



ANNO QUINQUAGESIMO

GEORGI II. REGIS.

Cap. 22.

An Act for making and maintaining a Road from *Lower Saint Cross Mill Lane*, (on the Road from the City of *Winchester* to the Town of *Southampton*), to *Park Gate*, on the Road from *Southampton* to *Gosport*, in the County of *Southampton*.

[6th April 1810.]

WHEREAS the making and maintaining a Road from a certain Point where *Lower Saint Cross Mill Lane* joins the present Turnpike Road, leading from the City of *Winchester* to the Town of *Southampton*, to a Place called *Park Gate* in the Parish of *Titchfield*, situate on the Road leading from *Southampton* to *Gosport* and *Portsmouth*, and passing through the several Parishes of *Saint Faith*, *Chilcomb*, *Twyford*, *Ousebury*, *Bishops Stoke*, *South Stoneham*, *Botley*, *Bishops Waltham* and *Titchfield*, all in the County of *Southampton*, would (by opening a direct and easy Communication between the City of *Winchester* and the Towns of *Botley*, *Gosport* and *Portsmouth*) be of material Benefit and Advantage to the Owners and Occupiers of Estates in the said Parishes, and the Neighbourhood thereof, and of great public Utility; 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 *Lord Cochrane* K.B., *Sir Henry Mildmay* Trustee, Baronet, *John Hornby*, *John Maurice Eyre*, *William Hallett*, *Andrew Cochran* *Johnstone*, *William Cobbett*, *Nathanael Nicholls*, *James Serle*, *Henry Smith*, *Henry Twynam*, the Reverend *Thomas Garnier*, *Walter Smythe*, *Edward Guillaume*, *Joseph Blundell*, *Peter Bernard*, *George Hannington*,
[Loc. & Per.] 5 E William

William Collins, Richard Larvington, John Harvey, John Mant, William Barnes, James Robbins, the Reverend Henry Siffmore, John Buckland, Richard Henry Lloyd, William Nicholas Wickham, John White, the Reverend Charles Richards Junior, Robert Moody, James Wooldridge, Peter Light, William White, John Hunt, Thomas Robert Twynam, Thomas Twynam, James Warner, James Warner Junior, George Robinson, Thomas Andrews Minchin, John Meare, Richard Hichley, Edward Houghton, John Clewer, James Bernard, Gaven Kempt, G.W. Ricketts, William Chamberlayne, Thomas Lewin, Stephen Dummer, William Knight, Thomas Guillaume, Nicholas Pyle, G.M. Jukes, William Budd, and their Successors, to be appointed in Manner herein-after mentioned, shall be and they are hereby appointed Trustees for amending, widening, turning, varying, altering and keeping in Repair the said Road, according to the Provisions and Directions herein contained.

Power to
chuse others
upon Vacan-
cies.

II. And be it further enacted, That when any of the said Trustees shall die or be disqualified, or by Writing under his or their Hand or Hands, delivered to any Clerk of the said Trustees, shall decline to act, it shall be lawful for the surviving or remaining Trustees, or any Seven or more of them, by Writing under their Hands to elect and appoint some other Person to be a Trustee in the Room of every Trustee dying or being disqualified or refusing to act as aforesaid; but Notice of the Time and Place of Meeting for every such Election shall be given by the Clerk to the said Trustees, by affixing the same in Writing upon all the Turnpikes to be erected by virtue of this Act, at least Fourteen Days before the Meeting for such Election, and every Trustee so elected shall be and is hereby empowered to act in the Execution of this Act, in as full and ample Manner to all Intents and Purposes as the Trustees herein-before named are respectively empowered to act.

Qualification
of Trustees.

III. Provided always, and be it further enacted, That no Person shall be capable of acting as a Trustee in any Case in the Execution of this Act, whilst he holds any Place of Profit under the same; nor in any particular Case wherein he shall be personally interested otherwise than as a Creditor, nor unless he shall at the Time of acting be in his own Right or in the Right of his Wife, in the actual Possession and Enjoyment or Receipt of the Rents and Profits of Lands, Tenements or Hereditaments, Freehold or Copyhold, of the clear yearly Value of Fifty Pounds above Reprizes, or be possessed of, or entitled to a Personal Estate to the Amount or Value of One thousand Pounds, or shall be Heir Apparent of a Person possessed of an Estate of the yearly Value of One hundred Pounds, nor (if not such Heir Apparent as aforesaid) until he shall take and subscribe an Oath to the Effect following, before any Two or more of the said Trustees, that is to say,

‘ I *A. B.* do swear, that I truly and *bona fide* am in my own Right, [*or in the Right of my Wife*] in the actual Possession and Enjoyment or Receipt of the Rents and Profits of Lands, Tenements or Hereditaments, Freehold or Copyhold, of the clear yearly Value of Fifty Pounds, above Reprizes, or possessed of, or entitled to a Personal Estate of the Value of One thousand Pounds, or that I am Heir Apparent of a Person who to the best of my Knowledge and Belief is possessed of an Estate in Lands, Tenements or Hereditaments of the clear yearly Value of One hundred Pounds.

‘ So help me GOD.’

And

And if any Person not being qualified as aforesaid, shall nevertheless presume to act contrary to the Intent and Meaning of this Act, every such Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds, to any Person who shall inform or sue for the same, to be recovered in any of His Majesty's Courts of Record at *Westminster* by Action of Debt, or on the Case, or by Bill, Plaint, Suit or Information, wherein no Effoign, Protection or Wager of Law, nor more than One Imparance shall be allowed, and the Person so prosecuted shall prove that he is qualified as aforesaid, or otherwise shall pay the said Penalty without any other Proof or Evidence on the Part of the Prosecutor, than that such Person hath acted as a Trustee in the Execution of this Act: Provided nevertheless, that all Acts and Proceedings which shall have been done and performed by such Person in the Execution of this Act previous to his being convicted of the Offence before-mentioned, shall notwithstanding such Conviction be as valid and effectual as if such Person had been qualified according to the Directions of this Act.

IV. And be it enacted, That no Person shall be capable of acting as a Trustee, or of holding any Place of Profit under this Act, during the Time he shall sell Wine, Ale, Beer, or Spirituous Liquors by Retail. Vicuallers
not to be
Trustees.

V. And be it further enacted, That the said Trustees, or any Five or more of them, shall meet together at the House known by the Sign of *The George and Dragon at Fair Oak*, in the Parish of *Bishops Stoke*, on the Second *Friday* after the passing of this Act, or as soon thereafter as conveniently may be, and proceed to the Execution of this Act; and that the said Trustees shall and may from Time to Time adjourn themselves to meet at such Time and at such Place or Places near the said Road as the said Trustees, or any Five or more of them shall think proper, so that every such Meeting shall be held as near the said Road as conveniently may be; and the said Trustees shall, at their respective Meetings, defray their own Expences; and all Orders and Determinations of the Trustees in the Execution of this Act shall be made at Meetings to be held in pursuance of this Act, and not otherwise; and that no Order or Determination shall be made unless the major Part of the Trustees present shall concur therein; and that all such Trustees as are Justices of the Peace may act as Justices in the Execution of this Act, notwithstanding their being Trustees, except only in such Cases where they shall be personally interested; and in all Cases where the Trustees or any Justice or Justices of the Peace are authorized to examine any Person or Persons on Oath, it shall be lawful for such Trustees or Justice or Justices to administer such Oath: Provided always, that no Order made by Five or more Trustees shall be revoked or altered unless Thirteen Trustees shall be present, and the major Part of them concur therein, at a Meeting to be held for that Purpose, of which intended Alteration or Revocation Fourteen Days Notice shall be given at a previous Meeting of the Trustees, and entered into their Book of Proceedings for the said Road, and such Notice shall be affixed on all the Turnpike Gates Ten Days at least before such Meeting. Trustees First
Meeting.

Orders not to
be revoked
but by a Ma-
jority of
Trustees.

VI. And be it further enacted, That if after any Adjournment of the Meetings on said Trustees, it shall at any Time be thought necessary that an earlier Day of Meeting shall be appointed than the Day to which such Meeting Meetings on
Emergencies.
shall

shall be adjourned, the Clerk to the said Trustees, upon an Order in Writing, signed by Five or more of the said Trustees, mentioning the Time and Place of such Meeting, shall forthwith give Notice in Writing, to be affixed upon all the Turnpike Gates then erected upon the said Road, in respect of which such Meeting shall be held, of the Time and Place which shall be mentioned in the Order of the said Trustees, expressing therein the Purpose for which such Meeting is intended, (such Time not being less than Ten Days after such Notice) and all Proceedings of the Trustees at such Meeting shall be as valid as they would have been in case the Trustees had met in pursuance of any Adjournment.

Orders, &c.
to be entered.

VII. And be it further enacted, That all Orders and Proceedings of the Trustees at their several Meetings shall be entered in a Book or Books to be kept for that Purpose, and such Orders and Proceedings so entered shall be signed by the said Trustees, or any Five or more of them, or by the Clerk by their Order, which Book or Books and also the Book or Books herein-after directed to be kept for registering the Mortgages and Assignments, or Transcripts thereof, signed by the Clerk of the said Trustees, shall be admitted as Evidence in all Courts whatsoever, touching any Thing done in pursuance of this Act.

Appointment
of Officers.

VIII. And be it further enacted, That the said Trustees, or any Five or more of them, shall and may from Time to Time, by Writing under their Hands, appoint a Clerk or Clerks, Treasurer or Treasurers, Surveyor or Surveyors, Collectors and other Officers and Persons as the said Trustees, or any Five or more of them shall think necessary, and from Time to Time remove all or any of such Officers and Persons whenever they shall judge necessary or expedient; and as often as any Collector of the said Tolls shall die or be rendered incapable of performing his Duty, it shall be lawful for any Three or more of the said Trustees, by any Writing under their Hands, although not assembled at a Meeting, upon Application to them by the Clerk, to appoint one other Person in the Stead of such Collector; and every such Collector so appointed shall have the same Authority to act in the Execution of his Office as the Person he shall succeed was vested with, until the said Trustees, or any Five or more of them, shall, at a Meeting to be held by virtue of this Act, appoint a Collector of such Tolls; and the said Trustees, or any Five or more of them, shall and are hereby required to take such Security from every such Treasurer and Collector for the due Execution of their respective Offices as they the said Trustees, or any Five or more of them shall think proper, and may by and out of the Monies arising by virtue of this Act allow and pay to such Clerks, Treasurers, Collectors, and Surveyors, and to such other Person or Persons, as shall be aiding and assisting, or anyways employed in the Execution of this Act, such Salaries, Rewards, and Allowances for their Attendance, Care, and Service, as to the said Trustees, or any Five or more of them, shall seem reasonable; and all such Officers and Persons shall from Time to Time when thereunto required by the said Trustees, or any Five or more of them, deliver to such Trustees, or to such Person or Persons as the said Trustees or any Five or more of them, shall for that Purpose appoint, a true and perfect Account in Writing under their respective Hands of all Monies which shall have been by them respectively had, collected, or received, and how and to whom, and for what Purpose the same and every

Officers to
give Security.

Officers to
account.

every Part thereof hath been disposed of, together with proper Vouchers and Receipts for such Payments, and shall verify the said Accounts upon Oath if thereunto required by the said Trustees, or any Five or more of them; and all such Officers and Persons shall, and they are hereby required to pay all such Monies as upon the Balance of such Accounts shall appear to be in their Hands, to such Person or Persons as the said Trustees, or any Five or more of them, shall appoint to receive the same; and if any such Officer or Person shall refuse or wilfully neglect to render and give up such Account as aforesaid, or to produce and deliver up the Vouchers and Receipts relating to the same, or to verify the Articles thereof on Oath, or to pay the Balance remaining in his Hands when thereto required in Manner aforesaid, or if any such Officer or Person shall refuse or wilfully neglect to deliver up to the said Trustees, or any Five or more of them, or to such Person or Persons as they or any Five or more of them shall appoint, within Ten Days after being thereunto required by the said Trustees, or any Five or more of them, all Books, Accounts, Papers, and Writings in his Custody or Power, anyways relating to the Execution of this Act, and Complaint shall be made of any such Neglect or Refusal to any Justice of the Peace for the County or Place where the Officer or Person so refusing or neglecting shall live or reside, such Justice may and is hereby authorized and required by Warrant under his Hand and Seal, to cause such Officer or Person to be brought before him, and upon his appearing or not appearing to hear and determine the Matters of such Complaint in a summary Way, and to settle the said Account if produced, in such Manner as the said Trustees, or any Five or more of them, might have done, and if upon the Confession of the Officer or Person against whom any such Complaint shall be made, or by the Oath of any credible Witnesses, it shall appear to such Justice that any of the Monies which shall have been collected or received shall be in the Hands of such Officer or Person, such Justice may and is hereby authorized and required upon Non-payment thereof, by Warrant under his Hand and Seal to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer and Person, and if no Goods and Chattels can be found sufficient to answer and satisfy the said Monies and the Charges of distraining and selling the same, or if it shall in Manner aforesaid appear to such Justice that any such Officer or Person shall refuse or wilfully neglect to give or deliver such Account as aforesaid, or to verify the Truth of such Accounts, and of the Articles thereof on Oath as aforesaid, or to produce and deliver up as aforesaid the several Vouchers or Receipts relating to such Account, or any Books, Accounts, Papers, and Writings in his or her Custody or Power relating to the Execution of this Act, then and in any of the Cases aforesaid, the said Justice may and he is hereby authorized and required by Warrant under his Hand and Seal to commit such Officer or Person to the Common Gaol or Bridewell of the County where such Officer or Person shall be or reside, there to remain without Bail or Mainprize until he or she shall have delivered in and settled his or her Account, and have verified the same on Oath, and shall have delivered up the Vouchers and Receipts relating thereto, and shall have paid all the Money which shall appear to be in his or her Hands, and the reasonable Charges of such Distress and Sale, which shall in that respect have been made, or until he or she shall have compounded with the said Trustees, or any Five or more of them for the same, and paid the Composition Money to the said Trustees, or any Five or more of them, or to such Per-

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son or Persons as they shall appoint to receive the same, (and which Composition the said Trustees, or any Five or more of them, are hereby empowered to make) or until he or she shall deliver up such Books, Accounts, Papers, and Writings as aforesaid, or have given Satisfaction in respect thereof to the said Trustees, or any Five or more of them; but no such Officer or Person who shall be committed on account of his or her not having sufficient Goods and Chattels as aforesaid, shall be detained in Prison for any longer Time than Three Calendar Months.

Turnpikes.

IX. And be it further enacted, That the said Trustees, or any Five or more of them, shall and may cause such and so many Turnpikes to be erected or built upon or across the said Road, and at or near the Sides thereof, across any Lanes or Ways leading into the same, as they shall think proper, and also such Toll Houses in, upon, or on the Sides of the said Road, near the said Turnpikes, as to them shall seem meet, and the respective Collectors to be appointed by Virtue of this Act, shall and may demand, receive, and take the Tolls following, at the said respective Turnpikes, before any Horse, Beast, Cattle, or Carriage shall be permitted to pass through the same, (that is to say,)

For every Horse, Mare, Gelding, Mule, or other Cattle, drawing any Coach, Berlin, Landau, Machine, Hearse, Chariot, Chaise, Calash, Caravan, Chaise Marine, Litter, Bed Carriage, Curricie, Chair, or other like Carriage, the Sum of Three-pence:

For every Horse, Mare, Gelding, Mule, or other Beast, or Cattle, drawing any Waggon, Wain, Cart, or other like Carriage, with Three Inch Wheels, the Sum of Four-pence Halfpenny:

For every Horse, Mare, Gelding, Mule, or other Beast or Cattle, drawing any Waggon, Wain, Cart, or other like Carriage, with Six Inch Wheels, the Sum of Four-pence:

For every Horse, Mare, Gelding, Mule, or other Beast or Cattle, drawing any Waggon, Wain, Cart, or other like Carriage, with Nine Inch, or broader than Nine Inch Wheels, the Sum of Three-pence Halfpenny:

For every Horse, Mare, Gelding, Mule, or Ass, or other Beast or Cattle, (except what are hereafter specified) laden, or unladen, and not drawing, the Sum of One Penny:

For every Drove of Oxen, or other Neat Cattle, the Sum of Ten-pence *per* Score, and so in Proportion for any greater or less Number; and

For every Drove of Calves, Sheep, Lambs, or Pigs, the Sum of Five-pence *per* Score, and so in Proportion for any greater or less Number.

Recovery.

Which said respective Sums of Money shall be demanded and taken as Toll, and shall be, and are hereby vested in the said Trustees; and if any Person or Persons, subject to the Payment of any of the said Tolls, shall, after demand thereof made, neglect or refuse to pay the same, or any Part thereof, it shall be lawful for the Person or Persons appointed to collect the said Tolls, to seize and distrain any Horse, or Horses, or other Cattle, subject to, or chargeable with the said Tolls, and if such Toll and reasonable Charges of such Seizure and Distress shall not be paid within the Space of Three clear Days after such Seizure and Distress made, the Person or Persons so seizing and distraining, shall and may sell the Horse or Horses, Cattle or Carriages so seized and distrained, or a sufficient Part thereof, returning the Overplus (if any be) and what shall remain unfold,
upon

upon Demand, unto the Owner thereof, after such Tolls, and the reasonable Charges occasioned by such Distress and Sale shall be deducted and paid.

X. Provided always, and be it further enacted, That if any Dispute shall happen about the Quantity of the Tolls due, or the Charges of taking and keeping any Distress, it shall be lawful for the Collector or Person distraining to retain the same, or the Money arising from the Sale thereof (as the Case may happen) until the Quantity of the Tolls due, and the Charges of seizing, distraining, keeping, and selling the same (as the Case shall happen) shall be ascertained by some Justice of the Peace for the County of *Southampton*, who, upon Application made to him for that Purpose, shall examine the said Matter on Oath of the Parties, or other Witness or Witnesses, and determine the Quantity of the Tolls due, and also assess the Charges of such Seizure, Distress, Keeping, and Sale, and also for the Collector's Attendance for that Purpose on the said Justice, all which Sums so determined or assessed shall be paid to the said Collector or other Person before he shall be obliged to return the Distress, or the Overplus after the Sale thereof, or any Part thereof.

Disputes concerning Tolls to be settled by a Justice.

XI. Provided also, and be it further enacted, That no Person shall be subject to the Payment of any of the Tolls, by this Act granted, more than Once in any One Day, (to be computed from Twelve of the Clock at Night, to Twelve of the Clock in the succeeding Night), for passing and repassing any Time or Times with the same Carriage, Horse, or other Beast or Cattle, through any of the Turnpike Gates to be erected by Virtue of this Act between *Park Gate* and *Boorley Green*, but that all and every Person and Persons having paid Toll once, and produced a Ticket denoting the Payment of such Toll, (which Ticket the Collectors of the Tolls are hereby required to give gratis on the Receipt of the Toll), shall afterwards pass and repass with the same Horses, Cattle, Beasts, and Carriages Toll free, during the same Day through all such Toll Gates and Turnpikes as shall be erected upon or across the said Road, between *Park Gate* and *Boorley Green*, so that the Payment of One Toll in the Whole, and no more, shall be demanded for passing and repassing at any Time or Times in any One Day, through all or any of the Toll Gates or Turnpikes to be erected between *Park Gate* and *Boorley Green* aforesaid, and also that no Person shall be subject to the Payment of any of the Tolls, by this Act granted, more than Once in any One Day (to be computed as aforesaid) for passing or repassing any Time or Times with the same Carriage, Horse, or other Beast or Cattle, through any of the Turnpike Gates to be erected by Virtue of this Act, between the Town of *Botley* and the Village of *Twyford*, but that all and every Person and Persons having paid Toll Once, and produced a Ticket as aforesaid, (which Ticket the Collectors of the Tolls shall give as aforesaid) shall afterwards pass and repass as aforesaid, through all such Toll Gates and Turnpikes as shall be erected upon or across the said Road, between the Town of *Botley* and the Village of *Twyford* aforesaid, and also that no Person shall be subject to the Payment of any Tolls by this Act granted, more than Once in any One Day, (to be computed as aforesaid) for passing and repassing any Time or Times with the same Carriage, Horse, or other Beast or Cattle, through any of the Turnpike Gates to be erected by Virtue of this Act, between *Colden Common* and

Tolls to be paid but Once a Day.

and the *Winchester* End of the said Road, but that all and every Person and Persons having paid Toll Once, and produced a Ticket as aforesaid, (which Ticket the Collectors of the Tolls shall give as aforesaid), shall pass and repass as aforesaid, through all such Toll Gates and Turnpikes as shall be erected upon or across the said Road, between *Colden* Common and the *Winchester* End of the Road aforesaid.

Tolls to be lessened, varied, or altered.

XII. And be it further enacted, That the said Trustees, or any Seven or more of them respectively, may and they are hereby authorized and empowered from Time to Time, as they shall think proper, at their respective Meetings for the said Road, to lessen or reduce all or any Part or Parts of such Tolls, at all or any of the said Turnpikes, and to raise the same again, so as not to exceed the Tolls by this Act granted, but no Reduction shall be made in the said Tolls, unless Notice in Writing be given for that Purpose, by affixing the same on all the Turnpikes erected across the said Road, in respect of which such Reduction shall be made at least Fourteen Days before the Meeting, for making such Reduction; and such Tolls so lessened or reduced, shall be collected and recovered in the same Manner as the Tolls hereby granted, are directed to be collected and recovered: Provided always, that no Reduction of the said Tolls shall be made without the Consent of the Persons entitled to Five-sixth Parts of the Money then due on the Credit of the said Tolls.

Tolls may be let.

XIII. And be it further enacted, That it shall and may be lawful to and for the said Trustees, and they are hereby empowered at any Meeting upon Twenty-one Days Notice being given, in some Newspaper circulated in the Neighbourhood of the said Road, and affixed on all and every the Turnpike Gates that shall be standing on the said Road, to let or farm the said Tolls, to be collected by virtue of this Act, or any Part or Parts thereof, to any Person or Persons at and for the largest yearly Sum that can be reasonably got for the same, provided that the Leases, Contracts, or Agreements of or for the same, be in Writing, and be duly executed by the Person or Persons taking or farming such Tolls; and also by the said Trustees, but the same shall not be let for more than Three Years at any one Time, and the Rent which shall be agreed to be paid for the said Tolls, shall be made payable, and shall be paid to the Treasurer to the said Trustees, so that One Quarterly Payment of such Rent shall always be in Advance, or sufficient Security given for the Payment of such Rent, to the Satisfaction of the said Trustees, or in Default thereof, every such Lease, Contract, or Agreement shall be null and void, to all Intents and Purposes whatsoever.

Lessees of Tolls may appoint Persons to receive the same.

XIV. And be it further enacted, That during such Time as the said Tolls, or any Part or Parts thereof, shall be leased, demised, or in farm to any Person or Persons whomsoever, it shall and may be lawful to and for the Lessee or Lessees, Farmer or Farmers thereof, or such other Person or Persons as he or they shall, by Writing or Writings under his or their Hand or Hands authorize or appoint, to demand and take the said Tolls so leased, demised, or farmed with the like Powers for the Recovery thereof, to all Intents and Purposes, as any Collector of the said Tolls appointed by the said Trustees, is hereby authorized and empowered to demand, take, and recover the same; and such Lessee or Lessees, Farmer or Farmers, or other

Person or Persons as aforesaid, so demanding and taking the said Tolls, shall be subject to the like Pains, Penalties, and Forfeitures, and shall be liable to the like Actions and Prosecutions as any Collector of the said Tolls appointed by the said Trustees is subject or liable to.

XV. And be it further enacted, That in case any Dispute, Suit, or Litigation shall arise, touching or in anywise relating to the said Tolls, the Person or Persons appointed to collect the same, or any other Person or Persons acting by or under the Authority of the said Trustees, shall not be incompetent to give Evidence in any such Dispute, Suit, or Litigation, by Reason of his, her, or their being so appointed or being paid to collect the Tolls, or acting or being paid to act under the Authority of the said Trustees.

Toll-bar
Keepers not
incompetent
Witnesses.

XVI. And be it further enacted, That no Person shall be chargeable with any of the Tolls aforesaid, for any Horse or other Cattle going unladen for or being laden with, or returning empty after having gone laden only with Gravel, Stone, or other Materials for repairing any Part of the said Road, or any Roads in the Parishes in which the said Road doth lie, or in carrying or conveying any Dung, Chalk, Mould, Rubbish, or Compost of any Nature or Kind whatsoever, for manuring of Gardens or Lands, or Hay or Corn in the Straw, to be laid up in the Houses, Outhouses, or Barns of the Owners thereof, or returning empty, after having carried or conveyed the same, (except Hay, Corn, or Straw sold or disposed of), or in carrying or conveying any Ploughs, Harrows, or other Implements of Husbandry, or other Things whatsoever used in Husbandry, or in manuring Lands, nor for any Horse or Cattle going to or from any Water or Pasture, or from being shod or farried, nor shall any Toll be demanded or taken by virtue of this Act, for any Horse or other Beast carrying or conveying any Person or Persons going to or returning from his or their proper Parochial Church, Chapel, or other Place of Religious Worship, on *Sundays*, or any other Day or Days on which Divine Worship is ordered by Authority to be celebrated, or attending the Funeral of any Person who shall die and be buried within any of the Parishes through which the said Road doth lead, or carrying or conveying any Clergyman or Minister going to or returning from visiting any sick Person within the Parish to which he belongs, or upon other his Parochial or Ministerial Duty, nor for any Carriages or Horses employed in conveying the Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying or guarding such Mails or Expresses, or in returning from conveying or guarding the same, or carrying or conveying any Person going to or returning from any Election of a Knight or Knights of the Shire to serve in Parliament for the County of *Southampton*, during the Time of such Election, or on the Day before or Day after such Election shall begin or be concluded, or for any Horses, Carts, or Waggon-travelling with Vagrants sent by legal Passes; and that no Toll shall be demanded or taken for any Horse, Mare, or Gelding furnished by or for any Persons belonging to any Corps of Yeomanry or Volunteer Cavalry, and rode by them in going to or returning from the Place appointed for and on the Days of Exercise, provided that such Persons shall be dressed in the Uniform of their respective Corps, and have their Arms, Furniture and Accoutrements, according to the Regulations provided for such Corps respectively, at the Time of claiming such Exemptions as aforesaid,

Exemptions
from Tolls.

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or for any Horses belonging to Officers or Soldiers upon their March or on Duty, or for any Horses or other Beasts employed in carrying or conveying the Arms or Baggage of any such Officers or Soldiers, or in carrying any sick, wounded, or disabled Officers or Soldiers; nor for any Waggon, Wain, Cart, or other Carriage whatsoever, or the Horse or Horses, or other Cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack, Commissariat, or other public Stores, of or belonging to His Majesty, or for the Use of His Majesty's Forces: Provided always, that if any Person shall claim and take the Benefit of any of the Exemptions aforesaid, not being entitled to the same, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Exempting
Stores.

XVII. And be it further enacted, That no Person owning or driving, or causing to be driven any Waggon, Wain, Cart, or other Carriage, provided for the Service of His Majesty's Forces, or conveying any Ordnance, Barrack, Commissariat, or other Public Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces, shall be subject to any Penalty or Forfeiture for Overweight, nor shall any such Waggon, Wain, Cart, or other Carriage, be stopped or detained by Reason of any Weight in any such Waggon, Wain, Cart, or other Carriage, or of being drawn by any Number of Horses or Oxen; but it shall be lawful for any Owner or Driver of any such Waggon, Wain, Cart, or other Carriage, to put any Number of Horses or Oxen to such Waggon, Wain, Cart, or other Carriage; any Thing in any Act or Acts of Parliament relating to Highways or Turnpike Roads, or in this Act contained to the contrary notwithstanding.

Penalty on
evading Tolls.

XVIII. And be it further enacted, That if any Person or Persons shall fraudulently to avoid Payment of the Tolls go or pass with, or ride or drive any Horse or other Beast through or over any Land, Ground, or Place not being in his own Occupation, and not being a Public Highway lying by the Side of or near to any Part of the said Road, or if any Person or Persons owning or occupying any such Land or Ground shall knowingly or willingly permit or suffer any other Person or Persons to go or pass with any Horse or other Beast through or over such Land or Ground in order to or whereby the Payment of the Tolls by this Act granted, or any Part thereof shall be fraudulently avoided; or if any Person shall forge, counterfeit, or alter, or shall deliver to or receive of any Person or Persons, except the Collectors of the said Tolls, any Note or Ticket with Intent to avoid the Payment of any of the said Tolls; or if any Person or Persons shall unload or cause to be unloaded any Goods or Merchandize, or shall take off or cause to be taken off any Horse or other Beast from any Carriage, or (having passed through any Turnpike) shall afterwards add or put any Horse or other Beast to any such Carriage, and draw therewith upon any Part of the said Road so as to increase the Number of Horses or other Beasts drawing the said Carriage, after the same shall have passed through the said Turnpike, with Intent to avoid or having by such Means avoided the Payment of any of the said Tolls; or if any Person or Persons shall do any other Act forcibly or fraudulently to avoid the Payment of the said Tolls or any Part thereof, every such Person shall for every such Offence forfeit a Sum not exceeding Five Pounds, one Moiety whereof when raised shall be paid to the Informer.

XIX. And

XIX. And be it further enacted, That no Toll shall be demanded or taken at any Toll Gate or Turnpike, to be continued or erected by virtue of this Act, on the Side or Sides of any Part of the said Road for any Horse, Cattle, or Carriage, which shall only cross the said Road, or shall not pass above One hundred Yards thereon, unless such crossing shall be with Intent to evade the Payment of Toll at any of the said Turnpikes or Toll Gates, and the Payment of such Toll would be thereby evaded.

No Tolls for crossing the Road only.

XX. And be it further enacted, That the Right and Property of all the Turnpikes and Toll Houses which shall be erected by virtue of this Act, with their Appurtenances and of the Materials for building or repairing the same, and for completing the said Road, and all other Materials made use of or collected to be made use of for the Purpose of this Act, shall be and are hereby vested in the said Trustees, and they or any Five or more of them are hereby authorized and empowered to dispose of the Materials of such of the said Toll Houses only as shall be erected on any Common or Waste Ground, and also the Lands belonging to any of the said Toll Houses, provided such Lands shall have been first purchased by them, but not otherwise, and to cause to be brought any Action, or to cause to be preferred any Bill of Indictment against any Person or Persons who shall steal, take away, break, or damage any such Turnpikes, Toll Houses, or Materials, or disturb them in the Possession thereof.

Turnpikes, &c. vested in Trustees.

XXI. And be it further enacted, That it shall be lawful for the said Trustees, or any Five or more of them, to borrow or take up at Interest upon the Credit of the Tolls arising by virtue of this Act upon the said Road such Sum or Sums of Money, as they or any Five or more of them shall think fit, and may and are hereby empowered to assign on Mortgage for and during the Continuance of this Act, the Tolls arising upon the said Road, or any Part or Parts thereof, and the Turnpikes and Toll Houses for collecting the same, (the Costs and Charges of every such Assignment or Mortgage to be paid out of such Tolls), as a Security to any Person or Persons, or their Trustees, who shall advance such Money by Writing under their Hands and Seals to the following Effect; (*videlicet*)

For borrowing Money.

BY virtue of an Act of Parliament made in the Fiftieth Year of the Reign of King George the Third, intituled, [*here set forth the Title of this Act*] We Five of the Trustees for putting the said Act in Execution, in Consideration of the Sum of _____ to the Treasurer of the said Road in Hand paid by *A. B.* do grant, bargain, sell, and demise unto the said *A. B.* his Executors, Administrators, and Assigns, such Proportion of the Tolls arising upon the said Road, and of the Turnpikes and Toll Houses for collecting the same, as the said Sum of _____ doth or shall bear to the whole Sum due and owing on the Credit thereof, to be had and holden from this _____ Day of _____ for and during the Continuance of the said Act, unless the said Sum of _____ with Interest at the Rate of _____ *per Centum per Annum*, shall be sooner paid and satisfied. Given under our Hands and Seals this _____ Day of _____ in the Year of our Lord

Assignment.

And a Copy of every such Assignment or Mortgage shall be entered in a Book or Books to be kept for that Purpose, by the Clerk or Treasurer of the said Road, but no Money shall be borrowed upon the Credit of the Tolls

Tolls arising on the said Road after the First Meeting of the said Trustees, unless Notice for that Purpose be affixed in Writing upon all the Turnpikes then erected across the said Road, at least Fourteen Days before the borrowing thereof, and the Intention thereof be also advertised Twice at least in some Newspaper published in the County of *Southampton*, or usually circulated in the Neighbourhood of the said Road; and all Persons to whom any Assignment or Mortgage shall be made as aforesaid, or who shall be entitled to the Money thereby secured, may from Time to Time transfer his, her or their Right, Title, Interest or Benefit to such Assignment or Mortgage, and the Principal and Interest thereby secured to any Person or Persons whomsoever, either by a separate Instrument or by Indorsement on such Security, in the Form or to the Effect following; *videlicet*,

Form of
Transfer.

“ I *A. B.* do hereby transfer the within Mortgage [*if by Indorsement, or if by a separate Instrument, a certain Mortgage*] bearing Date the
“ Day of _____ of the
“ Tolls arising on the Road to be amended, widened, and kept in Repair
“ by virtue of an Act of Parliament made in the Fiftieth Year of the
“ Reign of King *George the Third*, intituled, [*insert the Title of this Act*]
“ and all my Right and Title to the principal Money and Interest thereby
“ secured unto *C. D.* his Executors, Administrators and Assigns, dated this
“ Day of _____ in the Year of our Lord
“

Which said Transfer shall be produced and notified to the Clerk or Treasurer for the said Road, who shall cause an Entry to be made of such Transfer, containing the Date, Names of the Parties, and Sum of Money therein transferred in the said Book or Books to be kept for entering the said Original Assignments or Mortgages, for which the said Clerk or Treasurer shall be paid the Sum of Two Shillings and Sixpence, and after such Entry made but not till then, every such Assignment shall entitle every such Assignee, his, her or their Executors, Administrators or Assigns to the Benefit thereof and Payment thereon, which said Money so borrowed shall (after paying the Expences of procuring this Act) be applied and disposed of for the Purposes of this Act, according to the true Intent and Meaning thereof, and to no other Use or Purpose whatsoever.

Expences of
the Act how
to be paid.

XXII. And be it further enacted, That an Account shall be kept of the Tolls to be collected on the said Road, and of the Money which shall be subscribed and borrowed on the Credit thereof, and that the Expences and Costs relating to procuring and passing this Act, shall be paid out of the Tolls arising within the said Road, or the Money which shall be subscribed or borrowed on the Credit thereof, and that after Payment thereof, the said Trustees or any Five or more of them, shall from Time to Time apply the Tolls arising from the said Road, and the Money to be subscribed or borrowed on the Credit thereof, in defraying the Expences of erecting Turnpikes and Toll-houses, and repairing, widening, altering and amending the said Road, and defraying all other necessary Costs, Charges and Expences attending the same, and the Purposes of this Act relating to the said Road in such Manner as the said Trustees or any Five or more of them shall from Time to Time direct or appoint.

XXIII. And be it further enacted, That it shall be lawful for the said Trustees or any Five or more of them, and they are hereby fully authorized and empowered to make and repair, and from Time to Time widen, divert, shorten, vary and alter the Course or Path of any Part or Parts of the said Road through any Waste Grounds, Commons or uncultivated Lands, without making Satisfaction for the same, and also through any private Grounds or Hereditaments within the Distance herein-after mentioned, first making Satisfaction to the Owners thereof and Persons interested therein for the Damages they shall sustain thereby; and for that Purpose it shall be lawful for the said Trustees to treat, contract and agree with the Owners of, and Persons interested in any Lands or Hereditaments which the said Trustees shall judge necessary for the Purposes aforesaid, for the Purchase thereof or for the Loss or Damage such Owners or Persons may sustain by the making, widening, diverting, turning or altering the Course or Path of any Part or Parts of the said Road through such Lands or Hereditaments, and it shall be lawful for all Bodies Politic, Corporate or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Fee Tail General or Special, or for Years determinable on any Life or Lives, Husbands, Guardians, Trustees or Feoffees in Trust, Committees, Executors or Administrators, and all other Trustees whatsoever, not only for or on Behalf of themselves, their Heirs and Successors, but also for and on Behalf of their *Cestuique* Trusts, whether Femes Covert, Infants or Issue unborn, Lunatics, Idiots, or other Person or Persons whomsoever, and to and for all Femes Covert who are or shall be seised of, or interested in their own Right, and to and for all and every Person or Persons whomsoever, who are or shall be seised, possessed of, or interested in any such Lands or Hereditaments to contract with the said Trustees for the Satisfaction to be made for such Damages as aforesaid, or to sell and convey unto them all or any of such Lands or Hereditaments or any Part thereof for the Purposes aforesaid, and all Contracts, Sales and Conveyances which shall be so made shall be valid to all Intents and Purposes, any Law, Statute, Usage or other Matter to the contrary notwithstanding, and all such Bodies Politic, Corporate or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Fee Tail, General or Special, or for Years determinable on any Life or Lives, Husbands, Guardians, Trustees, Feoffees, Committees, Executors, Administrators and all other Persons shall be, and are hereby indemnified for what they or any of them shall lawfully do in virtue or in pursuance of this Act.

Trustees to
make and
divert the
Road.

XXIV. And whereas Part of the Line of the said Road runs near to and parallel with the Navigation of the River *Itchin*, for the Space of Two hundred and twenty Yards, or thereabouts, and then crosses the said Navigation: And whereas it is expedient that Provision should be made to protect the Proprietor or Proprietors, future as well as present, of the said Navigation from any Injury in consequence of the said Road being made agreeably to the Line described in the Plan thereof: Be it therefore further enacted, That the said Trustees, if they should deem it expedient to make any Part of the said Road in such Direction and Manner as that the extreme Outside thereof to be situate East of the said Navigation shall approach nearer than within Twenty Feet of the Edge or Bank thereof, then and in such Case they the said Trustees shall fence off the said Road at the Distance of at least Five n Feet from the Edge or Bank of the said Navigation from a certain Place called *Twyford Lane End* to the Place where the

Protecting the
Proprietors of
the River
Itchin.

[*Loc. & Per.*]

5 H

said

faid Trustees may deem it expedient to carry the faid Road across the faid Navigation, with Posts and Rails, and in all Cases whatsoever the faid Trustees, on that Part of the faid Road which shall run parallel with the faid Navigation, between *Twyford Lane End* and the Place where the faid Road shall cross the faid Navigation, shall either by the Means of Posts and Rails, or an Embankment, or by some other Sort of Fence, effectually provide that the Proprietor or Proprietors of the faid Navigation shall in no Case suffer any Injury or Detriment of any Sort, or in any Degree, from the making and maintaining of the faid Road, and shall from Time to Time, and at all Times hereafter, maintain and keep the faid Posts and Rails, or Embankment, in good and sufficient Repair; and also, that the faid Trustees, if they should deem it expedient to erect, or cause to be erected, a Bridge across the faid Navigation, shall erect, or cause to be erected a good and sufficient Bridge, either of Stone or Brick, or of the same Sort of Materials wherewith is built a Bridge now standing across the faid Navigation, near to the Place where the Line of the faid Road crosses the faid Navigation, and shall, in case of the faid new Erection, make, or cause to be made a Bridge, in nowise smaller in Dimensions than the Bridge aforesaid already standing across the faid Navigation, and shall from Time to Time, and at all Times hereafter, keep the faid Bridge which they may so deem it expedient to erect, in good, sufficient, and substantial Repair; and also, that the faid Trustees, if they should deem it expedient to make or cause to be made the faid Road in such Direction or Manner as that the faid Road shall cross the faid Navigation over the Bridge aforesaid already erected across the faid Navigation, then and in that Case they the faid Trustees shall from Time to Time, and at all Times hereafter, maintain and keep the faid last-mentioned Bridge in good, sufficient and substantial Repair.

Protecting the
Owner of
Water Mea-
dows.

XXV. And whereas Part of the Line of the faid Road, after crossing the *Itchin* Navigation as aforesaid, traverses certain Water Meadows, and also the River *Itchin*, below the Mill of *Lower Saint Cross*: And whereas it is expedient that Provision should be made for protecting the Owners and Occupiers of the faid Water Meadows and Mill from any Injury from the making and maintaining of the faid Road; be it therefore further enacted, That the faid Trustees and their Successors as aforesaid, whenever they shall deem it expedient to make or cause to be made the faid Road, across the faid Water Meadows and River *Itchin*, shall at the same Time make, or cause to be made, on such Part of the Line of the faid Road as crosses or shall cross the faid Water Meadows and River *Itchin*, such Watercourses, Water Carriages, Arches, and Bridges, as shall effectually provide for the watering and draining of the faid Water Meadows, and also effectually provide for free Ingress and Egress to the faid Mill by and through the faid River *Itchin*, in such wise and manner, that the faid Owners and Occupiers shall in no Case experience any Let, Hinderance, or Injury of any Sort, or in any Degree, from the making and maintaining of the faid Road; and also that the faid Trustees, or their Successors, as aforesaid, shall from Time to Time, and at all Times hereafter, keep, or cause to be kept, all the faid Watercourses, Water Carriages, Arches, and Bridges in good and substantial Repair.

Where Per-
sons interested
neglect or
refuse to treat.

XXVI. And be it further enacted, That if any Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants for Life or in Fee

Fee Tail General or Special, or for Years determinable on any Life or Lives, Husbands, Guardians, Trustees, Feoffees, Committees, Executors, or any other Person or Persons interested in any such Lands or Hereditaments, upon Notice to him, her, or them, given or left in Writing at the Dwelling House or Dwelling Houses, Place or Places of Abode of such Person or Persons, or of the principal Officer or Officers of any such Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or at the House of the Tenant in Possession of Lands or Hereditaments through which any Part of the said Road is intended to be made, widened, diverted, turned, or altered, shall for the Space of Thirty Days next after such Notice given or left as aforesaid, neglect or refuse to treat, or shall not agree in the Premises, or by reason of Absence shall be prevented from treating, then and in every such Case the said Trustees shall cause such Damage, Value, or Recompence to be enquired into and ascertained by a Jury of Twelve indifferent Men of the said County, from the Neighbourhood of the Place where such Lands and Hereditaments do lie, and in order thereto the said Trustees are hereby empowered and required from Time to Time as Occasion shall require to summon and call before such Jury and examine upon Oath all and every Person and Persons whomsoever, who shall be thought necessary and proper to be examined concerning the Premises (which Oath any One or more of the said Trustees is and are hereby empowered to administer), and such Trustees shall by ordering a View or otherwise use all lawful Ways and Means as well for their own as for the said Jury's Information in the Premises, and after the said Jury shall have enquired of and assessed such Damage and Recompence, they the said Trustees shall thereupon order, adjudge, and determine the Sum or Sums of Money so assessed by the said Jury to be paid to the said Owners or other Persons interested in the said Lands or Hereditaments according to the Verdict or Inquisition of such Jury, and such Verdict or Inquisition, Order and Determination thereon, shall be final, binding, and conclusive, to all Intents and Purposes, against all Parties and Persons whomsoever, claiming or to claim any Estate in Possession, Reversion, or Remainder in Fee, or in Fee Tail General or Special, or for Life or Lives, or for Years determinable on any Life or Lives, or otherwise, their Heirs and Successors, as well absent as present, Infants, Females Covert, Lunatics, Idiots, and Persons under any other Disability whatsoever, Bodies Politic, Corporate, and Collegiate, Corporations Aggregate or Sole, as well as all and every other Person and Persons whomsoever; and for summoning and returning such Juries the said Trustees are hereby empowered to issue their Warrant or Warrants to the Sheriff of the County of *Southampton*, requiring him to impanel, summon, and return an indifferent Jury of Twenty-four Persons from the Neighbourhood of the Place where such Lands or Hereditaments lie, qualified to serve upon Juries, to appear before the said Trustees, or any Five or more of them, at such Time and Place as in such Warrant or Warrants shall be appointed, and such Sheriff or his Deputy or Deputies is and are hereby required to impanel, summon, and return such Number of Persons accordingly, and out of the Persons so impanelled, summoned, and returned, or out of such of them as shall appear upon such Summons, the said Trustees shall and are hereby empowered and required to swear or cause to be sworn Twelve Men, who shall be a Jury for the Purposes aforesaid, and in Default of a sufficient Number of Jurymen the said Sheriff or his Deputy or Deputies shall return other honest and indifferent Men of the
Standers-

Standers-by, or that can speedily be procured to attend that Service, to the Number of Twelve, and all Persons concerned shall have their lawful Challenges against the said Jurymen when they come to be sworn, and the said Trustees acting in the Premises shall have Power from Time to Time to impose any reasonable Fine or Fines upon such Sheriff, his Deputy or Deputies, Bailiff or Bailiffs, Agent or Agents making Default in the Premises, and on any of the Persons that shall be summoned and returned on such Jury, and who shall not appear, or appearing shall refuse to be sworn on the said Jury, or being sworn shall refuse to give or shall not give their Verdict, or in any other Manner wilfully neglect their Duty therein contrary to the true Intent and Meaning of this Act, and on any of the Persons who being required to give Evidence before the said Jury shall refuse or neglect to appear, or appearing, shall refuse to be sworn and examined or to give Evidence, or shall otherwise wilfully misconduct themselves in giving their Evidence, so that no One Fine be more than Five Pounds on any One Person for One Offence.

Expences of
the Jury and
Witnesses how
to be paid.

XXVII. And be it further enacted, that in case any Jury or Juries to be summoned and sworn, pursuant to the Directions or Authority of this Act, shall give in and deliver a Verdict or Assessment for more Money as a Recompense or Satisfaction for the Right, Interest, or Property of any Person or Persons in any such Lands or Hereditaments, or for any Loss or Damage to be by him, her, or them sustained, than what shall have been agreed to and offered by the said Trustees before the summoning and determining of the said Jury or Juries, as a Recompense or Satisfaction for any such Right, Interest, or Property, or for any Loss or Damage as aforesaid, then, and in such Case, the Costs and Expences of summoning and maintaining the said Jury and Witnesses, and all other Expences attending the hearing and determining such Differences shall be borne and paid by the Treasurer to the said Trustees, out of any Money which shall then be in his Hands, or out of any Monies to be received by Virtue of this Act; but if any Jury or Juries so summoned, and sworn as aforesaid, shall give in and deliver a Verdict or Assessment for no more or less Money than shall have been agreed to or offered by the said Trustees, before the summoning or returning of the said Jury or Juries as a Recompense and Satisfaction for any such Right, Interest, or Property, in any such Lands or Hereditaments, or Losses, or Damages, as aforesaid, then the Costs and Expences of summoning and maintaining the said Jury and Witnesses, and all other Expences as aforesaid, shall be borne or paid by the Person or Persons with whom the said Trustees shall have such Controversy or Dispute, which said Costs and Expences having been ascertained and settled by some Justice of the Peace for the said County, not interested in the Matter in question, (who is hereby required to examine and settle the same) shall and may be deducted out of the Money so assessed and adjudged, as so much Money advanced to and for the Use of such Person or Persons, and the Payment or Tender of the Remainder of such Monies shall be deemed and taken to all Intents and Purposes to be a Payment or Tender of the whole Sum or Sums so assessed and adjudged, or otherwise such Costs and Expences, in case the same be not paid upon Demand after being so ascertained and settled as aforesaid, may be recovered by the Clerk or Clerks to the said Trustees, by the Ways and Means hereinafter mentioned or provided for the Recovery of Penalties or Forfeitures: Provided always, That in all Cases where any Person or Persons shall, by reason of Absence have been prevented from treating
about

about such Recompence or Satisfaction as aforesaid, such Costs and Expences shall be borne and paid by the said Trustees in Manner aforesaid.

XXVIII. And be it further enacted, That every Sum of Money or Recompence to be agreed for or assessed as aforesaid, shall be paid out of the Tolls by this Act granted, or out of the Monies to be borrowed on the Credit thereof, to the Party or Parties respectively entitled thereto, or to their Agents, and upon Payment thereof, or in case of any Refusal to accept the same, or the Parties not being to be met with, upon leaving the same in the Hands of the Treasurer or Treasurers to the said Trustees for the Use of such Parties or Persons respectively, to be thereafter disposed of as hereinafter directed, and after Ten Days Notice thereof given to such Parties or Persons, or to their Agents, or left at their respective usual Places of Abode, or with the Tenant or Tenants in Possession of such Lands or Hereditaments, then such Lands or Hereditaments shall be laid into and made Part of the said Road, in such Manner as the said Trustees, or any Five or more of them shall direct, and shall be by them, or such Person or Persons as they shall appoint, sufficiently drained, ditched, fenced, and set out for that Purpose, and shall to all Intents and Purposes whatsoever become, and be deemed and taken to be a common Highway, and be from thenceforth Part of the said Road for ever thereafter.

Money allowed for Lands how to be charged or tendered.

XXIX. Provided always, and be it further enacted, That no Power or Authority by this Act given to the said Trustees shall extend to the taking down or injuring any Dwelling Houses or other Buildings, or to the taking in of any Garden, Orchard, Yard, Park, Planted Walk, or Avenue to a House, or Plantation or Nursery of Trees, or of any Part or Parts thereof, without the Consent in Writing of the Owners or Proprietors thereof first had and obtained.

Trustees not to take down Houses.

XXX. And whereas by Reason of the Purchases which the said Trustees are empowered and required to make by virtue of this Act, or by Reason of the diverting of some Part or Parts of the said Road, they may happen to be seized of some Piece or Pieces of Ground over and above what shall be necessary for effecting the Purposes of this Act; be it therefore further enacted, That it shall be lawful for the said Trustees to sell and dispose of such Pieces or Parcels of Ground either together or in Parcels, as they shall find most convenient and advantageous to such Person or Persons as shall be willing to contract for and purchase the same: Provided always, that the said Trustees before they shall sell and dispose of any Piece or Pieces of Ground as aforesaid, shall offer the same to the Person or Persons from whom they shall have been purchased, or where the same shall arise by Reason of diverting any Part or Parts of the said Road, then to the Person or Persons whose Lands shall adjoin thereunto, and in case such Person or Persons respectively shall not then and thereupon agree, (except with respect to and on account of the Price thereof) to purchase or repurchase the same respectively, any Affidavit to be made and sworn before a Master Extraordinary in the High Court of Chancery, or before One of His Majesty's Justices of the Peace for the said County (who are hereby respectively empowered to take the same) by some Person or Persons no Way interested in the said Piece or Pieces of Ground, stating that such Offer was made by or on the Behalf of the said Trustees, and that such Offer was not then and thereupon agreed to, or was refused by the Person or Persons

Trustees may sell Ground not wanted.

[Loc. & Per.]

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to

to whom the same was so offered, shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made and was not agreed to, or was refused by the Person or Persons to whom such Offer was made, (as the Case may be), and in case such Person or Persons shall be desirous of purchasing or repurchasing the same, and he, she, or they, and the said Trustees shall differ and not agree with respect to the Price thereof, in such Case the Price or Prices thereof shall be ascertained by a Jury in Manner herein-before directed with respect to disputed Value of Premises to be purchased by the said Trustees in pursuance of this Act, and that the Expence of hearing and determining such Difference shall be borne and paid in like Manner as herein-before directed with respect to such Purchases made by the said Trustees *mutatis mutandis*, and the Money to arise by the Sale or Sales which may be made by the said Trustees of such Piece or Parcel of Road or Ground as aforesaid, shall be applied to the Purposes of this Act, but the Purchaser or Purchasers thereof shall not be answerable or accountable for any Misapplication or Non-application of such Money.

Application
of Compen-
sation Money
if amounting
to 200l.

XXXI. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Hereditaments purchased, taken, or used by virtue of the Powers of this Act, for the Purposes thereof, which shall belong to any Corporation, Feme Covert, Infant, Lunatic, or Person or Persons under any Disability or Incapacity, as in this Act particularly mentioned, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England* in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account there *ex parte* the Trustees for executing this Act, to the Intent that such Money shall be applied under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments in the Purchase or Redemption of the Land Tax, or towards the Discharge of any Debt or Debts or other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith, to the same or the like Uses, Intents, or Purposes, or where such Money shall not be so applied, then the same shall be laid out and invested under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, and Hereditaments which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect, and in the mean Time and until such Purchase shall be made the said Money shall by Order of the said Court of Chancery, upon Application thereto be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated, or Three Pounds *per Centum* Reduced Bank Annuities, and in the mean Time and until the said Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and Annual Produce of
the

the said Consolidated or Reduced Bank Annuities shall from Time to Time be paid by Order of the said Court to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so hereby directed to be purchased in case such Purchase or Settlement were made.

XXXII. Provided always, and be it further enacted, That if any Money If under 200l. and above 20l. so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall amount to or exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank, in the Name and with the Privity of the said Accountant General of the High Court of Chancery, and be placed to his Account as aforesaid, in order to be applied in Manner herein-before directed, or otherwise the same shall be paid at the like Option to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Five or more of the said Trustees for executing this Act (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties) in order that such Principal Money, and the Dividends arising thereon, may be applied in Manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Chancery.

XXXIII. Provided also, and be it further enacted, That where such Money Application where less than 20l. so agreed or awarded to be paid as next before-mentioned, shall be less than Twenty Pounds; then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so purchased, taken, or used as aforesaid, in such Manner as the said Trustees shall think fit, or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

XXXIV. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be so ordered to be paid as aforesaid shall not be able to make a good Title to the Premises to the Satisfaction of the said Trustees, or shall refuse to execute such Conveyance or Conveyances, or in case such Person or Persons to whom such Sum or Sums of Money shall be so ordered to be paid as aforesaid, cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Hereditaments, be not known or discovered, then and in every such Case it shall and may be lawful for the said Trustees to order the said Sum or Sums of Money so awarded to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the said Court of Chancery, to be placed to his Account to the Credit of the Parties interested in the In case of not making out Titles. said

said Lands, Tenements, or Hereditaments, describing them, subject to the Order, Controul, and Disposition of the said Court of Chancery, which said Court on the Application of any Person or Persons making claim to such Sum or Sums of Money, or any Part thereof, by Motion or Petition; shall be and is hereby empowered in a summary Way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Public Funds, or to order Distribution thereof, or Payment of the Dividends thereof according to the respective Estate or Estates, Title, or Interest of the Person or Persons making claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England* who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

Respecting
disputed
Titles.

XXXV. Provided always, and be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery in pursuance of this Act, for the Purchase of any Lands, Tenements, or Hereditaments, or of any Estate, Right, or Interest in any Lands, Tenements, or Hereditaments, to be purchased in pursuance thereof, or to any Bank Annuities to be purchased with any such Money, or to the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Hereditaments, at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according to such Possession until the contrary shall be shewn to the Satisfaction of the said Court of Chancery, and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Hereditaments, or to same Estate or Interest therein.

The Court of
Chancery may
direct the
Payment of
Expences.

XXXVI. Provided also, and be it further enacted, That where by Reason of any Disability or Incapacity of the Person or Persons, or Corporation entitled to any Lands, Tenements, or Hereditaments to be purchased under the Authority of this Act, the Purchase Money for the same shall be required to be paid into the said Court, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the like Uses in pursuance of this Act, it shall be lawful for the said Court to order the Expences of all Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expences as the said Court shall deem reasonable, together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Trustees, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

XXXVII. And whereas a Map or Plan describing the Line of the said new Road, and the Lands through which the same is to be carried, together with a Book of Reference, containing a List of the Names of the Owners and Occupiers of such Lands, has been deposited in the Office of the Clerk of the Peace for the said County of *Southampton*; be it therefore enacted, That the said Map or Plan, and Book of Reference shall remain in the Custody of the Clerk of the Peace for the said County of *Southampton*, to the End that all Persons may at all reasonable Times have Liberty to peruse and inspect the same, and to take Copies or Extracts thereof, at their Will and Pleasure, paying the Clerk of the Peace the Sum of Two Shillings and Six-pence for every such Inspection, and at the Rate of Eight-pence for every One hundred Words of such Copies or Extracts of the said Map or Plan, and Book of Reference; and that the said Trustees in making the said new Road, shall not deviate more than One hundred Yards of Three Feet each from the Line described in the said Map or Plan, without the Consent and Approbation in Writing, of the Person or Persons, Body Politic, Corporate, or Collegiate, through or over whose Lands or Grounds such Deviation shall be made.

Preventing
Deviation
from Line de-
scribed in the
Map or lan.

XXXVIII. Provided always, and be it further enacted, That it shall and may be lawful for the said Trustees to make the said new Road into, through, across or over the several Lands or Grounds of any Person or Persons who is, are, or may be Owner or Owners of Lands over which the same is set out and described in the said Map or Plan as aforesaid, although the Name or Names of such Person or Persons may happen to be omitted in the said Book of Reference, in case it shall appear to any Two or more Justices of the Peace for the said County of *Southampton*, and be certified by Writing, under their Hands, that such Error or Omission proceeded from Mistake.

Trustees may
make the
Roads
through
Lands, al-
though the
Names are
not in the
Book of
Reference.

XXXIX. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prevent, hinder, or restrain the said Trustees from widening, diverting, turning, shortening, varying, or altering the Course or Path of any Part or Parts of the said Road, beyond the Distance of One hundred Yards through the Lands or Grounds of any Person or Persons whomsoever, in case such Person or Persons shall be consenting thereto, and shall signify his, her, or their Consent in Writing, to such Diversion or Alteration being made.

Trustees not
restrained
from diverting
the Roads be-
yond 100
Yards, if Par-
ties consent.

XL. And be it further enacted, That it shall and may be lawful to and for the Surveyor or Surveyors of the said Road, and to and for all such Persons as he or they respectively shall appoint, to search for, cut, dig, get, gather, and take away any Furze, Heath, Stone, Gravel, Sand, or other Materials for making and repairing the said Road, out of and from any Waste Grounds, Commons, or uncultivated Lands, River, Brook, or Pit, in any Parish, Township, Hamlet, Division, District, or Place in which any Part of the Road hereby directed to be made, amended, and repaired, shall lie, or in any adjacent Parish, Township, Hamlet, Division, District, or Place, without paying any Thing for the same, the said Surveyor or Surveyors, or other Person or Persons acting by his or their Appointment, filling up the Pits or Quarries, levelling the Ground or sloping down the Banks where such Materials shall be taken, or railing or fencing off such Pits or Quarries,

For getting
Materials to
repair the
Road.

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so that the same may not be dangerous to Passengers or Cattle; and also that such Surveyor or Surveyors, or other Person or Persons as aforesaid, may (except as herein-after excepted) by Order of the said Trustees, (such Order to be made at some Meeting of the Trustees, to be holden in pursuance of this Act, and a Copy thereof to be given to such Surveyor or Surveyors, attested and signed by the Clerk or Clerks to the said Trustees) search for, cut, dig, gather, and take away any such Materials as aforesaid, in, off, from, and out of the private Lands, Fields, or Grounds of any Person or Persons, where the same may be had or found (such Lands, Fields, or Grounds not being a Garden, Orchard, Yard, Park, Paddock, Walk or Walks, or Avenue to a House, or any Piece of Ground planted and set apart as a Nursery for Trees), making or tendering such Satisfaction for the same, and for any Damages done thereby to the Owners and Occupiers of such Grounds, where and from whence the same shall be cut, dug, gotten, gathered, and carried away, or over which the same or any other Materials for making and repairing the said Road, shall be carried, according to their respective Rights and Interests in such Grounds as the said Trustees shall adjudge reasonable; and in case of any Difference between the said Trustees, Surveyor or Surveyors, or other Persons employed as aforesaid, and the said Owners or Occupiers, or any of them, concerning the Value of such Materials and Damages, it shall and may be lawful to and for any Two or more Justices of the Peace of the County where such Materials shall be so cut, dug, gotten, gathered, taken, and carried away, on Ten Days Notice thereof in Writing, being given by either Party to the other, or left at their respective Places of Abode, to hear, settle, and determine the Matters of such Payment and Damages, and the Judgement or Order of the said Justices shall be final and conclusive to all Parties.

Notice to be given to Occupiers of Lands before Materials are taken for repairing the Road.

XLI. Provided nevertheless, and be it further enacted, That it shall not be lawful for any Surveyor or Surveyors or other Person or Persons acting under the Authority of this Act, to dig, gather, get, take or carry away any Materials for repairing such Road out of or from any inclosed Lands or Grounds until Notice in Writing signed by the Surveyor or Surveyors, shall have been given to the Owner and Occupier of the Premises from which such Materials are intended to be taken or left for such Owner and Occupier at their respective usual Places of Residence to appear before the said Trustees or Two or more Justices of the Peace acting for the County where such Premises shall be situate, to shew Cause why such Materials shall not be had from such Lands or Grounds, And in case such Owner or Occupier or one of them, or their or his Agent, shall attend pursuant to such Notice, but shall not shew sufficient Cause to the contrary, then the said Trustees or such Justices shall or may authorize such Surveyor or Surveyors, or other Person or Persons to dig, get, gather and carry away such Materials at such Time or Times as to the said Trustees or such Justices shall seem proper, and if such Owner or Occupier shall neglect or refuse to appear by himself or his Agent, the said Trustees or such Justices shall and may make such Order therein as they respectively shall think fit, as fully and effectually to all Intents and Purposes as if such Owner or Occupier or his Agent had attended.

Penalty on taking away Materials got

XLII. And be it further enacted, That if any Person or Persons whomsoever, shall take away any Stone or Materials which shall have been dug
or

or gathered by or by the Order of the said Surveyor or Surveyors, for the Purpose of making or amending the said Road or any Part or Parts thereof, or shall get or take away any Stone, Gravel, or Materials out of any Pit or Quarry which shall have been made for the Purpose of getting such Materials for amending the said Road or any Part or Parts thereof, before the said Surveyor or Surveyors, or his or their Workmen shall have discontinued working therein for the Space of Thirty Days (except the Owner or Occupier of any private Ground wherein such Pit or Quarry shall have been so made, and Persons authorized by such Owner or Occupier to get Materials therein for his own private Use only, and not for Sale), every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings.

XLIII. And be it further enacted, That it shall and may be lawful to and for the said Surveyor or Surveyors, and to and for any Person or Persons whom he or they shall appoint by Order of the said Trustees, to cut and make any Causeways or Footpaths upon the Sides of the said Road, or to cut Drains or Ditches through, or into any Lands or Grounds adjoining or lying contiguous to any Part of the said Road, or to erect Bridges over any Drains or Watercourses in such Manner as such Surveyor or Surveyors shall deem and judge necessary and proper for amending or keeping in Repair any Part of the said Road, and also to make a Way or Ways through the Lands and Grounds adjoining to any narrow or ruinous Part or Parts of the said Road (not being a Garden, Orchard, Park, Yard, Paddock, planted Walk or Avenue to any House, or any inclosed Ground planted or set apart as a Nursery for Trees) to be made use of as a public Highway, whilst the narrow or ruinous Parts of the said Road are widening or repairing, and until the same shall be convenient and safe for the Passage of Travellers and Carriages, making such reasonable Satisfaction to the Owners and Occupiers of such Lands respectively through and into which any such Drain shall be cut, or on or over which any such temporary Road shall be made for the Damages which such Owners or Occupiers respectively shall or may thereby sustain, as shall be adjudged reasonable by the said Trustees; and in case any Difference shall happen between such Owners or Occupiers and such Trustees touching such Damage, then and in such Case the Justices of the Peace at the First General or Quarter Sessions of the Peace to be holden for the said County of *Southampton*, next after the Expiration of Twenty-one Days from the Time of doing such Damage, shall and are hereby authorized and required to hear, settle, and determine the same, and their Determination therein shall be final and conclusive.

XLIV. And be it further enacted, That it shall and may be lawful to and for the said Surveyor or Surveyors, and such Person or Persons as he or they shall appoint (by Direction and under the Hands of any Five or more of the said Trustees) from Time to Time to remove and prevent all Annoyances on any Part or Parts of the said Road, by Rails, Steps, Sign Posts or other Nuisances, and to turn or stop any Watercourses, Sinks or Drains running into, along, or out of any Part of the said Road to the Prejudice thereof, and to make the same as large and deep as he or they shall think proper, and to cleanse any Ditch or Watercourse next adjoining to any Part of the said Road, and to cut down, lop or top, at the proper Season of the Year, any Trees or Bushes growing in any Part of the said Road

Road or in the Hedges or Banks adjoining thereto, in case the Person or Persons occasioning such Annoyance, or who ought to remove the same, or to cleanse such Ditch or Watercourse, or to cut down, lop or top such Trees or Bushes, shall refuse or neglect so to do for the Space of Fourteen Days next after Notice in Writing given for that Purpose, signed by any Five or more of the said Trustees or by their Surveyor or Surveyors, the reasonable Charges whereof shall be reimbursed to the said Surveyor or Surveyors, by the Person or Persons refusing or neglecting as aforesaid; and in case any such Person shall not upon Demand pay and reimburse to such Surveyor or Surveyors such Charges as aforesaid, the same shall and may be recovered by Distress and Sale of the Goods and Chattels of such Person in like Manner as is herein authorized or directed for the Recovery of any other Penalty inflicted by this Act; and if after the Removal of any of the said Annoyances any Person shall again offend in the like Manner, every such Person shall for every such Offence over and above such Charges as aforesaid, forfeit and pay any Sum not exceeding Forty Shillings, One Moiety whereof shall go the Informer, and the other Moiety shall be applied to the Purposes of this Act.

Road to be measured, and Mile Stones and Guide Posts erected.

XLV. And be it further enacted, That the said Trustees shall and may cause the said Road to be measured, and Mile Stones to be set up, at or near the Sides thereof, at the Distance of One Mile from each other, with Inscriptions thereon, denoting the Number of Miles, and Distance of Places, as the said Trustees shall think fit, and also cause to be erected Guide Posts upon such Parts of the said Road where the same are crossed or joined by other Roads as they shall judge proper; and if any Person or Persons shall wilfully break, throw down, injure, destroy, obliterate, or deface any Table of Tolls, Mile Stone, or Post, erected on any Part of the said Road, or any of the Letters, Figures, or Marks inscribed thereon, or shall wilfully break, throw down, or injure any Stone or Stones, or Parapet Wall or Walls, on the Side or Sides of any Bridge or Bridges, Arch or Arches, on any Part or Parts of the said Road, every such Person so offending shall forfeit and pay any Sum not exceeding Forty Shillings for each Table of Tolls, Stone Post, Parapet Wall, and Arch so broken, thrown down, injured, or destroyed, or on which any Letters, Figures, or Marks shall be so obliterated, or defaced, One Moiety whereof shall go to the Informer, and the other Moiety shall be applied for the Purposes of this Act.

Penalty on damaging them.

Penalty for riding on Foot-paths.

XLVI. And be it further enacted, That if any Person or Persons shall wilfully or negligently injure, destroy, break down, or otherwise damage, or shall ride on, or drive, or lead any Horse, Beast, Cattle, or Carriage over or upon any Footpath or Causeway, made or to be made on the Side or Sides of any Part of the said Road; or if any Driver of any Waggon, or other Carriage shall wilfully or carelessly break or damage any of the Posts or Stones which may be erected for the Security of the said Footpaths or Causeways; or if any Person or Persons shall plough over or drag any Plough upon any Part of the said Road, or in ploughing shall turn any Horse or other Beast drawing any Plough upon any Part of the said Road, to the Prejudice thereof; or if any Person or Persons shall scrape off any Mud, Soil, or other Matter or Thing, which shall be or lie upon any Part of the said Road with any Instrument, so as to damage the said Road, or any Part thereof; or if any Person shall hale or draw or cause to be haled or drawn upon any Part of the said Road, any Tree or Piece of Timber, or any

any Stone, (otherwise than upon Wheel Carriages), or shall suffer any Part of any Tree or Piece of Timber or Stone, which shall be carried on a Wheel Carriage, to drag upon any Part of the said Road, to the Prejudice thereof; or if any Person driving any Pigs or Swine upon the said Road shall suffer the same to root up or damage the said Road, or any Part thereof, or the Fences, Hedges, Bankings, or Copse, on either Side thereof; or if any Person or Persons shall leave or suffer any Cattle, Sheep, or Beast to be and remain loose on the said Road; or if any Person driving any Coach, Chaise, or Waggon, Cart, or other Carriage upon the said Road, and meeting another Coach, Chaise, Waggon, Cart, or other Carriage, shall not keep his Carriage on the left or near Side of the said Road; or if any Person shall, in any Manner wilfully prevent any other Person or Persons from passing him, her, or them upon the said Road, or the Coach, Chaise, Waggon, Cart, or other Carriage, under his, her, or their Care, and if any Person shall make or assist in making any Fire or Fires whatsoever, or shall set fire to or let off or throw any Squib, Rocket, Serpent, or Fire-work whatsoever, on any Part or Parts of the said Road; or if any Person or Persons shall leave any Waggon, Wain, Cart, or other Carriage, or any Plough, Harrow, or other Implement of Husbandry (without some reasonable Cause to be allowed by the Justice of the Peace before whom the Person so offending shall be summoned or conveyed, in order to his or her Conviction, and save and except with regard to such Waggon, Wain, Cart, or other Carriage, during such reasonable Time as the same shall be loading or unloading, and standing as near to the Side of the said Road as conveniently may be), in, upon, or on the Side of the said Road, either with or without any Horse or Beast of Draught, harnessed or yoked thereto, or if any Person shall lay any Piece of Timber, or any Stones, Bricks, Hay, Straw, Lime, Dung, Manure, Soil, Rubbish, or other Matter or Thing whatsoever, on any Part of the said Road, or on the Side or Sides thereof, to the Prejudice thereof, or of any Person or Persons travelling thereon; every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, One Moiety whereof shall go to the Informer, and the other Moiety shall be applied to the Purposes of this Act.

XLVII. And be it further enacted, That if any Person or Persons shall assault, interrupt, or hinder, or cause to be assaulted, interrupted, or hindered any Collector of the Tolls, or any Surveyor or Surveyors, or any Person or Persons by them, or any of them, or by the said Trustees employed in the Execution of this Act, every such Person shall, for every such Offence forfeit and pay any Sum not exceeding Forty Shillings.

Penalty on obstructing the Execution of the Act.

XLVIII. And be it further enacted, That all the Inhabitants of the several Parishes, Hamlets, Districts, or Places through which the said intended Road shall pass, shall be liable to the Repair of such Parts of the said intended Road as are within their respective Parishes, Hamlets, Districts, or Places, in such and the same Manner as they are liable to the Repair of any other Highway within the same.

Parishes to be liable to Repairs.

XLIX. Provided always, and be it enacted, That all Persons who by Law are liable to do Statute Work on any Part of the Road within the Parishes or Places through which the said Road or any Part thereof passes, shall be liable to do the same on the said Road; and it shall and may be lawful to and for any Two or more Justices of the Peace for the

Statute Work.

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said

said County of *Southampton*, and they are hereby required and empowered upon Application made to them by the said Trustees, or by their Clerk or Surveyor by their Order, yearly to adjudge and determine what Part or Proportion of the Statute Work shall every Year be done upon the said Road by the Inhabitants of the respective Parishes or Places in which the said Road doth lie, and also what Proportion of the Money received by the Surveyor or Surveyors of the Highways of every such Parish or Place in lieu of or as a Composition for such Statute Work as aforesaid, shall be by him, her, or them, paid to the said Trustees or their Treasurer or Treasurers; and in order thereunto it shall and may be lawful to and for such Justices from Time to Time to summon the Surveyor or Surveyors of the Highways for every such Parish or Place to bring in Lists before such Justices at some Place to be expressed in such Summons (within Ten Days after the serving of such Summons), of the Names of the several Persons who within such Parish or Place are by Law subject and liable to do Statute Work for that Year, or to the Payment of any Money in lieu of or as a Composition for such Statute Work, distinguishing the Nature of the Work to be done, whether with Teams or Draughts, or otherwise, and also the Amount of the respective Sums to be paid, which Lists of Names shall be made in Manner and under such Regulations and Restrictions as is or may be directed by any Law or Statute in Force and Effect for the Repairs of the Public Highways, and out of such Lists the said Justices shall and may allot, appoint, and order such and so many of the Persons who shall appear to be subject and liable to Statute Work as aforesaid, to do such Number of Days Statute Work in every Year upon the said Road as the said Justices shall think reasonable, and the same shall be done on such Days and at such Times (not being Hay-time or Harvest) and in such Parts of the said Road as the said Trustees or their Surveyor or Surveyors shall from Time to Time order, direct, and appoint; and the said Justices shall and may also order and direct the Persons who by such Lists shall appear to be subject and liable to the Payment of any Money in lieu of or as a Composition for Statute Work as aforesaid, to pay such Proportion thereof as the said Justices shall think proper, to the said Trustees or their Treasurer at such Time or Times as they the said Justices shall direct, and in Default of Payment thereof the same shall and may be recovered by Distress and Sale of the Goods and Chattels of the respective Persons liable to the Payment thereof in like Manner as any Penalty is by this Act authorized or directed to be recovered; and each and every Person who shall neglect or refuse to do such Statute Work as aforesaid, after Notice in Writing given to or left for him, her, or them, at his, her, or their last or usual Place or Places of Abode for that Purpose by any Surveyor of the said Trustees, shall for every Day of his, her, or their Default, or the Default of any Labourer or Labourers, Team or Teams, Draught or Draughts, Horse or Horses, Beast or Beasts, to be provided by him, her, or them, be subject and liable to such Pains, Penalties, and Forfeitures as such Person or Persons may be subject and liable to by any Law or Statute in Force and Effect for the Repair of the Public Highways; and if any Person who shall come to work as a Labourer, or shall be sent with any Team or Draught to work on the said Road, shall be found idle or negligent by any Surveyor or Surveyors to the said Trustees, such Surveyor or Surveyors is and are hereby empowered to remove and turn off the Persons who shall be found idle or negligent as aforesaid, and in that Case every such Person sending
such

such Labourer, Team, or Draught, shall be subject and liable to the respective Forfeitures and Payments aforesaid, as if such Team or Draught had not been sent to work on any Part of the said Road, all which Forfeitures shall be paid to the Treasurer to the said Trustees and applied towards amending the said Road; and in case the Surveyor or Surveyors of the Highways for any of the said Parishes or Places shall refuse or wilfully neglect to give in such Lists as aforesaid, or shall knowingly or wilfully give in false or imperfect Lists, every such Surveyor or Surveyors so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

L. And be it further enacted, That it shall and may be lawful to and for the said Trustees to compound and agree with any Person or Persons, Bodies Politic or Corporate, for the Repairs or Statute Work to be by them done on the said Road or any Part thereof, and also with the Inhabitants and Occupiers of Lands, Tenements or Hereditaments of and in all or any of the Parishes or Places in which the said Road shall lie and be situate, or with the Surveyor of the Highways for such Parishes or Places duly authorized for that Purpose at a public Vestry, for a certain Sum of Money by the Year or otherwise, as the said Trustees shall think reasonable in lieu of the Whole or any Part of the Statute or other Work to be by all or any of the said Inhabitants and Occupiers done on the said Road, which Composition Money shall always be paid by the Surveyor or Surveyors of the Highways or other Officer of the Parish, or by the Person or Persons so compounding, to the Treasurer or Treasurers of the said Trustees in Advance on or before the First Day of *April* in each and every Year, or otherwise the Inhabitants and Occupiers of such Parish or Place shall not be permitted to compound for that Year.

LI. And whereas Offences may be committed against this Act by Persons unknown to the Collectors, Surveyors or other Officers appointed to put this Act into Execution, be it therefore enacted, That it shall and may be lawful for any of the said Trustees or their Clerk or Clerks, or the Collectors, Surveyors, or other Officers respectively, and such Person or Persons as he or they shall call to his or their Assistance, without any Warrant or other Authority than this Act, to seize and detain any such unknown Person or Persons who shall commit any such Offence or Offences, and take him, her, or them before any Justice of the Peace for the County or District near to the Place where the Offence or Offences shall be committed or such Offender or Offenders seized and apprehended, and such Justice is thereby empowered and directed to proceed immediately to the hearing and determining of the Complaint, or to oblige such Person or Persons so offending to give Security for his, her, or their Appearance, at some Petty Sessions to be holden within and for the said County or District in which such Offence or Offences shall have been committed, to answer the said Complaint; and the Justices present at such Petty Sessions, or any Two or more of them, are hereby authorized and required to hear and determine the Matter of the said Complaint in a summary Way, and upon Conviction of the Offender or Offenders either by the Justice before whom he, she, or they shall be first taken, or by the Justices at such Petty Sessions as aforesaid, it shall be lawful for such Justice or Justices respectively to commit him, her, or them to the Common Gaol or House of Correction of the same County or District, there to remain for any Time not exceeding Fourteen Days,

Days, unless he, she, or they shall sooner pay the respective Penalties by him, her, or them incurred for such Offence or Offences, together with the Costs and Charges attending the Conviction and Commitment.

To compel
Payment of
Subscriptions.

LII. And be it further enacted, That the Person or Persons who have subscribed any Money for or towards defraying the Expences of executing this Act, shall and they are hereby required to pay such Money within such Time and to such Persons as the said Trustees or any Five or more of them shall order and direct, and in Default of such Payment such Money shall be recovered by Action of Debt, or on the Case to be brought in the Name of the Clerk to the Trustees in any of His Majesty's Courts of Record at *Westminster*, with full Costs of Suit.

Actions to be
brought in the
Name of the
Treasurer or
Clerk, or of
the Trustees.

LIII. And be it further enacted, That the said Trustees may sue and be sued in the Name or Names of their Treasurer or Clerk, or in the Name of any One of the said Trustees on Behalf of the said Trustees, and no such Action shall abate or be discontinued by the Death or Removal of the Person in whose Name or against whom the same shall be brought or commenced, nor by the Act of such Person or Persons without the Consent of the said Trustees, at a Meeting held in pursuance of this Act, but no such Treasurer, Clerk, or Trustee, or any or either of them, shall be subject to the Payment of any Costs or Expences, on account thereof, but all such Costs and Expences shall be defrayed out of the Money arising by virtue of this Act, collected or received by the said Trustees.

Recovery and
Application
of Penalties.

LIV. And be it further enacted, That all Penalties and Forfeitures by virtue of this Act imposed, (the Manner of levying and recovering whereof is not hereby otherwise particularly directed) shall be levied and recovered by Distress and Sale of the Goods and Chattels of the Offender by Warrant under the Hand and Seal of any Justice of the Peace for the County or Place where the Offence shall be committed, (which Warrant such Justice is hereby empowered to grant upon the Confession of the Party, or upon the Evidence of any credible Witness upon Oath, and which Oath such Justice is hereby empowered to administer), and the Overplus (if any) of the Money arising by such Distress and Sale shall be returned upon Demand to the Owner of such Goods and Chattels, after deducting the Costs and Charges of making, keeping, and selling the Distress, and such Penalties and Forfeitures when recovered (if not herein-before directed to be otherwise applied) shall be paid to the Treasurer to the said Trustees, to be applied towards the Purposes of this Act; and in case sufficient Distress shall not be found, or such Penalties and Forfeitures shall not be paid forthwith, it shall and may be lawful to and for such Justice, and he is hereby authorized and required by Warrant under his Hand and Seal to cause the Offender to be committed to the Common Gaol or House of Correction of such County or Place where the Offence shall have been committed, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unless such Penalties and Forfeitures shall be sooner fully paid and satisfied.

Directing the
Form of
Conviction.

LV. And be it further enacted, That for the more speedy Conviction of all Offenders against this Act, all and every the Justice and Justices of the Peace before whom any Person or Persons shall be convicted of any Offence

fence against this Act, shall and may cause the Conviction to be drawn up in the Form or to the Effect following:

‘ To wit. } BE it remembered, That on the Day of
 ‘ } in the Year of our Lord
 ‘ and in the Year of the Reign of His Majesty
 ‘ is convicted before me [or, us] of
 ‘ His Majesty’s Justices of the Peace for the by virtue
 ‘ of an Act of Parliament made and passed in the Fiftieth Year of the Reign
 ‘ of His Majesty King George the Third, intituled, [*here set forth the Title*
 ‘ *of this Act, and specify the Offence and the Time and Place when and where*
 ‘ *the same was committed.*] Given under my [or, our] Hand and Seal [or,
 ‘ Hands and Seals] the Day and Year first above written.’

LVI. Provided always, and be it enacted, That if any Person or Persons Appeal.
 shall think himself, herself, or themselves aggrieved by any Thing done
 in pursuance of this Act, such Person or Persons may appeal to the Jus-
 tices of the Peace at the First General or Quarter Sessions of the Peace to
 be holden for the County of *Southampton*, within the Space of Thirty Days
 next after the Cause of such Complaint shall have arisen, the Person or
 Persons appealing, having first given Ten Days clear Notice at least of
 his, her, or their Intention to bring such Appeal, and of the Matter thereof
 to the Treasurer or Treasurers, or Clerk to the said Trustees, and within
 Three Days after such Notice, entering into a Recognizance before some
 Justice of the Peace for such County or Place, with Two sufficient Sure-
 ties conditioned to try such Appeal, and abide the Order thereof, and to
 pay such Costs as shall be awarded by the Justices at such Quarter Ses-
 sions, and the said Justices in such Sessions, upon due Proof of such No-
 tice and Recognizance having been given and entered into, are hereby
 authorized and required to hear and determine the Matter of such Appeal
 in a summary Way, and to make such Determination therein, and to
 award such Costs to either of the Parties, or otherwise as they shall judge
 proper, and the said Justices may if they see Cause, mitigate any Fine, Pe-
 nalty, or Forfeiture, and may also order such further Satisfaction to be
 made to the Party injured, as they shall judge reasonable, and all such
 Determinations of the said Justices shall be final, binding, and con-
 clusive upon all Parties, to all Intents and Purposes whatsoever.

LVII. And be it further enacted, That where any Distress shall be made Distress not to
be unlawful
for want of
Form.
 for any Sum of Money to be levied by virtue of this Act, the Distress itself
 shall not be deemed unlawful, nor the Party or Parties making the same
 be deemed a Trespasser or Trespassers, on Account of any Defect or Want
 of Form in the Notice, Information, Summons, Conviction, Warrant of
 Distress, or other Proceedings relating thereto, nor shall the Party or
 Parties distraining be deemed a Trespasser or Trespassers *ab initio* on Ac-
 count of any Irregularity which shall be afterwards done by the Party or
 Parties distraining; but the Person or Persons so aggrieved by such Irre-
 gularity, shall and may recover full Satisfaction for the Special Damage
 in an Action upon the Case.

LVIII. And be it further enacted, That no Order, Verdict, Assessment, Proceedings
not to be
quashed for
want of Form.
 Judgment, or other Proceeding made, touching or concerning any of the
 [Loc. & Per.] 5 M Matters

Matters aforesaid, or touching or concerning the Conviction of any Offender or Offenders against this Act, shall be quashed or vacated for Want of Form, or be removed or removeable by *Certiorari*, or by any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*; any Law or Statute to the contrary thereof in anywise notwithstanding.

Notice of
Action to be
given.

LIX. And be it further enacted, That no Plaintiff or Plaintiffs shall recover in any Action to be commenced against any Person or Persons for any Thing done in pursuance of this Act, unless Notice in Writing shall have been given to the Defendant or Defendants Thirty Days before such Action shall be commenced of such intended Action, signed by the Attorney for the Plaintiff or Plaintiffs, specifying the Cause of such Action, nor shall the Plaintiff or Plaintiffs recover in any such Action, if Tender of sufficient Amends hath been made to him, her or them, or to his, her or their Attorney, by or on Behalf of the Defendant or Defendants before such Action brought; and in case no such Tender shall have been made, it shall and may be lawful to and for the Defendant or Defendants in any such Action, by Leave of the Court after such Action shall have been brought at any Time before Issue joined to pay into Court such Sum of Money as he, she, or they shall think fit, whereupon such Proceeding, Order, and Judgment shall be made and given in and by such Court, as in other Actions where the Defendant is allowed to pay Money into Court.

Limitation of
Actions.

LX. Provided always, and be it enacted, That no Action or Suit shall be commenced against any Person or Persons for any Thing done in pursuance of this Act, after One Calendar Month next after the Fact committed, and every such Action or Suit shall be brought and tried in the County of *Southampton*, and not elsewhere; and the Defendant or Defendants in every such Action or Suit shall and may plead his or their Election specially, or the General Issue, and give this Act and the Special Matter in Evidence; at any Trial to be had thereupon, and that the same was lawfully done in pursuance and by the Authority of this Act; and if the same shall appear to have been so done, or if any such Action or Suit shall be brought before Fourteen Days Notice shall have been given, or after a sufficient Satisfaction made or tendered as aforesaid, or after the Time limited for bringing the same, as aforesaid, or shall be brought in any other County than as aforesaid, then and in every such Case the Jury shall find a Verdict for the Defendant or Defendants; and upon such Verdict, or if the Plaintiff or Plaintiffs shall be nonsuited, or discontinue his, her, or their Action or Suit, after the Defendant or Defendants shall have appeared, or if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, then and in every such Case the Defendant or Defendants shall recover Treble Costs, and have such Remedy for recovering the same, as any Defendant hath for Costs of Suit in other Cases by Law.

Public Act.

LXI. 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.

LXII. And

LXII. And be it further enacted, That this Act shall commence and take place on the Second *Friday* after the passing thereof, and shall be in force and have Continuance for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

Commence-
ment and
Continuance
of Act.

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MASSACHUSETTS