing shall require further Time, such Justices shall adjourn the further Consideration of the Matter for any further Time, not more than Twenty-one Days nor less than Fourteen Days from the Date of such Adjournment, of which the Surveyor not appearing, or appearing shall require further Time, shall have Notice, on which Day the said Justices shall proceed to hear the Parties and their Witnesses, and, whether the Party summoned does or does not appear, shall proceed to examine and finally determine the Matter in form following ; (that is to say,) that it shall and may be lawful for such Justices and they are hereby required to divide the whole of such Common Highway, by a transverse Line crossing such Highway, into equal Parts, or into such unequal Parts and Proportions as, in consideration of the Soil Waters, Floods, and Inequality of such Highway, or any other Circumstances attending the same, they in their Discretion shall think just and right, and to declare, adjudge, and order that the whole of such Highway on both Sides thereof, in any of such Parts, shall be maintained and repaired by one of such Parishes, and that the whole thereof on both Sides, in the other of such Parts, shall be maintained and repaired by the other of such Parishes, and shall cause such their Order, and a Plan of such Highway, and the Allotment thereof as before mentioned, to be fairly delineated on Paper or Parchment, and filed with the Clerk of the Peace of the County in which such Highway shall happen to lie, and shall also cause such Posts, Stones, or other Boundaries to be placed and set up in such Highway as in their Judgment shall be necessary for ascertaining the Division and Allotment thereof: Provided nevertheless, that in the Case of any such last-mentioned Highway, the Repair of any Part of which belongs to any Body Politic or Corporate, or to any Person, by the Reason of Tenure of any Lands, or otherwise howsoever, the same Proceedings may be adopted, but the said Body Politic or Corporate, or Person, or some one on their Behalf, may appear before such Justices, and object to such last-mentioned Proceedings, in which Case the said Justices shall, before they divide such Highway as aforesaid, hear and consider the Objection so made, and determine the same.

LIX Parishes, bound to repair the Part so allotted.

And be it further enacted, That from and after such Order and Plan shall be so filed with the Clerk of the Peace as aforesaid, such Parishes, and Body Politic or Corporate, or Person aforesaid respectively, shall be bound as of Common Right to maintain and keep in repair such Parts of such Highways so allotted to them as aforesaid, and shall be liable to be proceeded against for Neglect of such Duty, and shall in all respects whatsoever be liable and subject to all the Provisions, Regulations, and Penalties contained in this Act, and also shall be discharged from the Repair of such Part of such Highway as shall not be included in their respective Allotment.

LX How Costs of Proceedings shall be defrayed, &c.

And be it further enacted, That all Costs, Charges, and Expences to be incurred by reason of any of the Proceedings last mentioned shall be borne and defrayed by such Two Parishes, or Body Politic or Corporate, or Person aforesaid, the same being settled and ascertained and duly apportioned between such Parishes by such Justices; and in case the said Parties shall refuse or neglect to pay and discharge their respective Share of such Costs and Expences, it shall and may be lawful for the Justices at a Special Sessions for the Highways to levy the same by Distress and Sale, with Costs of such Distress, on the Goods and Chattels of any Surveyor of the Parish, or of any Body Politic or Corporate, or Person aforesaid, so refusing or neglecting to defray such Costs and Charges as aforesaid.

LXI Boundary of Counties, &c. not to be changed, except for the Purpose aforesaid.

And be it further enacted, That nothing herein contained shall extend or be construed to extend to affect, change, or alter in any Manner whatsoever any Boundaries of Counties, Lordships, Hundreds, Manors, or any other Division of public or private Property, nor the Boundaries of any Parishes or Townships, otherwise than for the Purpose of amending and keeping in repair such particular Portion of the Highway in the Manner herein mentioned.

LXII Highway repaired by Party, *ratione tenurae*, &c. may be made a Parish Highway.

And be it further enacted, That any Body Politic or Corporate, or any Person, liable to repair any Highway by reason of Tenure of any Lands, or otherwise howsoever, or the Surveyor of the Parish in which the said Highway is situate, may, if he or either Party shall think proper, having first obtained the Consent of the Inhabitants in Vestry assembled, apply to any Justice for the Purpose of making the said Highway a Parish Highway, and to be repaired by the Surveyor of the said Parish ; and the said Justice is hereby authorized and required to issue his Summons, requiring the said Surveyor, or the Party so liable to repair the said Highway as aforesaid, to appear before the Justices at the next Special Sessions for the Highways, and if both Parties appear such Justices may then proceed to determine the Matter; but in case the Surveyor or Party summoned shall not appear on such first Summons, or appearing shall require further Time, such Justices shall adjourn the further Consideration of the Matter to the next Special Sessions for the Highways, of which the said Surveyor or Party not appearing shall have Notice, on which Day the Justices so assembled at such Special Sessions shall proceed to hear the Parties and their Witnesses, and, whether the Surveyor or Party summoned do or do not appear, shall proceed to examine and determine the Matter; and in case they decide that the said Highway shall become a Parish Highway,

and be thereafter repaired by the Surveyor of the said Parish, they shall, by an Order under their Hands, fix the Proportion of the Expences of repairing the said Highway to be annually paid by such Body Politic or Corporate or Person as aforesaid to the Surveyor of the said Parish; and the Order of the said Justices shall be binding on the Surveyor and the said Parish, and the said Body Politic or Corporate or Person as aforesaid, their Heirs, Successors, and Assigns : Provided nevertheless, that the said Justices, instead of fixing the Proportion of the Expences of repairing the said Highway to be annually paid as aforesaid, may, by an Order under their Hands, fix a certain Sum to be paid by such Body Politic or Corporate or Person as aforesaid to the Surveyor of the said Parish in full Discharge of all Claims thereafter in respect of the Repairs of such Highway; and in default of Payment of such last-mentioned Sum or of such annual Sum as aforesaid the said Surveyor may proceed for the Recovery thereof in the same Manner as any Penalties and Forfeitures are recoverable under this Act: Provided always, that when the Sum so fixed to be paid in full Discharge of all Claims thereafter in respect of the Repair of such Highways shall exceed the Sum of One hundred Pounds, the said Sum when received shall be vested, in the Name of the Minister, Churchwardens, and Surveyors of the Highways of the Parish within which such Highway shall be situate, in some Public Government Securities, and the Interest and Dividends from Time to Time arising or accruing therefrom shall be applied towards the Repairs of the Highways within the said Parish : Provided also, that when the Sum so fixed to be paid in full Discharge of all Claims as aforesaid shall not exceed the Sum of One hundred Pounds, the said last-mentioned Sum, or any Part thereof, on the Application by and with the Consent of the Inhabitants of the Parish in Vestry assembled, and of the Justices in Special Sessions assembled, shall and may be paid to the Surveyor of the said Parish, to be applied towards the Repair of the Highways within the said Parish.

LXIII What shall be deemed the Centre of the Highway.

And be it further enacted, That where in this Act any Matter or Thing is directed Or forbidden to be done within a certain Distance of the Centre of the Highway, that Portion of Ground shall be deemed and taken to be the Highway which has been maintained by the Surveyor as Highway, and repaired with Stones or other Materials used in forming Highways, for the Six Months immediately preceding; and the Centre of the Highway shall be the Middle of such Highway, where a Line being drawn along the Highway, or a Point marked, an equal Number of Feet of Highway which have been so maintained and repaired as aforesaid for Twelve Months before shall be found on each Side of such Line or Mark.

LXIV No Tree, &c. allowed to be planted within 15 Feet of the Centre of the Carriageway.

And be it further enacted, That no Tree, Bush, or Shrub shall hereafter be planted on any Carriageway or Cartway, or within the Distance of Fifteen Feet from the Centre thereof; but the same shall respectively be cut down, grubbed up, and carried away by the Owner or Occupier of the Land or Soil within Twenty-one Days after Notice to him or his Agent by the Surveyor, on pain of forfeiting for every Neglect the Sum of Ten Shillings.

Status: This is the original version (as it was originally enacted).

LXV Mode of proceeding if Highway is prejudiced by Hedges, &c.

And be it further enacted, That if the Surveyor shall think that any Carriageway or Cartway is prejudiced by the Shade of any Hedges, or by any Trees (except those Trees planted for Ornament or for Shelter to any Hop Ground, House, Building, or Court Yard of the Owner thereof,) growing in or near such Hedges or other Fences, and that the Sun and Wind are excluded from such Highway, to the Damage thereof, or if any Obstruction is caused in any Carriageway or Cartway by any Hedge or Tree, it shall be lawful for any One Justice of the Peace, on the Application of the said Surveyor, to summon the Owner of the Land on which such Hedges or Trees are growing next adjoining to such Carriageway or Cartway to appear before the Justices at a Special Sessions for the Highways to show Cause why the said Hedges are not cut, pruned, or plashed, or such Trees not pruned or lopped, in such Manner that the Carriageway or Cartway shall not be prejudiced by the Shade thereof, and that the Sun and Wind may not be excluded from such Carriageway or Cartway to the Damage thereof, or why the Obstruction caused in such Carriageway or Cartway should not be removed; and the Question as to the cutting, pruning, or plashing such Hedges, or the pruning and lopping such Trees, or the Removal of such Obstruction as aforesaid, shall, upon Proof of the Service of such Summons, and whether the said Owner attend or not, be determined at the Discretion of such last-mentioned Justices ; and if such Justices shall order and direct that such Hedges shall be cut, pruned, or plashed, or such Trees pruned or lopped, in manner aforesaid, or such Obstruction removed, the said Owner shall comply therewith within Ten Days after a Copy of such Order shall have been left at the usual Place of Abode of the said Owner or of his Steward or Agent, and in default thereof shall forfeit, on Conviction, a Sum not exceeding Forty Shillings ; and the said Surveyor, if the Order of the said Justices is not complied with, shall and he is hereby authorized and required to cut, prune, or plash such Hedges, and to prune and lop such Trees, for the Benefit and Improvement of the Highway, and to remove such Obstruction as aforesaid, to the best of his Skill and Judgment, and according to the true Intent and Meaning of this Act; and the said Surveyor shall be reimbursed by the Owner as aforesaid what- Charges and Expences he shall be at in cutting, pruning, and plashing such Hedges, and pruning and lopping such Trees, and the Removal of such Obstruction, over and above the said Forfeiture; and it shall and may be lawful for the Justices at a Special Sessions for the Highways, upon Proof to them made upon Oath, to levy as well the Expences of cutting, pruning, and plashing such Hedges, or pruning and lopping such Trees, or Removal of such Obstructions as aforesaid, as the several and respective Penalties hereby imposed, by Distress and Sale of the Offender's Goods and Chattels, in such Manner as Distresses and Sales for Forfeitures are authorized and directed to be levied by virtue of this Act.

LXVI Time of cutting Hedges and Trees.

Provided always, and be it further enacted, That no Person shall be compelled nor any Surveyor permitted to cut or prune any Hedge at any other Time than between the last Day of *September* and the last Day of *March* ; and that no Person shall be obliged to fell any Timber Trees growing in Hedges at any Time whatsoever except where the Highways shall be ordered to be widened or enlarged as herein mentioned, or then to cut down or grub up any Oak Trees growing in such Highway or in such Hedges except in the Months of *April*, *May*, or *June*, or any Ash, Elm, or other Trees in any other Months than *December*, *January*, *February*, or *March*.

LXVII Surveyor to make and keep open Ditches, &c, and to lay Trunks, &c. through Lands adjoining Highway, paying for Damage if any incurred.

And be it further enacted, That the said Surveyor, District Surveyor, or Assistant Surveyor shall have Power to make, scour, cleanse, and keep open all Ditches, Gutters, Drains, or Watercourses, and also to make and lay such Trunks, Tunnels, Plats, or Bridges, as he shall deem necessary, in and through any Lands or Grounds adjoining or lying near to any Highway, upon paying the Owner or Occupier of such Lands or Grounds, provided they are not Waste or Common, for the Damages which he shall sustain thereby, to be settled and paid in such Manner as the Damages for getting Materials in inclosed Lands or Grounds are herein directed to be settled and paid.

LXVIII Owner, Occupier, &c. not to alter such Ditches, without Consent.

And be it further enacted, That if any Owner, Occupier, or other Person shall alter, obstruct, or in any Manner interfere with any such Ditches, Gutters, Drains, or Watercourses, Trunks, Tunnels, Plats, or Bridges, after they shall have been made by or taken under the Charge of such Surveyor or District Surveyor, and without his Authority and Consent, such Owner, Occupier, or other Person shall be liable to reimburse all Charges and Expences which may be occasioned by reinstating and making good the Work so altered, obstructed, or interfered with, and shall also forfeit any Sum not exceeding Three Times the Amount of such Charges and Expences.

LXIX Penalty for encroaching on Highway. Encroachment to be taken down by the Surveyor.

And be it further enacted, That if any Person shall encroach by making or causing to be made any Building, Hedge, Ditch, or other Fence on any Carriageway or Cartway within the Distance of Fifteen Feet from the Centre thereof, every Person so offending shall forfeit, on Conviction, for every such Offence any Sum not exceeding Forty Shillings ; and the Surveyor who hath the Care of any such Carriageway or Cartway shall and he is hereby required to cause such Building, Hedge, Ditch, or Fence to be taken down or filled up at the Expence of the Person to whom the same shall belong; and it shall and may be lawful for the Justices at a Special Sessions for the Highways upon Proof to them made upon Oath, to levy as well the Expences of taking down such Building, Hedge, or Fence, or filling up such Ditch as aforesaid, as the several and respective Penalties hereby imposed, by Distress and Sale of the Offender's Goods and Chattels, in such Manner as Distresses and Sales for Forfeitures are authorized and directed to be levied by virtue of this Act.

LXX Steam Engines, &c. not to be erected within a certain Distance of Roads.

And be it further enacted, That from and after the Commencement of this Act it shall not be lawful for any Person to sink any Pit or Shaft, or to erect or cause to be erected any Steam Engine, Gin, or other like Machine, or any Machinery attached thereto, within the Distance of Twenty-five Yards, nor any Windmill within Fifty Yards, from any Part of any Carriageway or Cartway, unless such Pit or Shaft or Steam Engine, Gin, or other like Engine or Machinery, shall be within some House or other Building, or behind some Wall or Fence, sufficient to conceal or screen the same from the said Carriageway or Cartway, so that the same may not be dangerous to Passengers, Horses, or Cattle; nor shall it be lawful for any Person to make or cause to be made any Fire for calcining or burning of Ironstone, Limestone, Bricks, or Clay, or the making of Cokes, within the Distance of Fifteen Yards from any Part of the said Carriageway or Cartway,

Status: This is the original version (as it was originally enacted).

unless the same shall be within some House or other Building, or behind some Wall or Fence, sufficient to screen the same from the same Carriageway or Cartway as aforesaid; and in case any Person shall offend in any of the Cases aforesaid, every such Person so offending shall forfeit and pay any Sum not exceeding Five Pounds for each and every Day such Pit, Shaft, Windmill, Steam Engine, Gin, Machine, or Fire shall be permitted to continue contrary to the Provisions of this Act; which said Penalties shall be levied, recovered, and applied in such and the same Manner as any Penalty or Forfeiture for any other Offence on any Highway may be levied, recovered, and applied: Provided, that nothing herein contained shall be construed to restrain any Person or Persons from using, repairing, rebuilding, or enlarging any Windmill, Steam Engine, Gin, or other like Machine, or any Kiln or other Erection used for the Purpose of calcining or burning of Ironstone, Limestone, Bricks, or Clay, or the making of Cokes, which may have been erected and may be in existence at the passing of this Act.

LXXI Proprietors of Railways to erect Gates, &c. where they cross Highways.

And be it further enacted, That whenever a Railroad shall cross any Highway for Carts or Carriages, the Proprietors of the said Railroad shall make and maintain good and sufficient Gates at each of the said Crossings, and shall employ good and proper Persons to attend to the opening and shutting of such Gates, so that the Persons, Carts, or Carriages passing along such Road shall not be exposed to any Danger or Damage by the passing of any Carriages or Engines along the said Railroad; and any Complaint for any Neglect in respect of the said Gates shall be made within Ten Days after the said Neglect, to One Justice, who may summon the Party so complained against to appear before the Justices at their next Special Sessions for the Highways, who shall hear and decide upon the said Complaint, and the Proprietor so offending shall forfeit any Sum not exceeding Five Pounds.

LXXII Penalty on Persons committing Nuisances by riding on Footpaths, &c ; by injuring the Road ; by damaging Banks, Causeways, Direction Posts, Milestones, &c. ; by making Fires ; by baiting Bulls ; by laying Timber, &c. ; by running of Filth.

And be it further enacted, That if any Person shall wilfully ride upon any Footpath or Causeway by the Side of any Road made or set apart for the Use or Accommodation of Foot Passengers; or shall wilfully lead or drive any Horse, Ass, Sheep, Mule, Swine, or Cattle, or Carriage of any Description, or any Truck or Sledge upon any such Footpath or Causeway; or shall tether any Horse, Ass, Mule, Swine, or Cattle on any Highway, so as to suffer or permit the tethered Animal to be thereon; or shall cause any Injury or Damage to be done to the said Highway, or the Hedges, Posts, Rails, Walls, or Fences thereof, or shall wilfully obstruct the Passage of any Footway; or wilfully destroy or injure the Surface of any Highway; or shall wilfully or wantonly pull up, cut down, remove, or damage the Posts, Blocks, or Stones fixed by the said Surveyor as herein directed; or dig or cut down the Banks which are the Securities and Defence of the said Highways; or break, damage, or throw down the Stones, Bricks, or Wood fixed upon the Parapets or Battlements of Bridges, or otherwise injure or deface the same; or pull down, destroy, obliterate, or deface any Milestone or Post, Graduated or Direction Post or Stone, erected upon any Highway; or shall play at Football or any other Game on any Part of the said Highways, to the Annoyance of any Passenger or Passengers; or if any Hawker, Higgler, Gipsy, or other Person travelling shall pitch any Tent, Booth, Stall, or Stand, or encamp, upon any Part of any Highway; or if any Person shall make or assist in making any Fire, or shall wantonly fire off any Gun or Pistol, or shall

set fire to or wantonly let off or throw any Squib, Rocket, Serpent, or other Firework whatsoever, within Fifty Feet of the Centre of such Carriageway or Cartway; or bait, or run for the Purpose of baiting, any Bull upon or near any Highway ; or shall lay any Timber, Stone, Hay, Straw, Dung, Manure, Lime, Soil, Ashes, Rubbish, or other Matter or Thing whatsoever upon such Highway, to the Injury of such Highway, or to the Injury, Interruption, or personal Danger of any Person travelling thereon ; or shall suffer any Filth, Dirt, Lime, or other offensive Matter or Thing whatsoever to run or flow into or upon any Highway from any House, Building, Erection, Lands, or Premises adjacent thereto; or shall in any Way wilfully obstruct the free Passage of any such Highway; every Person so offending in any of the Cases aforesaid shall for each and every such Offence forfeit and pay any Sum not exceeding Forty Shillings, over and above the Damages occasioned thereby.

LXXIIIMatters laid on or near Highway, so as to be a Nuisance, to be removed on Notice; or on Failure, Surveyor to dispose of the same by Order of a Justice.

And be it further enacted, That if any Timber, Stone, Hay, Straw, Dung, Manure, Lime, Soil, Ashes, Rubbish, or other Matter or Thing whatsoever shall be laid upon any Highway so as to be a Nuisance, and shall not, after Notice given by the Surveyor, Assistant Surveyor, or District Surveyor, be forthwith removed, it shall and may be lawful for the Surveyor, Assistant Surveyor, or District Surveyor, by Order in Writing from any One Justice, to clear the said Highway by removing the said Stone, Hay, Straw, Dung, Manure, Soil, Ashes, Rubbish, or other Matter or Thing as aforesaid, and to dispose of the same, and to apply the Proceeds arising therefrom towards the Repairs of the Highway within the Parish in which such Highway may be situate: Provided nevertheless, that if any Soil, Ashes, or Rubbish shall be laid on any Highway, and such Soil, Ashes, or Rubbish shall not be of sufficient Value to defray the Expence of removing them, the Person who laid or deposited such Soil, Ashes, or Rubbish shall repay to the said Surveyor, Assistant Surveyor, or District Surveyor the Money which he shall have necessarily expended for the Removal thereof, which Money, in case the same shall not be forthwith repaid, shall be levied as Forfeitures are herein directed to be levied.

LXXIVSurveyor to impound Cattle found straying oa Highways until the Penalty herein imposed and the Charges are paid. Limiting the Extent of Penalty. Right of Pasturage not taken away.

And be it further enacted, That if any Horse, Ass, Sheep, Swine, or other Beast or Cattle of any Kind shall at any Time be found wandering, straying, or lying, or being depastured, on any Highway or on the Sides thereof, without a Keeper, (except on such Parts of any Road as lead or pass through or over any Common or Waste or uninclosed Ground,) any Surveyor, or any other Person authorized by him, is hereby required to seize and impound every such Horse, Ass, Sheep, Swine, or other Beast or Cattle in the Common Pound (if any) of the Parish where the same shall be found, or in such other Place as the Surveyor shall have provided or shall provide for that Purpose, and the said Horse, Ass, Sheep, Swine, or other Beast or Cattle there to detain until the Owner thereof shall for every and each Horse, Ass, Sheep, Swine, or other Beast or Cattle so impounded pay any Sum not exceeding One Shilling, together with the reasonable Charges and Expences, such Charges and Expences to be settled by any Two Justices of the Peace, of impounding and keeping the same, to the Surveyor of the Parish in which the Beast so impounded shall have been found, the said Sum so paid for each Beast to be applied to the Repair of the said Highway; and in case the said Penalty,

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Charges, and Expences shall not be paid within Five Days after such impounding, (Notice being thereof first given to the Owner, if known at the Time,) it shall and may be lawful for any Two Justices of the Peace to order every such Horse, Ass, Sheep, Swine, or other Beast or Cattle to be sold, except where it shall be made to appear to such Justices that the Horse, Ass, Sheep, Swine, or other Beast or Cattle impounded escaped from any Inclosure by any Gate or Fence being wilfully or negligently left open or destroyed by any Person not being Owner of such Inclosure, nor employed by such Owner, or that it arose from Accident, and was not wilful, in which Case such Justices may remit the said Penalty ; and the Money arising from such Sale, after deducting the said Penalty, and Charges and Expences of impounding, keeping, and selling every such Horse, Ass, Sheep, Swine, or other Beast or Cattle, shall be paid to the Person whose Property the same so sold shall appear to have been ; and in case the Owner thereof shall not be known, and no Application shall be made for the Money arising from such Sale within One Calendar Month after such Sale shall have taken place, the said Money shall be applied, after deducting the said Charges and Expences, in the same Manner as the said Penalty of One Shilling is herein directed to be applied : Provided always, that no Owner of any Horse, Ass, Sheep, Swine, or other Beast or Cattle impounded as aforesaid shall in any Case pay more than the Sum of Twenty Shillings, over and above the Charges and Expences of impounding and keeping the same, for any Number of Horses, Asses, Sheep, Swine, or other Beast or Cattle impounded at One Time : And provided always, that nothing in this Act shall be deemed, taken, or construed to extend to take away any Right of Pasturage which may exist on the Sides of any Highway.

LXXV Punishing Persons guilty of Pound-breach.

And be it further enacted, That in case any Person shall release or attempt to release any Horse, Ass, Sheep, Swine, or other Beast or Cattle which shall be seized for the Purpose of being impounded under the Authority of this Act from the Pound or Place where the same shall be so impounded, or in the Way to or from any such Pound or Place, or shall pull down, damage, or destroy the same Pound or Place, or any Part thereof, or any Lock or Bolt belonging thereto or with which the same shall be fastened, or shall rescue or release, or attempt to rescue or release, any Distress or Levy which shall be made under the Authority of this Act, until or before such Horse, Ass, Sheep Swine, or other Beast or Cattle seized or so impounded, or such Distress or Levy so made, shall be discharged by due Course of Law, every Person so offending shall, upon Conviction thereof before any Two of His Majesty's Justices of the Peace, either upon Confession of the Party or Parties offending, or upon Oath of One credible Witness, forfeit and pay any Sum not exceeding Twenty Pounds, at the Discretion of the said Justices, and in default thereof be committed by such Justices, by Warrant under their Hands and Sels , to the House of Correction of the County wherein the said Offence shall have been committed, there to be kept to hard Labour for any Time, at the Discretion of the Justices, not exceeding Three Calendar Months.

LXXVINames of Owners to be painted on all Waggon, &c. in the Manner herein mentioned.

And be it further enacted, That the Owner of every Waggon, Cart, or other such Carriage shall paint or cause to be painted in One or more straight Line or Lines, upon some conspicuous Part of the Right or Off Side of his Waggon, Cart, or other such Carriage, or upon the Off-side Shafts thereof, before the same shall be used on any Highway, his Christian Name and Surname, or the Style and Title by which he

is commonly designated, and the Place of his Trade or Abode, or the Christian and Surname and Place of Trade or Abode of a Partner or Owner thereof, at full Length, in large legible Letters in White upon Black or Black upon White, not less than One Inch in Height, and continue the same thereupon so long as such Waggon, Cart, or other such Carriage shall be used upon any Highway; and every Owner of any Waggon, Cart, or other such Carriage who shall use or allow the same to be used on any Highway without the Name and Descriptions painted thereon as aforesaid, or who shall suffer the same to become illegible, or who shall paint or cause to be painted any false or fictitious Name or Place of Trade or Abode on such Waggon or Cart or other such Carriage, shall forfeit and pay, on Conviction, for every such Offence a Sum not exceeding Forty Shillings, with or without Costs, as to the Justices before whom the Conviction shall take place shall think fit.

LXXVII One Driver may take charge of Two Carts, provided they are drawn only by One Horse each.

And be it further enacted, That no One Person shall act as the Driver of more than Two Carts, Waggons, or other such Carriages on any Highway : Provided always, that it shall and may be lawful for any One Person to act as the Driver of Two Carts, Waggons, or other such Carriages on any Highway, and for such Carts to pass and travel on any Highway being only under the Care and Superintendence of such single Person : Provided always, that such Carts, Waggons, or other Carriages, when under the Care of only One Person, shall not be drawn by more than One Horse each, and the Horse of the hinder Cart, Waggon, or other Carriage shall be attached by a Rein in Length not exceeding Four Feet to the Back of the Cart, Waggon, or other Carriage which shall be foremost; and in case the said Horse shall not be so attached, the Driver of the said Carts, Waggons, or other Carriages shall forfeit, on Conviction, the Sum of Twenty Shillings, to be recovered as other Penalties are by this Act to be recovered.

LXXVIII Drivers of Waggons or Carts not to ride thereon unless some other Person guide them. Drivers causing Hurt or Damage to others, or quitting the Road, or driving Carriage without Owner's Name, or not keeping the Left or Near Side, or interrupting free Passage, if not the Owner to forfeit 20s. ; if he be the Owner, 40s. Proceeding if Driver will not discover his Name.

And be it further enacted, That if the Driver of any Waggon, Cart, or other Carriage of any Kind shall ride upon any such Carriage, or upon any Horse or Horses drawing the same, on any Highway, not having some other Person on Foot or on Horseback to guide the same (such Carriages and Carts as are driven with Reins, and are conducted by some Person holding the Reins of all the Horses drawing the same, excepted) ; or if the Driver of any Carriage whatsoever on any Part of any Highway shall by Negligence or wilful Misbehaviour cause any Hurt or Damage to any Person, Horse, Cattle, or Goods conveyed in any Carriage passing or being upon such Highway, or shall quit the same and go on the other Side of the Hedge or Fence inclosing the same, or negligently or wilfully be at such Distance from such Carriage or in such a Situation whilst it shall be passing upon such Highway that he cannot have the Direction and Government of the Horses or Cattle drawing the same, or shall leave any Cart or Carriage on such Highway so as to obstruct the Passage thereof; or if any Person shall drive or act as the Driver of any Waggon, Cart, or other such Carriage not having the Owner's Name as hereby required painted and remaining legible thereon, and shall refuse to tell or to discover the true Christian and Surname of the Owner or principal Owners of such Waggon, Cart, or Carriage; or if the Driver of any Waggon, Cart, or other

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Carriage whatsoever, or of any Horses, Mules, or other Beast of Draught or Burthen, meeting any other Waggon, Cart, or other Carriage, or Horses, Mules, or other Beasts of Burthen, shall not keep his Waggon, Cart, or Carriage, or Horses, Mules, or other Beasts of Burthen, on the Left or Near Side of the Road; or if any Person shall in any Manner wilfully prevent any other Person from passing him, or any Waggon, Cart, or other Carriage, or Horses, Mules, or other Beasts of Burthen, under his Care, upon such Highway, or by Negligence or Misbehaviour prevent, hinder, or interrupt the free Passage of any Person, Waggon, Cart, or other Carriage, or Horses, Mules, or other Beasts of Burthen, on any Highway, or shall not keep his Waggon, Cart, or other Carriage, or Horses, Mules, or other Beasts of Burthen, on the Left or Near Side of the Road, for the Purpose of allowing such Passage; or if any Person riding any Horse or Beast, or driving any Sort of Carriage, shall ride or drive the same furiously so as to endanger the Life or Limb of any Passenger; every Person so offending in any of the Cases aforesaid, and being convicted of any such Offence, either by his own Confession, the View of a Justice, or by the Oath of One or more credible Witnesses, before any Two Justices of the Peace, shall, in addition to any Civil Action to which he may make himself liable, for every such Offence forfeit any Sum not exceeding Five Pounds in case such Driver shall not be the Owner of such Waggon, Cart, or other Carriage, and in case the Offender be the Owner of such Waggon, Cart, or other Carriage, then any Sum not exceeding Ten Pounds, and in either of the said Cases shall, in default of Payment, be committed to the Common Gaol or House of Correction, there to be kept to hard Labour, for any Time not exceeding Six Weeks, unless such Forfeiture shall be sooner paid ; and every such Driver offending in either of the said Cases shall and may by the Authority of this Act, with or without any Warrant, be apprehended by any Person who shall see such Offence committed, and shall be conveyed before any Justice of the Peace, to be dealt with according to Law; and if any such Driver in any of the Cases aforesaid shall refuse to discover his Name, it shall and may be lawful for the said Justice of the Peace before whom he shall be taken, or to whom any such Complaint shall be made, to commit him to the Common Gaol or House of Correction, there to be kept to hard Labour, for any Time not exceeding Three Months, or to proceed against him for the Penalty aforesaid by a Description of his Person and the Offence only, without adding any Name or Designation, but expressing in the Proceedings that he refused to discover his Name.

LXXIX For securing unknown Offenders.

And whereas Offences may be committed against this Act by Persons whose Names are unknown to the Surveyor, Assistant Surveyor, or District Surveyor; be it therefore enacted, That it shall be lawful for the Surveyor, Assistant Surveyor, or District Surveyor, or any Person acting under his Authority, and such other Person as he shall call to his Assistance, or any other Person witnessing the Commission of the Offence, without any other Authority than this Act, to seize and detain such unknown Person who shall commit any such Offence, and take him forthwith before any Justice of the Peace, who shall proceed and act with respect to such Offence according to the Provisions of this Act.

LXXX Cartways to be Twenty Feet wide, Horseways Eight Feet, and Footways Three Feet.

And be it further enacted, That the said Surveyor shall and he is hereby required to make, support, and maintain, or cause to be made, supported, and maintained, every public Cartway leading to any Market Town Twenty Feet wide at the least, and every

public Horseway Eight Feet wide at the least, and to support and maintain every public Footway by the Side of any Carriageway or Cartway Three Feet at the least, if the Ground between the Fences including the same will admit thereof: Provided nevertheless, that nothing herein contained shall require any Surveyor to make or form any public Footway without the Consent of the Inhabitants in Vestry assembled.

LXXXI Width of Gates across public Cartways and Horseways.

And be it further enacted, That if any Gate across any public Cartway shall be less than Ten Feet wide, or any Gate across any public Horseway shall be less than Five Feet wide, clear between the Posts thereof, then and in every such Case, upon Notice in Writing from the Surveyor to the Person to whom such Gate shall belong, left at the Dwelling House of such Person or his Steward or Agent, requiring him to enlarge the same, if such Person shall neglect for the Space of Twenty-one Days after such Notice shall have been left as aforesaid to remove or enlarge such Gate, he shall forfeit a Sum not exceeding Ten Shillings for every Day he shall so neglect to remove or to enlarge such Gate as aforesaid.

LXXXII Justices may order narrow Highways to be widened. Surveyor to agree with Owners of Land for Recompence, and if they cannot agree the same may be assessed by a Jury at the Quarter Sessions. On Payment of Money assessed, Ground to be deemed a public Highway. Where there is not Money sufficient, a further Rate may be made, by Order of the Justices at their Quarter Sessions, not exceeding One Third of Rate.

Provided always, and be it further enacted, That where it shall appear, upon the View of Two Justices of the Peace, that any Highway is not of sufficient Breadth, and might be widened and enlarged, such Justices shall and they are hereby empowered, within their respective Divisions, to order such Highway respectively to be widened and enlarged in such Manner as they shall think fit, so that the said Highway, when widened and enlarged, shall not exceed Thirty Feet in Breadth ; and that neither of the said Powers do extend to pull down any House or Building, or to take away the Ground of any Garden, Lawn, Yard, Court, Park, Paddock, planted Walk, Plantation, or Avenue to any House, or any inclosed Ground set apart for Building Ground or as a Nursery for Trees ; and for the Satisfaction of the Person, Body Politic or Corporate, who is seised or possessed of or interested in their own Right, or in Trust for any other Person, in the said Ground that shall be laid into the said Highway respectively so to be widened and enlarged, the said Surveyor, under the Direction and with the Approbation of the said Justices in Writing, shall and is hereby empowered to make an Agreement with him for the Recompence to be made for such Ground, and for the making such new Ditches and Fences as shall be necessary, according and in proportion to their several and respective Interests therein, and also with any other Person, Body Politic or Corporate, that maybe injured by the widening and enlarging such Highway, for the Satisfaction to be made to him respectively as aforesaid ; and if the said Surveyor, under the Direction and with the Approbation of the said Justices, cannot agree with the said Person, Body Politic or Corporate, or if he cannot be found, or shall refuse to treat or take such Recompence or Satisfaction as shall be offered to them respectively by such Surveyor, then the Justices of the Peace at any General Quarter Sessions to be holden for the Limit wherein such Ground shall lie, upon Certificate in Writing signed by the Justices making such View as aforesaid of their Proceedings in the Premises, and upon Proof of Fourteen Days Notice in Writing having been given by the Surveyor of such Parish to the Owner, Occupier, or other Person, Body Politic or Corporate, interested in such

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Ground, or to his Guardian, Trustee, Clerk, or Agent, signifying an Intention to apply to such Quarter Sessions for the Purpose of taking such Ground, shall impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions; and the said Jury shall, upon their Oaths, to the best of their Judgment, assess the Damages to be given and Recompence to be made to the Owners and others interested as aforesaid in the said Ground for their respective Interests, as they shall think reasonable, not exceeding Forty Years Purchase for the clear yearly Value of the Ground so laid out, and likewise such Recompence as they shall think reasonable for the making of new Ditches and Fences on the Side of the said Highway that shall be so widened and enlarged, and also Satisfaction to any Person, Body Politic or Corporate, that may be otherwise injured by the widening and enlarging the said Highways respectively; and upon Payment Or Tender of the Money so to be awarded and assessed to the Person, Body Politic or Corporate, entitled to receive the same, or leaving it in the Hands of the Clerk of the Peace of such Limit, in case such Person, Body Politic or Corporate, cannot be found or shall refuse to accept the same, for the Use of the Owner of or others interested in the said Ground, the Interest of the said Person, Body Politic or Corporate, in the said Ground shall be for ever divested out of them ; and the said Ground, after such Agreement or Verdict as aforesaid, shall be esteemed and taken to be a public Highway to all Intents and Purposes whatsoever ; saving nevertheless to the Owner of such Ground all Mines, Minerals, and Fossils lying under the same which can or may be got without breaking the Surface of the said Highway, and also all Timber and Wood growing upon such Ground, to be felled and taken by such Owner within One Month after such Order shall have been made, or in default thereof to be felled by the said Surveyor within the respective Months aforesaid, and laid upon the Land adjoining, for the Benefit of the said Owner ; and where there shall 'not appear sufficient Money in the Hands of the Surveyor for the Purpose aforesaid, then the said Two Justices in Cases of Agreement, or the said Court of Quarter Sessions after such Verdict as aforesaid, shall direct the Surveyor to make, collect, and levy an equal Rate in the same Manner as the Rate by this Act authorized to be made, and to pay the Money to the Person, Body Politic or Corporate, so interested, in such Manner as the said Justices or Court of Quarter Sessions respectively shall direct and appoint; and the Money thereby raised shall be employed and accounted for, according to the Order and Direction of the said Justices or Court of Quarter Sessions respectively, for and towards the purchasing the Land to widen and enlarge the said Highway, and for making the said Ditches and Fences, and also Satisfaction for the Damages sustained thereby ; provided that no such Rate to be made in any One Year shall exceed One Third Part of the Rate by this Act authorized to be levied, in addition to the Rate for the Repair of the Highways.

LXXXI Cost of Proceedings, by whom payable.

. And be it further enacted, That in case such Jury shall give in and deliver a Verdict for more Monies as a Recompence for the Right, Interest, or Property of any Person, Body Politic or Corporate, in such Lands or Grounds, or for the making such Fence, or for such Damage or Injury to be sustained by him as aforesaid, than what shall have been proposed and offered by the said Surveyor before such Application to the said Court of Quarter Sessions as aforesaid, that then and in such Case the Costs and Expences attending the said several Proceedings shall be borne and paid by the Surveyor out of the Monies in his Hands or to be assessed and levied by virtue and under the Powers of this Act; but if such Jury shall give and deliver a Verdict for no more or for less Monies than shall have been so offered and proposed by the said Surveyor before such Application to the said Court of Quarter Sessions, that then the said Costs and

Expences shall be borne and paid by the Person, Body Politic or Corporate, who shall have refused to accept the Recompence and Satisfaction so offered to him as aforesaid.

LXXXI Previous to a Highway being stopped up, &c. Surveyor to request Justices to view the same.

And be it further enacted, That when the Inhabitants in Vestry assembled shall deem it expedient that any Highway should be stopped up, diverted, or turned, either entirely or reserving a Bridleway or Footway along the Whole or any Part or Parts thereof, the Chairman of such Meeting shall, by an Order in Writing, direct the Surveyor to apply to Two Justices to view the same, and shall authorize him to pay all the Expences attending such View, and the stopping up, diverting, or turning such Highway, either entirely or subject to such Reservation as aforesaid, out of the Money received by him for the Purposes of this Act: Provided nevertheless, that if any other Party shall be desirous of stopping up, diverting, or turning any Highway as aforesaid, he shall, by a Notice in Writing, require the Surveyor to give Notice to the Churchwardens to assemble the Inhabitants in Vestry, and to submit to them the Wish of such Person ; and if such Inhabitants shall agree to the Proposal, the said Surveyor shall apply to the Justices as last aforesaid for the Purposes aforesaid ; and in such Case the Expences aforesaid shall be paid to such Surveyor by the said Party, or be recoverable in the same Manner as any Forfeiture is recoverable under this Act; and the said Surveyor is hereby required to make such Application as aforesaid.

LXXXV Proceedings for diverting, &c. certain Highways, and stopping up unnecessary Highways.

And be it further enacted, That when it shall appear upon such View of such Two Justices of the Peace, made at the Request of the said Surveyor as aforesaid, that any public Highway may be diverted and turned, either entirely or subject as aforesaid, so as to make the same nearer or more commodious to the Public, and the Owner of the Lands or Grounds through which such new Highway so proposed to be made shall consent thereto by Writing under his Hand, or if it shall appear upon such View that any public Highway is unnecessary, the said Justices shall direct the Surveyor to affix a Notice in the Form or to the Effect of Schedule (No. 19-) to this Act annexed in legible Characters, at the Place and by the Side of each End of the said Highway from whence the same is proposed to be turned, diverted, or stopped up, either entirely or subject as aforesaid, and also to insert the same Notice in One Newspaper published or generally circulated in the County where the Highway so proposed to be diverted and turned or stopped up, either entirely or subject as aforesaid, (as the Case may be,) shall lie, for Four successive Weeks next after the said Justices have viewed such public Highway, and to affix a like Notice on the Door of the Church of every Parish in which such Highway so proposed to be diverted, turned, or stopped up, either entirely or subject as aforesaid, or any Part thereof, shall lie, on Four successive *Sundays* next after the making such View; and the said several Notices having been so published, and Proof thereof having been given to the Satisfaction of the said Justices, and a Plan having been delivered to them at the same Time particularly describing the old and the proposed new Highway, by Metes, Bounds, and Admeasurement thereof, which Plan shall be verified by some competent Surveyor, the said Justices shall proceed to certify under their Hands the Fact of their having viewed the said Highway as aforesaid, and that the proposed new Highway is nearer or more commodious to the Public ; and if nearer, the said Certificate shall state the Number of Yards or Feet it is nearer, or if more commodious, the Reasons why it is so ; and if the Highway is proposed to be stopped

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up as unnecessary, either entirely or subject as aforesaid, then the Certificate shall state the Reason why it is unnecessary; and the said Certificate of the said Justices, together with the Proof and Plan so laid before them as aforesaid, shall, as soon as conveniently may be after the making of the said Certificate, be lodged with the Clerk of the Peace for the County in which the said Highway is situated, and shall (at the Quarter Sessions which shall be holden for the Limit within which the Highway so diverted and turned or stopped up, either entirely or subject as aforesaid, shall lie, next after the Expiration of Four Weeks from the Day of the said Certificate of the said Justices having been lodged with the Clerk of the Peace as aforesaid,) be read by the said Clerk of the Peace in open Court; and the said Certificate, together with the Proof and Plan as aforesaid, as well as the Consent in Writing of the Owner of the Land through which the new Highway is-proposed to be made, shall be enrolled by the Clerk of the Peace amongst the Records of the said Court of Quarter Sessions: Provided always, that any Person whatever shall be at liberty, at any Time previous to the said Quarter Sessions, to inspect the said Certificate and Plan so as aforesaid lodged with the said Clerk of the Peace, and to have a Copy thereof, on Payment to the Clerk of the Peace at the Rate of Sixpence *per* Folio, and a reasonable Compensation for the Copy of the Plan.

LXXXVAs to stopping up more than One Highway connected together.

Provided always, and be it further enacted, That in any Case where it is proposed to stop up or divert more than One Highway, which Highways shall be deemed to be so connected together as that they cannot be separately stopped or diverted without interfering one with the other, it shall be lawful to include such different Highways in One Order or Certificate.

LXXXVburt may confirm Order for so doing wholly or in part.

Provided also, and be it further enacted, That in the Event of any Appeal being brought against the Whole or any Part or Parts of any Order or Certificate for diverting more Highways than One, it shall be lawful for the Court to decide upon the Propriety of confirming the Whole or any Part or Parts of such Order or Certificate without Prejudice to the remaining Part or Parts thereof.

LXXXVifsons who may think themselves aggrieved if such Highway should be ordered to be stopped up, &c may appeal.

Provided always, and be it further enacted, That when any such Certificate shall have been so given as aforesaid it shall and may be lawful for any Person who may think that he would be injured or aggrieved if any such Highway should be ordered to be diverted and turned or stopped up, either entirely or subject as aforesaid, and such new Highway set out and appropriated in lieu thereof as aforesaid, or if any unnecessary Highway should be ordered to be stopped up as aforesaid, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the Surveyor Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds of such Appeal, who is hereby required, within Forty-eight Hours after the Receipt of such Notice, to deliver a Copy of the same to the Party by whom he was required to apply to the Justices to view the said Highway ; provided that in all Cases where the said Surveyor shall have been directed by the Inhabitants in Vestry assembled to apply to such Justices as aforesaid, then the said Surveyor shall not be required to deliver a Copy of such Notice to any Party : Provided also, that

it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on the Hearing of such Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

LXXXIX In case of Appeal, Jury at Sessions, to determine whether new Highway is nearer, &c.

And be it further enacted, That in case of such Appeal the Justices at the said Quarter Sessions shall, for the Purpose of determining whether the proposed new Highway is nearer or more commodious to the Public, or whether the public Highway so intended to be stopped up, either entirely or subject as aforesaid, is unnecessary, or whether the said Party appealing would be injured or aggrieved, impanel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions ; and if, after hearing the Evidence produced before them, the said Jury shall return a Verdict that the proposed new Highway is nearer or more commodious to the Public, or that the public Highway so intended to be stopped up, either entirely or subject as aforesaid, is unnecessary, or that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and make the Order herein mentioned for diverting and turning and stopping up such Highway either entirely or subject as aforesaid, or for diverting, turning, and stopping up of such old Highway, and purchasing the Ground and Soil for such new Highway, or for stopping up such unnecessary Highway either entirely or subject as aforesaid; but if the said Jury shall return a Verdict that the proposed new Highway is not nearer or not more commodious to the Public, or that the Highway so intended to be stopped up, either entirely or subject as aforesaid, is not unnecessary, or that the Party appealing would be injured or aggrieved, then the said Court of Quarter Sessions shall allow such Appeal, and shall not make such Order as aforesaid.

XC Costs to be awarded in Appeal against stopping up, &c. Highway.

And be it further enacted, That the Court of Quarter Sessions is hereby authorized and required to award to the Party giving or receiving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting or resisting such Appeal, whether the same shall be tried or not, and such Costs and Expences shall be paid by the Surveyor or other Party as aforesaid at whose Instance the Notice for diverting and turning or stopping up the Highway, either entirely or subject as aforesaid, shall have been given; and in case the said Surveyor or other Party as aforesaid shall not appear in support thereof, the said Court of Quarter Sessions shall award the Costs of the Appellant to be paid by such Surveyor or other Party as aforesaid, and such Costs shall be recoverable in the same Manner as any Penalties or Forfeitures are recoverable under this Act.

XCI If no Appeal be made, or if dismissed, Sessions to make Order for diverting, &c. and the old Ways may be stopped. New Highway shall afterwards continue a public Highway, &c.

Provided always, and be it further enacted, That if no such Appeal be made, or being made shall be dismissed as aforesaid, then the Justices at the said Quarter Sessions shall make an Order to divert and turn and to stop up such Highway, either entirely or subject as aforesaid, or to divert, turn, and stop up such old Highway, and to purchase the Ground and Soil for such new Highway, or to stop up such unnecessary Highway, either entirely or subject as aforesaid, by such Ways and Means, and subject

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to such Exceptions and Conditions in all respects as in this Act is mentioned in regard to Highways to be widened; and the Proceedings thereupon shall be binding and conclusive on all Persons whomsoever ; and the new Highways so to be appropriated and set out shall be and for ever after continue a public Highway to all Intents and Purposes whatsoever; but no old Highway (except in the Case of stopping up of such useless Highway as herein is mentioned) shall be stopped until such new Highway shall be completed and put into good Condition and Repair, and so certified by Two Justices of the Peace upon View thereof, which Certificate shall be returned to the Clerk of the Peace, and by him enrolled amongst the Records of the Court of Quarter Sessions next after such Order as aforesaid shall have been made pursuant to the Directions herein-before contained.

XCII Party liable to Repair of old Highways to repair new Highways.

Provided always, and be it further enacted, That in every Case in which a Highway shall have been turned or diverted under the Provisions of this Act, the Parish or other Party which was liable to the Repair of the old Highway shall be liable to the Repair of the new Highway, without any Reference whatever to its parochial Locality.

XCIII Provisions as to widening of a Highway to extend to all Highways which Persons are bound to repair *ratione tenurae*, &c. Justices to fix annual or other Amount payable by Party previously bound to repair.

And be it further enacted, That the Powers and Provisions in this Act contained with respect to the widening and enlarging, diverting, turning, or stopping up any Highway shall be applicable to all Highways which any Person, Bodies Politic or Corporate, is or are bound to repair by reason of any Grant, Tenure, Limitation, or Appointment of any charitable Gift, or otherwise howsoever ; and that when such last-mentioned Highways are so widened or enlarged, turned or diverted, the same shall and may, by an Order of the Justices at a Special Sessions for the Highways, be placed under the Control and Care of the Surveyor of the Parish in which such Highways may be situate, and shall be from Time to Time thereafter repaired and kept in repair by the said Parish : Provided also, that the said Highways so widened, enlarged, diverted, or turned shall be viewed by Two Justices of the Peace, who shall make a Report thereof to the Justices at a Special Sessions for the Highways ; and such last-mentioned Justices shall, by an Order under their Hands, fix the proportionate Sum which shall be annually paid, of shall fix a certain Sum to be paid, by such Person, Bodies Politic or Corporate, his or their Heirs, Successors, or Assigns, to the said Surveyors of the Parish, in lieu of thereafter repairing the said Part of the said old Highway , and the Order of the said last-mentioned Justices shall be and continue binding on all such Person, Bodies Politic or Corporate, their Heirs, Successors, or Assigns ; and in default of Payment thereof the said Surveyor shall proceed for the Recovery of the same in the Manner as any Penalties and Forfeitures are recoverable under this Act.

XCIV Mode of proceeding before Justices if Highway is out of repair. In what Cases Justices cannot interfere.

And be it further enacted, That from and after the Commencement of this Act, if any Highway is out of repair or is not well and sufficiently repaired and amended, and Information thereof, on the Oath of One credible Witness, is given to any Justice of the Peace, it shall and maybe lawful for such Justice and he is hereby authorized and required to issue a Summons requiring the Surveyor of the Parish, or other Person or

Body Politic or Corporate chargeable with such Repairs, to appear before the Justices at some Special Sessions for the Highways in the said Summons mentioned, to be held within the Division in which the said Highway may be situate; and the said Justices shall either appoint some competent Person to view the same, and report thereon to the Justices in Special Sessions assembled, on a certain Day and Place to be then and there fixed, at which the said Surveyor of the Highways or other Party as aforesaid shall be directed to attend, or the said Justices shall fix a Day whereon they or any Two of them shall attend to view the said Highway; and if to the Justices at such Special Sessions, on the Day and at the Place so fixed as aforesaid, it shall appear, either on the Report of the said Person so appointed by them to view, or on the View of such Justices, that the said Highway is not in a State of thorough and effectual Repair, they the said Justices at such last-mentioned Special Sessions shall convict the said Surveyor or other Party liable to the Repair of the said Highway in any Penalty not exceeding Five Pounds, and shall make an Order on the said Surveyor, or other Person or Bodies Politic or Corporate liable to repair such Highway, by which Order they shall limit and appoint a Time for the repairing for the same; and in default or such Repairs being effectually made within the Time so limited, the said Surveyor, or such other Person or Body Politic or Corporate as aforesaid, shall forfeit and pay to some Person to be named and appointed in a Second Order a Sum of Money to be therein stated, and which shall be equal in Amount to the Sum which the said Justices shall, on the Evidence produced before them, judge requisite for repairing such Highway, which Money shall be recoverable in the same Manner as any Forfeiture is recoverable under this Act, and such Money when recovered shall be applied to the Repair of such Highway ; and in case more Parties than One are bound to repair any such Highway, the said Justices shall direct in their said Order what Proportion shall be paid by each of the said Parties : Provided, that if the said Highway so out of repair is a Part of the Turnpike Road, the said Justices shall summon the Treasurer or Surveyor or other Officer of such Turnpike Road, and the Order herein directed to be made shall be made on such Treasurer or Surveyor or other Officer as aforesaid, and the Money therein stated shall be recoverable as aforesaid : Provided nevertheless, that the said Justices shall not have Power to make such Order as aforesaid in any Case where the Duty or Obligation of repairing the said Highway comes in question.

XCV Mode of proceeding if Obligation to repair is disputed.

And be it enacted, That if on the Hearing of any such Summons respecting the Repair of any Highway the Duty or Obligation of such Repairs is denied by the Surveyor on behalf of the Inhabitants of the Parish, or by any other Party charged therewith, it shall then be lawful for such Justices and they are hereby required to direct a Bill of Indictment to be preferred, and the necessary Witnesses in support thereof to be subpoenaed, at the next Assizes to be holden in and for the said County, or at the next General Quarter Sessions of the Peace for the County, Riding, Division, or Place wherein such Highway shall be, against the Inhabitants of the Parish or the Party to be named in such Order for suffering and permitting the said Highway to be out of repair ; and the Costs of such Prosecution shall be directed by the Judge of Assize before whom the said Indictment is tried, or by the Justices at such Quarter Sessions, to be paid out of the Rate made and levied in pursuance of this Act in the Parish in which such Highway shall be situate: Provided nevertheless, that it shall be lawful for the Party against whom such Indictment shall be so preferred at the Quarter Sessions as aforesaid to remove such Indictment by Certiorari or otherwise into His Majesty's Court of King's Bench.

Status: This is the original version (as it was originally enacted).

XCVI Fines, Penalties, and Forfeitures how to be levied and applied.

And be it further enacted, That no Fine, Issue, Penalty, or Forfeiture for not repairing the Highway, or not appearing to any Indictment for not repairing the same, shall hereafter be returned into the Court of Exchequer or other Court, but shall be levied by and paid into the Hands of such Person residing in or near the Parish where the Road shall lie, as the Justices or Court imposing such Fines, Issues, Penalties, or Forfeitures shall order and direct, to be applied towards the Repair and Amendment of such Highway, and the Person so ordered to receive such Fine shall and is hereby required to receive, apply, and account for the same according to the Direction of such Justices or Court, or in default thereof shall forfeit Double the Sum received; and if any Fine, Issue, Penalty, or Forfeiture to be imposed for not repairing the Highway, or not appearing as aforesaid, shall hereafter be levied on any Inhabitant of such Parish, Township, of Place, then such Inhabitant shall and may make his Complaint to the Justices at a Special Sessions for the Highways ; and the said Justices are hereby empowered and authorized, by Warrant under their Hands, to make an Order on the Surveyor of the Parish for Payment of the same out of the Money receivable by him for the Highway Rate, and shall within Two Months next after Service of the said Order on him pay unto such Inhabitant the Money therein mentioned.

XCVII Justices empowered to award Costs to Defendant, where Information, &c. is withdrawn or dismissed.

And be it further enacted, That if any Surveyor or other Person shall be summoned before any Justice to answer any Information or Complaint exhibited or made against him touching or concerning any Offence committed or alleged to have been committed by such Surveyor or other Person against the Provisions of this Act, or for any supposed Neglect of Duty, in case such Surveyor or other Person be convicted thereof, such Justice shall be authorized and empowered to order the Payment by such Surveyor or other Person of all Costs or Proceedings against him; but in case such Information or Complaint shall afterwards be withdrawn or quashed or dismissed, or if the Defendant shall be acquitted of the Offence or Neglect of Duty charged against him, it shall be lawful for such Justices to order and award that the Person exhibiting or making such Information Or Complaint shall pay to the Defendant all such Costs as to such Justice shall seem reasonable; and in default of immediate Payment of the Sum so awarded, it shall be lawful for such Justices to cause the same to be levied by Distress and Sale of the Goods and Chattels Of the Person ordered to pay the same, together with the Costs of such Distress and Sale ; and if Goods and Chattels of such Person sufficient to answer the Sum so awarded, with such Costs as aforesaid, cannot be found, it shall be lawful for such Justices to commit such Person to the Common Gaol or House of Correction, there to be kept to hard Labour, for any Time not exceeding One Calendar Month, unless the Sum so awarded, together with all Costs and Expences, shall be sooner paid and satisfied.

XCVIICourt may award Costs to the Prosecutor.

And be it further enacted, That it shall and may be lawful for the Court before whom any Indictment shall be preferred for not repairing Highways to award Costs to the Prosecutor, to be paid by the Person so indicted, if it shall appear to the said Court that the Defence made to such Indictment was frivolous or vexatious.

XCIX No Presentment against Inhabitants for Highway being out of repair.

And be it further enacted, That from and after the Commencement of this Act it shall not be lawful to take or commence any legal Proceeding, by Presentment, against the Inhabitants of any Parish, or other Person, on account of any Highway or Turnpike Road being out of repair.

C Inhabitants and Officers in Parishes may give Evidence.

And be it further enacted, That no Person shall be deemed incompetent to give Evidence or be disqualified from giving Testimony or Evidence, in any Action, Suit, Prosecution, or other legal Proceedings to be brought or had in any Court of Law or Equity, or before any Justice or Justices of the Peace, under or by virtue of this Act, by reason of being an Inhabitant of the Parish in which any Offence shall be committed, or of being a Treasurer, Clerk, Surveyor, District Surveyor, Assistant Surveyor, Collector, or other Officer appointed by virtue of this Act, nor shall such Testimony or Evidence for any of the Reasons aforesaid be rejected or liable to be questioned or set aside.

CI Justices may proceed by Summons in the Recovery of Penalties.

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

CII Compelling Witnesses to attend and give Evidence.

And be it further enacted, That if any Person, after having been paid or tendered a reasonable Sum of Money for his Costs, Charges, and Expences, shall be summoned as a Witness to give Evidence before any Justices of the Peace touching any Matter or Pact contained in any Information or Complaint for any Offence against this Act, either on the Part of the Prosecutor or the Person accused, and shall refuse or neglect to appear at the Time and Place for that Purpose appointed, without a reasonable Excuse for his Refusal or Neglect, or appearing shall (after having been paid or tendered a reasonable Sum for his Costs, Charges, and Expences,) refuse to be examined upon Oath and give Evidence before such Justice of the Peace, then and in either of such Cases such Person shall forfeit for every such Offence any Sum not exceeding Five Pounds.

CIII Forfeitures, Costs, and Charges may be levied by Distress and Sale. Application of Penalties.

And be it further enacted, That all Penalties and Forfeitures by this Act inflicted or authorized to be imposed for any Offence against the same, and all Balances due from a Surveyor, and all Costs and Charges to be allowed and ordered by the Authority of this Act, (the Manner of levying, recovering, and applying of which is not hereby

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otherwise particularly directed,) shall, upon Proof and Conviction of the Offences respectively before any Two or more Justices, either by the Confession of the Party offending, or by the Oath of any credible Witness or Witnesses (which Oath such Justices are in every Case hereby fully authorized to administer), or upon Order made as aforesaid, be levied, together with the Costs attending the Information, Summons, and Conviction, by Distress and Sale of the Goods and Chattels of the Offender or Person liable or ordered to pay the same respectively, by Warrant under the Hands of Two or more Justices before whom the Party may have been convicted (which Warrant such Justices are hereby empowered and required to grant); and the Overplus (if any), after such Penalties, Forfeitures, and Fines, and the Charges of such Distress and Sale, are deducted, shall be returned, upon Demand, unto the Owner or Owners of such Goods and Chattels ; and in case Such Fines, Penalties, and Forfeitures shall not be forthwith paid upon Conviction, then it shall be lawful for such Justices as aforesaid to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of Distress, unless the Offender or Offenders shall give sufficient Security, to the Satisfaction of such Justices as aforesaid, for his or their Appearance before such Justices on such Day or Days as shall be appointed for the Return of such Warrant of Distress, such Day not being later than Seven Days from the Time of taking any such Security, and which Security the said Justices as aforesaid are hereby empowered to take by way of Recognizance or otherwise; or in case it shall appear to the Satisfaction of such Justices, either by the Confession of the Offender or otherwise, that he hath not Goods or Chattels within the Jurisdiction of such Justices sufficient whereon to levy all such Penalties and Forfeitures, Costs and Charges, such Justices may at their Discretion, without issuing any Warrant of Distress, commit the Offender for such Period of Time, and in such and like Manner, as if a Warrant of Distress had been issued, and Nulla bona returned thereon ; but if a Warrant of Distress shall be issued, and upon the Return thereof it shall appear that no sufficient Distress can be had, whereupon to levy the said Penalty, Forfeiture, or Fine, and Costs and Expences aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the Satisfaction of such Justices, upon the Confession of the Offender, or otherwise, that he hath not sufficient Goods and Chattels whereupon such Penalty, Forfeiture, or Fine, Costs, and Expences, could be levied if a Warrant of Distress were issued, such Justices shall not be required to issue such Warrant, but in such Case such Justices are hereby required, by Warrant under their Hands, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction of the County, Riding, or Place where the Offender shall be or reside, there to be kept to hard Labour, for any Term not exceeding Three Calendar Months unless such Penalties, Forfeitures, and Fines, and all reasonable Charges attending the same, shall be sooner paid and satisfied; and the Penalties and Forfeitures, when so levied, shall be paid, the one Half to the Informer, and the other Half to the Surveyor of the Parish where such Offence, Neglect, or Default shall happen, to be applied towards the Repair of the Highways thereof, unless otherwise directed by this Act; but in case the Surveyor shall be the Informer, then the whole shall be applied towards the Repair of such Highway.

CIV Satisfaction recoverable for special Damage; but Distress not to be deemed unlawful for Want of Form in the Proceedings. Plaintiff not to recover for Irregularity if Tender of Amends be made.

And be it further enacted, That where any Distress shall be made for any Sum of Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party making the same be deemed a Trespasser, on account of any Default or Want of Form in any Proceedings relating thereto, nor shall the Party

distraining be deemed a Trespasser ab initio on account of any Irregularity which shall be afterwards done in making the Distress, but the Person aggrieved by such Irregularity may recover full Satisfaction for the special Damage in an Action on the Case: Provided always, that no Plaintiff shall recover in any Action for any Irregularity, Trespass, or wrongful Proceedings, if Tender of sufficient Amends shall be made by or on behalf of the Party who shall have committed or caused to be committed any such Irregularity, Trespass, or wrongful Proceedings, before such Action brought; and in case no such Tender shall have been made, it shall and may be lawful for the Defendant in any such Action, by Leave of the Court where such Action shall depend, at any Time before Issue joined, to pay into Court such Sum of Money as he shall see fit, whereupon such Proceedings or Orders and Judgment shall be had, made, and given in and by such Court as in other Actions where the Defendant is allowed to pay Money into Court.

CV Appeal may be made to Quarter Sessions against Rate, &c.

Provided also, and be it further enacted, That if any Person shall think himself aggrieved by any Rate made under or in pursuance of this Act, or by any Order, Conviction, Judgment, or Determination made, or by any Matter or Thing done, by any Justice or other Person in pursuance of this Act, and for which no particular Method of Relief hath been already appointed, such Person may appeal to the Justices at the next General or Quarter Sessions of the Peace to be held for the County, Division, Riding, or Place wherein the Cause of such Complaint shall arise, such Appellant first giving or causing to be given to the Surveyor or Surveyors, or to such Justice or other Person by whose Act such Person shall think himself aggrieved, Notice in Writing of his Intention to bring such Appeal, together with a Statement in Writing of the Grounds of such Appeal, within Fourteen Days after such Rate shall have been made, or Cause of Complaint shall have arisen, and within Four Days after such Notice entering into a Recognizance before some Justice, with Two sufficient Sureties, conditioned to try such Appeal at, and abide the Order of, and pay such Costs as shall be awarded by the Justices at such General or Quarter Sessions ; and such Justices, upon hearing and finally determining the Matter of such Appeal, shall and may, according to their Discretion, award such Costs to the Party appealing or appealed against as they shall think proper; and their Determination in or concerning the Premises shall be conclusive and binding on all Parties to all Intents and Purposes whatsoever: Provided nevertheless, that in case there shall not be Time to give such Notice and enter into such Recognizance as aforesaid before the next Sessions to be holden after the making of any Rate or the Cause of Complaint shall have arisen, then and in every such Case such Appeal may be made to the next following Sessions, and shall be then heard and determined: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal, unless such Notice and Statement shall have been so given as aforesaid, nor on the Hearing of such Appeal to go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

CVI Provisions of 41 G.3 c.23 applicable to this Act.

And be it further enacted, That in all Cases of Appeal against the Rate or Assessment made in pursuance of this Act the several Provisions and Enactments contained in a certain Act made and passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for the better Collection of the Rates made*

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for the Relief of the Poor, shall be applicable thereto, as if the same had been repeated and re-enacted in this Act with respect to such Appeals.

CVII Rates and Proceedings not to be quashed for Want of Form.

Provided always, and be it further enacted, That no Rate, nor any Proceeding to be had touching the Conviction of any Offender against this Act, or any Order made, or any other Matter or Thing done or transacted in or relative to the Execution of this Act, shall be vacated or quashed for Want of Form, or be removed or removable (except as herein mentioned) by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*,

CVIII In case of Appeal, Sessions may grant a special Case.

And be it further enacted, That in any Case of Appeal the Court of Quarter Sessions before whom the same is heard and determined may, if they think fit, state the Facts specially for the Determination of His Majesty's Court of King's Bench thereon, In which Case it shall be lawful to remove the Proceedings, by Writ of Certiorari or otherwise, into the said Court of King's Bench.

CIX Limitation of Actions. Defendant may plead the General Issue. Costs.

And be it further enacted, That no Action or Suit shall be commenced against any Person for any thing done in pursuance of or under the Authority of this Act until Twenty-one Days Notice has been given thereof in Writing to the Justice, Surveyor, or Person against whom such Action is intended to be brought, nor after sufficient Satisfaction or Tender of Satisfaction has been made to the Party aggrieved, nor after Three Calendar Months next after the Fact committed for which such Action or Suit shall be so brought; and every such Action shall be brought, laid, and tried where the Cause of Action shall have arisen, and not in any other County or Place ; and the Defendant in such Action or Suit may plead the General Issue, and give this Act and every special Matter in Evidence at any Trial which shall be had thereupon; and if the Matter or Thing shall appear to have been done under or by virtue of this Act, or if it shall appear that such Action or Suit was brought before Twenty-one Days Notice thereof given as aforesaid, or that sufficient Satisfaction was made or tendered as aforesaid, or if any Action or Suit shall not be commenced within the Time before limited, or shall be laid in any other County than as aforesaid, then the Jury shall find a Verdict for the Defendant therein; and if a Verdict shall be found for such Defendant, or if the Plaintiff in such Action or Suit shall become Nonsuit, or suffer a Discontinuance of such Action, or if, upon any Demurrer in such Action, Judgment shall be given for the Defendant therein, then and in any of the Cases aforesaid such Defendant shall have Costs as between Attorney and Client, and shall have such Remedy for recovering the same as any Defendant may have for his or her Costs in any other Case by Law.

CX Amount of Fees.

And be it further enacted, That the several Fees hereafter limited and expressed, and no others, shall be taken by the Clerk of the Peace, Clerk to the Justices, or others, for their several respective Services in the; Execution of this Act; (that is to say,) the Sum of Sixpence for every Information; the Sum of One Shilling for every Summons or Warrant, and Sixpence for the Service thereof; the Sum of Sixpence for every Notice, and Sixpence for the Service thereof; the Sum of One Shilling for every Order,

and Sixpence for the Service thereof; the Sum of Two Shillings for every Warrant of Distress ; the Sum of One Shilling for every Appointment; and the Sum of Two Shillings for every Conviction : Provided always, that in no Place regulated by a Local Act of Parliament, when the Amount of the Fees to be taken by the Clerk to the Justices, or others, in any Proceeding for the Recovery of any Rate shall be less than the Fees herein-before mentioned, shall it be lawful for such Clerk to the Justices or others to demand or take a greater Fee for any similar Proceeding under this Act than the Fee which may be mentioned or directed to be taken by such Local Act.

CXI Expences for defending Prosecutions agreed upon at a Vestry Meeting, how to be paid.

And be it further enacted, That if the Inhabitants of any Parish shall agree at a Vestry to defend any Indictment found against any such Parish, or to appeal against any Order made by or Proceeding of any Justice of the Peace in the Execution of any Powers given by this Act, or to defend any Appeal, it shall and may be lawful for the Surveyor of such Parish to charge in his Account the reasonable Expences incurred in defending such Prosecution, or prosecuting or defending such Appeal, after the same shall have been agreed to by such Inhabitants at a Vestry or public Meeting as aforesaid, and allowed by Two Justices of the Peace within the Division where such Highway shall be ; which Expences, when so agreed to or allowed, shall be paid by such Parish out of the Fines, Forfeitures, Payments, and Rates authorized to be collected and raised by virtue of this Act: Provided nevertheless, that if the Money so collected and raised is not sufficient to defray the Expences of repairing the Highways in the said Parish, as well as of defending such Prosecution, or prosecuting or defending such Appeal as aforesaid, the said Surveyor is hereby authorized to make, collect, and levy an additional Rate in the same Manner as the Rate by this Act is authorized to be made for the Repair of the Highway.

CXII Limiting Powers of 57 G.3 c. 29.

And be it further enacted, That nothing in this Act contained shall be construed to abridge, repeal, alter, amend, or interfere with the Powers and Provisions contained: in an Act passed in the Fifty-seventh Year of the Reign of King *George* the Third, intituled *An Act for better paving, improving, and regulating the Streets of Idle Metropolis, and removing and preventing Obstructions therein*, or the Powers and Provisions contained in any Act relating to any particular Parish or Place for any of the Purposes in this Act mentioned.

CXIII Not to extend to Turnpike Roads, or to Roads under Local Acts.

Provided always, and be it further enacted, That nothing in this Act contained shall apply to any Turnpike Roads, except where expressly mentioned, or to any Roads, Bridges, Carriageways, Cartways, Horseways, Bridleways, Footways, Causeways, Churchways, or Pavements, which now are or may hereafter be paved, repaired, or cleansed, broken up, or diverted, under or by virtue of the Provisions of any Local or Personal; Act or Acts of Parliament.

CXIV Not to affect the Universities ;

Provided always, and be it further. enacted, That nothing in this Act contained shall extend to alter or in any Manner to affect any of the Rights or Privileges of the

Universities of *Oxford* or *Cambridge*, or any of the Powers vested by Charter or otherwise in the Chancellors, Masters, and Scholars, and their Successors, of the said Universities.

CXV nor the Rights and Liberties of the City of London ;

Provided always, and be it further enacted, That nothing in this Act contained shall extend to alter or in any Manner affect the City of *London* and the Liberties thereof, or the Rights, Interests, Privileges, Franchises, or Authorities of the Mayor and Commonalty and Citizens of the City of *London*, or their Successors, or the Lord Mayor and Aldermen of the said City, or the Lord Mayor of the said City for the Time being as Conservator of the River *Thames* or otherwise, or to prohibit, defeat, alter, or diminish any Power, Authority, or Jurisdiction which at the Time of making this Act the said Mayor and Commonalty and Citizens, the said Lord Mayor and Aldermen of the said City, Or the said Lord Mayor for the Time being as Conservator of the River *Thames* or otherwise, did or might lawfully claim, use, or exercise by any Act of Parliament or otherwise, or to vary or alter any of the Provisions or Regulations thereby made, directed, or provided, within the said City of *London* and the Liberties thereof, any thing herein contained to the contrary thereof in anywise notwithstanding.

CXVI nor the Act 1 G.4 c.vii.

Provided always, and be it further enacted, That nothing in this Act contained shall extend to alter or in any Manner affect the. Provisions of an Act passed in the First Year of the Reign of His, late Majesty King *George* the Fourth, intituled *An Act for regulating the Repairs of Bridges in the County of Montgomery*, so far as the same relates to the Repairs of so much of the Highways as lie next adjoining to any Ends of any Bridges within the said County of Montgomery, the Repairs of which have already been made chargeable upon the Rates of the said County under the Provisions of the said recited Act.

CXVII Powers of Commissioners of Sewers not abridged.

Provided always, and be it further enacted, That nothing in this Act contained shall extend to or be deemed or construed to extend to alter, affect, restrain, or abridge the Powers or Authorities given to the Commissioners of Sewers by any Act of Parliament whatsoever, or to vary or alter any of the Provisions or Regulations thereby made, directed, or provided, anything herein contained to the contrary thereof in anywise notwithstanding.

CXVIII Concerning the Forms of Proceedings.

And be it further enacted, That the Forms of Proceedings relative to the several Matters contained in this Act, which are set forth and expressed in the Schedule hereto annexed; shall be used' upon all Occasions, with such Additions or Variations only as may be necessary to adapt them to the particular Exigencies of the Case; and that no Objection shall be made or Advantage taken for Want of Form in any such Proceedings by any Person whomsoever.

CXIX Commencement of Act.

And be it further enacted, That this Act shall commence and take effect from and after the Twentieth Day of *March* One thousand eight hundred and thirty-six.

CXX Act may be altered this Session.

And be it further enacted, That this Act may be altered, amended, or repealed in this present Session of Parliament.