



ANNO QUINQUAGESIMO NONO

GEORGI II. REGIS.

Cap. xxii.

An Act for providing that the several Highways within the Parish of *Manchester* in the County Palatine of *Lancaster* shall be repaired by the Inhabitants of the respective Townships within which the same are situate. [8th April 1819.]

WHEREAS the Parish of *Manchester* in the County Palatine of *Lancaster* is a very large and populous Parish, being Fifty-two Miles in Circumference, and containing a Population of upwards of One hundred and forty thousand Inhabitants, and the same consists of Twenty-nine different Townships, (that is to say,) the several Townships of *Ardwick, Blakeley, Bradford, Burnage, Broughton, Cheet-ham, Crumpsall, Chorlton with Hardy, Chorlton Row, Didsbury, Droylsden, Denton, Failsworth, Gorton, Heaton Norris, Haughton, Harpurhey, Hulme, Levenshulme, Moss Side, Moston, Manchester, Newton, Openshaw, Reddish, Rusholme, Stretford, Salford, and Withington*, and within each of the said Townships (except the Townships of *Moss Side* and *Bradford*) there are several public Highways, as well Carriageways as Bridleways and Foot ways, some whereof are ancient Highways, and have been used as such from Time whereof the Memory of Man is not to the contrary, others whereof are Turnpike Roads made and laid out by the Authority of several Acts of Parliament, and the Remainder thereof are Roads and Streets newly laid out by the Proprietors of the Lands on which the same are situate, for their own Advantage and Emolument, but which, having been dedicated to and adopted by the Public, have become common Highways,

[Local.] 7 C

ways, and such Highways contain in the whole a Length of One hundred and twenty-two Miles and upwards, including the several Streets in the Towns of *Manchester* and *Salford*: And whereas in each of the said Townships (except the said Townships of *Moss Side* and *Bradford*) there are, and from the Time of the first Institution of the Office of Surveyors of the Highways, by the general Law of the Realm, there have been, Surveyors of the Highways for such of the said respective Townships, and no Surveyors of the Highways have been ever appointed for the Parish at large, and until the Year One thousand seven hundred and eighty-one all Repairs of Highways within the said Parish (except such Highways as were exclusively repaired by Trustees of Turnpike Roads, or by Individuals liable to the Reparation thereof *ratione tenuræ*, or by reason of any other special or particular Cause of Obligation, and except certain Portions of Two Highways in *Denton* repaired by the Inhabitants of the Township of *Haughton*) were done and performed by the Inhabitants of the several Townships in which such Highways are respectively situate, without any such Repairs being done or performed by the Inhabitants at large of the said Parish, and but for the Presentment and Indictments hereinafter mentioned, and the Proceedings thereon, the Inhabitants of each of the said Townships might have been charged with the Reparation of all the Highways within such Townships respectively by reason of a general Custom in the said Parish in that Behalf (except such Roads as were subject to be repaired by particular Individuals), and the Inhabitants of the said Parish would have been entitled to plead to any Indictment or other Proceeding for not repairing any such Highways that by reason of such Custom the said Inhabitants were exempt from the Reparation of the same: And whereas in the Year One thousand seven hundred and eighty-one a Presentment was made by One of His Majesty's Justices of the Peace against the Inhabitants of the said Parish, for not repairing Part of a certain Highway (called *Salter's Lane*), and lying chiefly within the Township of *Rusholme* aforesaid; and in the Year One thousand seven hundred and eighty-four an Indictment was found against the same Inhabitants for not repairing particular Parts of the said Lane, being either a Continuance of the Road so presented as aforesaid, or Parts thereof; and in the Year One thousand seven hundred and ninety three a certain other Indictment was found against the same Inhabitants, for not repairing a certain Highway in the Township of *Manchester* aforesaid; and in the Year One thousand seven hundred and ninety-six another Indictment was found against the same Inhabitants, for not repairing a certain Continuation or further Part of the said last-mentioned Highway; and subsequently, in the said last-mentioned Year, an Indictment was found against the same Inhabitants for not repairing a certain further Length of the said last-mentioned Highway; and in the Year One thousand eight hundred and nine an Indictment was found against the same Inhabitants, for not repairing a certain Highway in the Township of *Levenshulme* aforesaid; to which said Presentment and Indictments respectively the Persons served with Process thereon were advised to plead and did plead the General Issue, that the said Inhabitants were not guilty, and such Presentment and Indictments were respectively brought to Trial, and Verdicts were found thereon against such Inhabitants, and Judgments were duly had and given against the said Inhabitants according to the said respective Verdicts: And whereas upon the Occasion of defending the said Presentment and Indictments the Persons appearing to and defending the same were advised that

that the Inhabitants of any smaller Division than a Parish could not be charged with the Repair of any Highways other than and except such Highways as had from Time immemorial been actually repaired by the Inhabitants of such Division, and that an Indictment could not be supported against the Inhabitants of any such smaller Division in respect of any general Custom that the Inhabitants of such Division had been used to maintain all the Highways within the same Division, and were also advised that the Inhabitants of any Parish could not defend themselves against any Indictment or other Proceeding for not repairing any Highway within such Parish by reason of any general Custom for the Inhabitants of the several Townships within such Parish to repair all the Highways within such respective Townships, or in any other Manner than by showing that the alleged Road in question was not a public Highway, or that the same was in sufficient Repair, and such was until very lately generally believed and supposed by Persons learned in the Law to be the Law of the Land in respect of the Matters aforesaid; but it hath been lately ruled and determined that such a Custom was good and valid in Law, and that by reason thereof the Inhabitants of any Township or other Division within a Parish may be charged with the Repair of all Highways within such Township or Division, without its being necessary to show that such Township or Division had from Time immemorial been used and accustomed to repair the particular Highways in respect whereof any such Indictment was preferred or other Proceeding instituted, and that the Inhabitants of the Parish at large may discharge themselves from the Liability of repairing any Highway by pleading such a Custom, and the Law is now fully settled and established accordingly: And whereas in the Year One thousand eight hundred and sixteen an Indictment was preferred against the Inhabitants of the said Parish for not repairing a certain Highway within the Township of *Chorlton Row*, which Highway was first made and laid out within the Space of Thirty Years now last past, by the Owners of the Lands in which the same is situate; and the Churchwardens of the said Parish, being served with Process upon such Indictment, as Inhabitants of the said Parish, did plead to the same that there was a Custom in the said Parish that the several Townships aforesaid should repair and maintain the several Highways within such respective Townships, the several Highways in respect of which such Presentments had been made and such former Indictments found and such Verdict obtained as aforesaid only excepted, and such last-mentioned Indictment stood for Trial; but it was, after Issue joined, and only a few Days before the Assizes at *Lancaster*, where the said Trial was to have taken place, accidentally discovered that the said Portion of the said Two Highways in *Denton* were repaired by the Inhabitants of *Haughton*; and inasmuch as the said last-mentioned Fact was not alleged by way of Exception or otherwise in the said Plea, the said Churchwardens were advised the said Trial would be attended with great Risk on the Part of the said Parish; and as it was apprehended that the said Presentment and Indictments upon which such Proceedings had been before had as aforesaid, with the Verdicts and Judgments thereon, might be deemed conclusive Evidence that the Inhabitants of the said Parish were liable as at Common Law to repair such Highways within the same in respect whereof no special Prescription could be shown, and that the Liability of the said Parish to repair the several Highways so presented and indicted as aforesaid

The Inhabitants of the Parish of Manchester not to be subject to the Repair of Highways, except as herein mentioned.

aforesaid would not be sufficiently shown to be a mere Exception from such general Custom, the said Churchwardens were therefore induced, by way of Compromise, to agree that the Expense of repairing the Highway so indicted as last aforesaid should be paid by the Inhabitants of the said Parish, after deducting certain Sums of Money agreed to be contributed by the Prosecutors of the same Indictment and the Inhabitants of the Township of *Chorlton Row*, and such Agreement was accordingly carried into execution, and a Verdict was allowed to pass without Opposition against the Inhabitants of the said Parish: And whereas from the Extent and Magnitude of the said Parish there will be great Difficulty and Inconvenience in repairing all Highways within the same in respect of which it cannot be shown that the same have been immemorially repaired by the Inhabitants of particular Townships, or otherwise by reason of any particular Charge, and especially the several Streets and Highways which have been or may be hereafter laid out by particular Individuals in different Parts of the said Parish; and in all Turnpike Acts for making any new Roads whereof any Part is within the said Parish the Burden of repairing such new Roads is directed to be sustained by the Inhabitants of the respective Townships within which the same are situate, and it will be a great Relief and Benefit to the Inhabitants of the said Parish and of the several and respective Townships within the same, and will be the Means of preventing Litigations in future, that, notwithstanding the Verdicts and Judgments upon the said Presentment and Indictments, the several Townships within the said Parish shall be severally and respectively made liable to the Repair of the Highways within the same, according to the ancient Usage and Custom in that Behalf, save and except as to the said Highways in respect whereof such Verdicts have been given as aforesaid, and such other Highways as by Custom or Tenure or other particular Obligation have been heretofore repaired by any other Person or Persons than the Inhabitants of such respective Townships as aforesaid, instead of being liable to contribute with the Inhabitants at large of the said Parish towards the Repairs of Highways in other Townships of the same Parish; but the beneficial Purposes aforesaid cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act no Indictment, Presentment, or other Prosecution shall be commenced, had, or prosecuted against the Inhabitants of the said Parish for the Neglect or Omission to repair or maintain any Highway, Footway, or Bridleway within the same Parish, and that the said Inhabitants shall not be in anywise charged with or liable to the Reparation of any Highways, the several Highways in respect of which such Presentment hath been made and such Indictments have been preferred and such Verdicts had and obtained as aforesaid, and any other Highways in respect of which any Verdicts may have heretofore been given against the Inhabitants of the Parish at large, if any such there be, only excepted, which said last-mentioned Highways shall continue to be repaired by and at the Expense of the Inhabitants at large of the said Parish, in as full, large, and ample a Manner as they are liable to the Maintenance and Reparation of the same at the Time of the passing of this Act.

II. And

II. And be it further enacted, That in case any Indictment or other Proceeding shall be had or instituted or is now depending against the Inhabitants of the said Parish, for the not repairing any Highway within the same as aforesaid (except as aforesaid), it shall be sufficient for the said Inhabitants to plead the General Issue, that they are not guilty, and such Inhabitants shall upon such Plea be entitled to a Verdict of Acquittal; and it shall also be lawful to and for the said Inhabitants to apply by Motion to any Court in which any such Indictment or other Proceeding shall be instituted or depending, to quash the same, and the same shall be thereupon quashed accordingly.

Inhabitants may plead the General Issue.

Indictments, &c. may be quashed.

III. And be it further enacted, That the Inhabitants of the several Townships within the said Parish shall be liable to repair and amend all Highways within such Townships respectively, as fully and completely as the Inhabitants of every Parish by the Laws of this Realm are liable to repair the several Highways within the same (except such Highways in respect whereof the said several Proceedings have been had and the said Verdicts have been given as aforesaid, and any other Highway in respect whereof any Verdict hath heretofore been obtained against the Inhabitants at large of the said Parish, if any such there be, and except as herein-after is mentioned).

Highways to be repaired by Townships.

IV. And be it further enacted, That on any Indictment, Presentment, or other Proceeding against the Inhabitants of any of the said Townships, for not repairing any Highway, Bridleway, or Footway within any such Township, it shall be sufficient to allege generally that the Inhabitants of such Township ought to repair and amend such Highway, Bridleway, or Footway, without setting forth any Custom or Prescription for that Purpose, or referring to the Authority of this Act.

On Indictments it shall be sufficient to allege that Township ought to repair, &c.

V. Provided always, and be it further enacted and declared, That nothing herein contained shall extend or be deemed or construed to extend to exempt any Person or Persons, Body Politic or Corporate, or the Inhabitants of any Division within any of the Townships of the said Parish, from the Repair of any Highways to the Reparation of which any such Person or Persons, Body Politic or Corporate, or Inhabitants, was or were, could or might be liable, by reason of any Tenure, Inclosure, Prescription, Custom, or other good and lawful Cause of Obligation, but that all such Person and Persons, Body Politic and Corporate, and Inhabitants, shall, notwithstanding anything herein contained, be charged and chargeable with the Repairs and Maintenance of all such Highways as last aforesaid, in as full and ample a Manner as they could or might be respectively charged with and liable to the same in case this Act had not been passed.

Act not to discharge particular Liability by Tenure, &c.

VI. Provided also, and be it further enacted, That in case any Indictment or other Proceeding is now depending, or shall or may hereafter be brought, preferred, or instituted against the Inhabitants of any of the said Townships for not repairing any Highway or Highways within such Townships respectively, the said Highways which are to be repaired by the Inhabitants of the said Parish at large as aforesaid excepted, it shall not be lawful to and for the Inhabitants of any such Township to defend themselves against any such Indictment or other Proceeding by reason of the

Townships to plead the Liability by Tenure, &c. specially.

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Liability

Liability of any Person or Persons, Body Politic or Corporate, or the Inhabitants of any other Division, to repair such Highway, without specially pleading the Liability of such Person or Persons, Body Politic or Corporate, or Inhabitants, to do and perform such Repair, in such and the same Manner as it would have been necessary to plead the same in case such Township had been an entire Parish, and the Inhabitants thereof had been indicted, as being the Inhabitants of a Parish, for not repairing any such Highway.

May plead double by Leave of Court, &c.

VII. Provided also, and be it further enacted, That it shall be lawful to and for the Inhabitants of such Township, by Leave of the Court in which any such Indictment or Proceeding shall be had or instituted or shall be depending, to plead as well the General Issue that they are not guilty, as any One or more special Plea or Pleas, whereby they shall claim to be exempt from the Repairs of any such Highway by reason of the Liability of any Person or Persons, Body Politic or Corporate, or the Inhabitants of any such Division as aforesaid, to repair the same.

Inhabitants of Haughton to continue liable, as before, to repair certain Roads in Denton, but not to be prevented by this Act from disputing such Liability.

VIII. Provided also, and be it further enacted, That the Inhabitants of the said Township of *Haughton*, notwithstanding anything herein contained, shall be, remain, and continue liable to the Repairs of the said Portion of the said Two Highways in *Denton*, in as full and ample a Manner as they were or could or might be subject or liable to the Reparation thereof in case this Act had not passed; but the said Inhabitants of *Haughton* shall not be precluded or debarred by reason of anything herein contained from disputing such Liability, in as full and ample a Manner as they could or might have disputed the same if this Act had not passed.

Surveyors to be appointed for the Roads to which the Parish are liable to repair.

IX. And be it further enacted, That it shall and may be lawful for His Majesty's Justices of the Peace for the said County of *Lancaster*, at any Special Session for the Highways to be holden in and for the Division of *Manchester* in the Hundred of *Salford*, to appoint One or more Person or Persons as Surveyor or Surveyors of the Highways within the said Parish which the Inhabitants of the said Parish are liable to repair as aforesaid; and such Surveyor or Surveyors shall be subject to all such Rules, Orders, and Regulations as the Surveyor or Surveyors of every Parish or Parishes is or are or shall or may be hereafter subject or liable according to the general Laws and Statutes of this Realm, except as herein-after is mentioned.

Provision for defraying the Expense of the Repairs for which the Parish is liable.

X. And whereas the general Power and Provisions for the Repair of Highways by Statute Duty, Composition, and Assessments cannot without great Difficulty and Inconvenience be applied to the Reparation of the Highways which the Inhabitants of the said Parish are subject and liable to repair as aforesaid: Be it therefore further enacted, That it shall be lawful for His Majesty's Justices of the Peace, at any such Special Session as aforesaid, to order and appoint any Sum or Sums of Money which to them shall seem meet and reasonable to be raised for the Repairs of such Highways, and the Money so directed to be raised shall be levied by an Order of the said Justices at such Special Sessions to the Overseers of the Poor or other proper Officer or Officers of the several Townships within the said Parish, in the same Manner and in the same Proportions as the
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said several Townships respectively are and from Time to Time shall and may be liable to contribute to the Payment of the County Rate of the said County, and to be paid into the Hands of such Person or Persons as the said Justices shall appoint in that Behalf; but in case any Person or Persons shall be dissatisfied with respect to the whole Amount so ordered and appointed to be raised as aforesaid, it shall be lawful for such Person or Persons to appeal against such Order in such Manner and subject to such Provisions and Regulations as are expressed and contained in a certain Act passed in the Thirteenth Year of His present Majesty's Reign, 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,* in respect of Appeals by the said Act allowed and appointed to be made. 13 G.3. c.78.

XI. And be it further enacted, That the Costs and Charges of obtaining this Act shall be settled, ascertained, and allowed by His Majesty's Justices of the Peace at such Special Sessions as aforesaid, and shall be defrayed and raised in the Manner herein-before directed and appointed with respect to raising Money for the Repairs of the said Highways to the Reparations whereof the Inhabitants of the said Parish are to continue subject and liable as aforesaid. For defraying Expenses of obtaining the Act.

XII. And be it further enacted, That all the Regulations and Provisions mentioned and contained in the said Act passed in the Thirteenth Year of His present Majesty's Reign, or in any other Act or Acts, touching or relating to the Repair and Amendment of the Highways, shall continue to be in full force and virtue with respect to all Highways within the said Parish, and shall be applied and executed in the same Manner as if this Act had not passed, except so far as the same are varied and altered by the Regulations and Provisions herein mentioned and contained. Provisions of Highway Acts to remain in force, except so far as expressly varied.

XIII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others, without being specially pleaded. Public Act.

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