



Highway Act 1835

1835 CHAPTER 50

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.