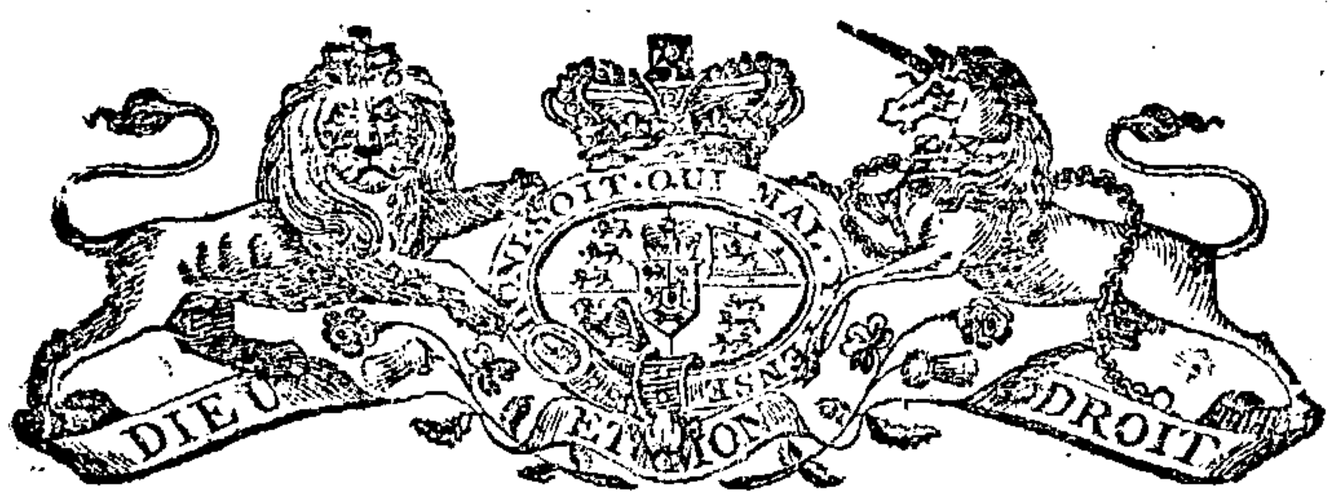

ANNO QUADRAGESIMO SEXTO

GEORGII III. REGIS.

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Cap. 39.

An Act for better repairing the Streets, Lanes, and Paſſages within the City of *Exeter*, and County of the ſaid City; and for amending an Act paſſed in the Firſt Year of His preſent Majeſty, intituled, *An Act for enlightening the Streets within the City of* Exeter *and Suburbs thereof*; and for the better Regulation of the Watch within the ſaid City and County, and for otherwiſe improving the ſame. [23d *May* 1806.]

WHEREAS an Act was paſſed in the Thirteenth Year of the Reign of His preſent Majeſty, 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 publick Highways within that Part of* Great Britain *called* England, *and for other Purpoſes*: And whereas the publick Ways within the City of *Exeter* and the County of the ſaid City are in very bad Condition, notwithſtanding the Juſtices of the Peace acting for and within the ſame have uſed their utmoſt Endeavours to the contrary in obedience to the Directions of the ſaid Act, which enacts that the Juſtices of the Peace, of all Cities, Corporations, Boroughs, and other Places ſhall put in Execution every Part of the ſaid Statute within their reſpective Juriſdictions: And whereas in enforcing the Regulations of the ſaid recited Act within the City and County of the City of *Exeter*, for the Repair of the Streets therein, the ſaid Juſtices have experienced 13 G. 3. c. 78.

much Difficulty and Inconvenience, arising from the Existence of special Obligations by reason of Tenure or otherwise, to repair such Streets, distinct and separate from the Obligations to which, by the general Course of the Common Law, Parishes at large of common Right are generally subject, such special Obligations, by reason of Tenure or otherwise, being the Cause of great Impediment to the Uniformity which is requisite for the Accommodation of the Publick; and the Methods for enforcing such special Obligations have within the said City and County been found to be circuitous, dilatory, and expensive, and not adapted to so populous a Place and so great a Thoroughfare as *Exeter:* And whereas it would greatly conduce to the Improvement of the said City and County, if Provision were made for facilitating the Execution of existing Regulations for sweeping and cleansing the said Ways, Streets, Lanes, Passages, and Places, and removing and preventing Nuisances therein; 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, such special Obligations as aforesaid, by reason of Tenure or otherwise, within the said City and County, shall cease.

So much of the special Obligations in the said Act contained as relates to the City and County of the City of Exeter to cease.

II. And be it further enacted, That upon the ceasing of the said special Obligations, by reason of Tenure or otherwise, the Mayor, Aldermen, and Common Councilmen of the Mayor, Bailiffs, and Commonalty of the said City for the Time being, shall and they are hereby authorized and required to take Order for the paying and effectually causing to be paid, yearly and every Year, by Four equal Quarterly Payments, the Sum of Fifty Pounds to such Surveyor or Surveyors as is or are herein-after mentioned, as the Justices of the Peace for the said City and County at a Court of Quarter Sessions to be held in and for the said City and County of the said City shall order and appoint to receive the same; the First of which Quarterly Payments of the said yearly Sum of Fifty Pounds shall accordingly be paid by the Receivers of the said Mayor, Bailiffs, and Commonalty on Demand, Three Calendar Months after the passing of this Act, to such Person or Persons to be appointed as aforesaid to receive the same; which said Sum of Fifty Pounds so paid as aforesaid by the said Mayor, Bailiffs, and Commonalty, or so much thereof as the said Court of Quarter Sessions shall think fit, shall be applied by virtue of the Order of the said Court towards a Salary for the said Surveyor, and the residue (if any) shall be applied towards carrying this Act into Execution, by attaining the Purposes of the Way Rate herein-after mentioned.

On the ceasing of the said special Obligation the Corporation of Exeter to cause a Yearly Sum of Money to be paid to the Surveyors of High ways for the said City and County and to be applied for the Purposes of this Act.

III. And be it further enacted, That upon the ceasing of the said special Obligations by reason of Tenure or otherwise, the Dean and Chapter of the Cathedral Church of *Saint Peter* in *Exeter* shall and they are hereby authorized and required to take Order for the paying or effectually causing to be paid the Sum of Fifty Pounds yearly and every Year by equal Quarterly Payments to such Surveyor or Surveyors as is or are herein-after mentioned, as the said Justices at such Court as aforesaid shall order and appoint to receive the same; the first of which Quarterly Payments of the said yearly Sum of Fifty Pounds shall accordingly be paid by the Auditor, Treasurer, Receiver, or other proper Officer to be named for that Purpose by the said Dean and Chapter of the Cathedral Church of *Exeter*, on Demand, Three

Upon the ceasing of the said Special Obligation the Dean and Chapter of St. Peter's in Exeter to take Order for the Payment of a certain Sum to be paid to

Three Calendar Months next after the passing of this Act, to such Person or Persons so to be appointed as aforesaid to receive the same; which Monies when received shall also be applied towards carrying this Act into Execution by attaining the Purposes of the Way Rate herein after mentiond.

the Surveyor of Highways for the Purposes of this Act.

IV. And be it further enacted, That, from and after the passing of this Act, no Statute Duty or Composition Money in lieu thereof, shall be performed or demanded and expended on the Repair of the said Ways, Streets, Lanes, Passages, and Places within the said City and County, but the Expence of amending and maintaining the same shall be defrayed by the Surveyor or Surveyors of the Highways within the said City and County, out of the Monies accruing from Assessments to be by him or them made and levied in pursuance of the Powers given by the said recited Act for the Purpose of amending, repairing, paving, cleansing, and maintaining such Ways, Streets, Lanes, Passages and Places, from Time to Time as may be requisite, and according to the true Intent and Meaning of this Act: Provided nevertheless, that the Authority for apportioning Statute Work on Turnpike Roads lying within the said City of *Exeter* and County of the same City shall continue in full force; and that no such Assessment as before-mentioned shall in any one Year exceed the Rate of Sixpence in the Pound, and that such Assessment shall be called *The Way Rate.*

In future no Statute Duty to be performed on the Streets &c. in the City and County of the City of Exeter.

V. And be it further enacted, That, from and after the passing of this Act, the Limits of the Jurisdiction of the said City and County of the said City shall, for the Purpose of appointing such Surveyor or Surveyors and Assistant Surveyors as are mentioned in the said recited Act, be deemed and taken to be one Township or Place, of and for which such Surveyor or Surveyors and Assistant Surveyors so appointed shall be deemed and taken to be Surveyors, Assistant Surveyors, and Scavengers under this Act.

Declaring the said City and County to be one Township for the Purpose of appointing Surveyors of Highways.

VI. And whereas it is expedient, for the Accommodation and Improvement of the said City and County, to provide for the making, repairing, amending, and preserving of proper Drains, Tunnels, Trunks, Watercourses, and Sewers, and also to provide Reservoirs for supplying Water for the extinguishing Fires and watering the publick Ways within the said City and County, and also for improving Communications between different Parts of the said City and County by widening or diverting any of the said Ways, or otherwise as in the Judgement of the said Justices Occasion may require, subject to such Restrictions as are contained in the said recited Act, and as are herein-after mentioned; be it therefore further enacted, That the said Justices assembled at a Court of General Quarter Sessions of the Peace in and for the said City and County, or at a special Session holden in and for the same, agreeably to the Provisions of the said Highway Act, shall be and they are hereby empowered to order the said Surveyor or Surveyors from Time to Time as in the Judgement of the said Justices shall be necessary, to make, repair, amend and preserve such proper Drains, Tunnels, Trunks, Watercourses, and Sewers as aforesaid, and also to provide Reservoirs for supplying Water for extinguishing Fires and watering the said Ways, according to the Direction of the said Justices; which Order of the said Justices, for the Purposes aforesaid shall contain Authority to the said Surveyor or Surveyors to defray the Expences of carrying the same into Execution, and of making such Communications as are herein-after mentioned, out of another Rate besides the

Provision for making, &c. Drains and Watercourses for supplying the said City with Water, &c. the Expences attending the same to be Rate.

the ſaid former Rate, to be made and levied in like Manner as the ſaid former Rate, but not to be applied to the Purpoſes of the ſaid former Rate; which other Rate ſhall be called *The Rate for Improvements* or *The Improvement Rate*; provided nevertheleſs, that ſuch Improvement Rate ſhall not exceed in any one Year the Sum of Three-pence in the Pound.

Mayor, Aldermen, or Common Councilmen not to act as Surveyors, nor to enter into any Contract for their own Gain in the Execution of any of the Purpoſes of this Act.

VII. And whereas the ſaid Mayor, Aldermen, and Common Councilmen, are deſirous that they and their Succeſſors ſhould derive no Benefit from the Exerciſe of the Powers herein mentioned; be it therefore further enacted, That the ſaid Mayor, Aldermen, and Common Councilmen of the ſaid Corporation of the Mayor, Bailiffs, and Commonality of the City of *Exeter*, and their Succeſſors, ſhall be incapable of acting as ſuch Surveyor or Aſſiſtant Surveyor as aforeſaid, or of making any Contract for their own Lucre or for the Lucre of the ſaid Corporation, for executing any of the Purpoſes of this Act; but all ſuch Perſons ſhall reſpectively be deemed to be and they are hereby declared to be prohibited therefrom.

Power to improve the Communications between different Parts of the City and County of Exeter.

VIII. And be it further enacted, That whenever it ſhall be proper and convenient in the Judgement of the ſaid Juſtices to make ſuch improved Communication as aforeſaid, for the Benefit of the Publick, or to widen narrow Ways, or to divert the ſame, or otherwiſe, in ſuch Manner and to ſuch Extent, as the ſaid Juſtices ſhall think fit, ſubject to ſuch Reſtrictions as aforeſaid, it ſhall be lawful for the ſaid Juſtices, at a Court of General Quarter Seſſions of the Peace in and for the ſaid City and County to proceed for the Accompliſhment of ſuch Purpoſe by ſuch Means as are preſcribed by the ſaid General Highway Act for widening or diverting publick Ways; and that the Expences of ſuch Proceeding, and of effecting ſuch improved Communication, ſhall be defrayed by the reſpective Surveyors out of the Monies accruing from ſuch Improvement Rate as aforeſaid.

Power for Occupiers of Houſes to make Drains to communicate with Common Sewers.

IX. And whereas it may be convenient for the Occupiers of Houſes adjacent to Common Sewers to make Drains from their ſaid Houſes leading into ſuch Common Sewers; be it therefore further enacted, That it ſhall be lawful for the Court of Quarter Seſſion for the ſaid City and County to grant to ſuch Occupiers reſpectively, a Licence to make ſuch Drains from their ſaid Houſes, the Coſt of applying for ſuch Licence to the ſaid Court, and their granting the ſame, ſhall not exceed the Sum of One Shilling, ſuch Occupiers reſpectively cauſing the ſame to be done at their own individual Expence, under the Inſpection of the ſaid Surveyor or Surveyors, and not otherwiſe, paying him for his Attendance ſuch Allowance as the ſaid Court of Quarter Seſſion ſhall order and direct; and in caſe of any Damage done thereby to the Highway or to the Common Sewer in making or repairing or preſerving ſuch Drain, the ſaid Surveyor or Surveyors ſhall cauſe the ſaid Damage to be repaired at the Expence of ſuch Occupier, who ſhall pay the ſaid Surveyor or Surveyors for his or their Time, Trouble, and Charges therein, ſuch Allowance as the ſaid Quarter Seſſions ſhall order and direct: and in caſe of Refuſal ſo to do on Demand the ſame ſhall be recoverable by Warrant of Diſtreſs and Sale of the Goods and Chattels of ſuch Occupier, under the Hand and Seal of one or more Juſtice or Juſtices of the Peace in and for the ſaid City and County.

X. And

X. And whereas by means of Waterpipes placed in various Directions throughout the ſaid City, Damage may accrue in repairing the ſame or otherwiſe to any ſuch private Drain as aforeſaid, or any of the ſaid Common Sewers, or to the Pavement of the ſaid Streets, or by means of ſuch Drains and Sewers to ſuch Waterpipes, and it is reaſonable that Compenſation ſhould be made in reſpect thereof; be it therefore further enacted, That if the Party or Parties cauſing and ſuſtaining ſuch Damage cannot agree about the Meaſure of ſuch Compenſation, the ſaid Court of Quarter Seſſion ſhall have Power to fix the ſame; and the Order of ſuch Court ſhall be binding and concluſive in every ſuch Caſe of which it ſhall have Occaſion to take Cognizance.

For making Compenſation to Perſons ſuſtaining Damage by placing of Waterpipes, &c.

XI. And whereas the late Queen *Elizabeth* by Charter bearing Date the Twenty-firſt Day of *February* in the Third Year of her Reign, granted to the Mayor, Bailiffs, and Commonalty of the City of *Exeter*, and to their Succeſſors for ever, that the ſaid Mayor and Twenty-four of the Common Council of her City of *Exeter*, or the greater Part of them for the Time being, for the better Eſtate and Government of her County or City, might from Time to Time, for ever as they ſhall ſee convenient, ordain, make, and conſtitute Acts, Ordinances, Statutes and Proviſions for the common Advantage of her ſaid County or City, and the Inhabitants thereof; and might alſo alter, change, and reform them at their good Will and Pleaſure, provided that ſuch Laws, Ordinances, and Statutes, or any of them, be not contrary to the Laws of her Kingdom: And whereas by virtue of ſuch Power as aforeſaid granted by ſuch Charter, the ſaid Mayor, Bailiffs, and Commonalty, have made or may hereafter make certain local Ordinances for ſweeping the Streets, Lanes, and Paſſages within the ſaid City and County, and for cleanſing and carrying away the Filth therefrom, and for preventing and removing Nuiſances, the Obſervance whereof is now, and may hereafter be enforced by the Infliction of certain Fines which it would be convenient to levy in a ſummary way; be it therefore further enacted, That ſuch Fines (not exceeding Five Pounds) ſhall be recoverable before and by the Judgement of Two Juſtices of the Peace in and for the ſaid City and County, who ſhall have Power to cauſe the ſame to be levied by Warrant of Diſtreſs and Sale of the Goods and Chattels of the Party by whom any ſuch Fine ſhall have been incurred, under their Hands and Seals: Provided always, that the ſaid Ordinances or Bye Laws be not inconſiſtent with or repugnant to any Law or Statute of that Part of the United Kingdom called *Great Britain*, or be repugnant to any of the Proviſions in this Act contained; and that the ſame be inſerted in ſome Newſpaper or Newſpapers printed or circulated within the ſaid City and County; and that the Party or Parties upon whom ſuch Fine or Fines ſhall be inflicted, ſhall have the Liberty of appealing at the next Quarter Seſſion of the Peace, to be held in and for the ſaid City and County in Manner herein-after mentioned.

Power to make Bye Laws.

XII. And whereas by an Act paſſed in the Firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for enlightening the Streets within the City of* Exeter, *and Suburbs thereof*, certain Powers were given for making an Eſtabliſhment of Lamps for lighting ſuch of the publick Ways within the ſaid City and County as are ſpecified in the ſaid Act, the Fund for which Eſtabliſhment is become inſufficient for the Accommodation of the Inhabitants of the ſaid City and County, being only Two hundred Pounds to be raiſed and levied within the Year; be it therefore further enacted, That,

Power to provide ſufficient Number of Lamps in the ſaid City, &c.

That, from and after the passing of this Act, it shall be lawful for the Persons to whom such Powers as are herein last mentioned were given, to cause the Compass of their District to be furnished with such and so many Lamps as shall from Time to Time be requisite for the Accommodation of Persons resident therein and travelling through the same; all which Lamps shall be deemed and taken to be included in such last-mentioned Act to every Intent and Purpose as if they had been originally included therein; (save and except that all such Lamps be kept lighted at such Times of the Year as to the said Justices shall from Time to Time seem expedient, and shall order and direct, any Thing in the said recited Act contained to the contrary notwithstanding;) and the Powers for raising Money for the Support thereof shall be deemed and taken to be hereby enlarged to an Extent suitable to the Exigencies of such Inhabitants and Travellers as aforesaid, as shall from Time to Time in the Judgements of such Persons as aforesaid be requisite; provided that such Yearly Expence as aforesaid do not hereafter exceed the Sum of Seven hundred Pounds in any One Year.

For more effectually preserving the King's Peace within the said City, &c.

XII. And whereas it is expedient for the Safety of His Majesty's liege Subjects that the King's Peace be constantly kept within the said City and County; be it therefore further enacted, That the Justices of the Peace acting in and for the said City and County shall, as Occasion may require, at every Court of Quarter Session, from Time to Time take Order for hiring a competent Number of able-bodied Men, properly armed, to assist the Constables of the said City and County in keeping Watch and Ward therein, at such Hours, under such Regulations, and for such Pay as the said Justices shall direct; which Watchmen when appointed shall be invested with the like Privileges and Authorities, and subject to the like Duties, and entitled to the like Protection and Indemnity, as any other Persons keeping Watch and Ward are by virtue of the Common Law, or of any Statute Law now in force.

Expence of establishing Watchmen to be paid out of the County Rate of the said City.

XIV. And be it further enacted, That the said Justices at their said Court of Quarter Session shall order the Expence of establishing and continuing such Watchmen as aforesaid to be defrayed out of the County Rate for the County of the City of *Exeter*.

Declaring the aforesaid Statutes to be Part of this Act.

XV. And be it further enacted, That the Statutes herein before referred to, shall, with respect to such Parts thereof as are not repealed hereby (so far as they affect the said City and County), or are not inconsistent with any Thing herein contained, and so far as they can be applied to the Ends, Purposes, and Intents of this present Act, be deemed and taken to be Parts thereof as if the same were repeated herein and re-enacted.

General Saving.

XVI. Saving always to the King's Most Excellent Majesty, His Heirs and Successors, and to the said Mayor, Bailiffs, and Commonalty, and their Successors, and to the Venerable the Dean and Chapter of the Cathedral Church of *Saint Peter* in *Exeter*, and their Successors, all their respective Rights, Privileges, and Franchises.

Allowing an Appeal.

XVII. And be it further enacted, That if any Person shall think himself or herself aggrieved by any Thing done in pursuance of this Act, such Person may, within Three Calendar Months after the Cause of Complaint shall have arisen, appeal to the Justices of the Peace at their Quarter Sessions to be

be held in and for the ſaid City and County, ſuch Appellant firſt giving or cauſing to be given Ten Days Notice at leaſt in Writing of his or her Intention to exhibit ſuch Appeal, and of the Matter thereof, to the Perſon or Perſons appealed againſt, and within Four Days after giving ſuch Notice entering into ſuch Recognizance before ſome Juſtice of the Peace for the ſaid City and County, with Two ſufficient Sureties conditioned to try ſuch Appeal, and to abide by the Order and pay ſuch Coſts as ſhall be awarded by the Juſtices at ſuch General or Quarter Seſſions; and the ſaid Juſtices at ſuch Seſſions, upon due Proof of ſuch Notice being given, and of the entering into ſuch Recognizance as aforeſaid, ſhall hear and finally determine the Cauſes and Matters of ſuch Appeal, in a ſummary Way, and award ſuch Coſts to the Party appealing or appealed againſt as they ſhall think proper; and the Determination of ſuch Juſtices ſhall be binding, final, and concluſive to all Intents and Purpoſes whatſoever.

XVIII. And be it further enacted, That the Expences of obtaining and paſſing this Act ſhall be paid out of the County Rate for the County of the City of *Exeter*. Expences of paſſing this Act how to be paid.

XIX. Provided always, and be it further enacted and declared, That nothing herein contained ſhall extend or be conſtrued to extend to the Cloſe of the Cathedral Church of *Saint Peter*, or to the Lands, Houſes, Streets, Ways, Lamps, or Lights within the ſame, and that the ſpecial Obligations to pave, light, and repair the ſame ſhall remain and continue of the ſame Force and Effect as if this Act had not been made and paſſed. This Act not to extend to the Cloſe of St. Peter.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1810.