



ANNO QUINQUAGESIMO OCTAVO

GEORGH III. REGIS.

Cap. xiv.

An Act for repairing the Road from *Blakedown Pool* in the Parish of *Hagley* and County of *Worcester*, to *Birmingham* in the County of *Warwick*.

[17th March 1818.]

WHEREAS an Act was passed in the Twenty-sixth Year of the Reign of His late Majesty King *George the Second*, intituled *An Act for repairing and widening several Roads leading from the Market-House in Stourbridge, and other Roads therein mentioned, in the Counties of Worcester, Stafford, Salop, and Warwick respectively*: And whereas another Act was passed in the Thirteenth Year of the Reign of His present Majesty King *George the Third*, intituled *An Act for enlarging and altering the Term and Powers of an Act made in the Twenty-sixth Year of the Reign of King George the Second, for repairing the Roads leading from the Market House in Stourbridge, and other Roads therein mentioned, in the Counties of Worcester, Stafford, Salop, and Warwick respectively*: And whereas another Act was passed in the Thirty-second Year of the Reign of His present Majesty King *George the Third*, intituled *An Act for enlarging the Term and Powers of Two Acts passed in the Twenty-sixth Year of the Reign of King George the Second, and the Thirteenth Year of the Reign of His present Majesty, for repairing the Road leading from the Market House in Stourbridge, and other Roads therein mentioned, in the Counties of Worcester, Stafford, Salop, and Warwick respectively, so far as the said Acts relate to the repairing of the Road from Blakedown Pool in the Parish of Hagley and County of Worcester, to the Top of Smallbrooke Street, and from the Five Ways to Easy Row in Birmingham in the said County of Warwick*:
[Local.] 4 A

Recited Acts
repealed.

Warwick: And whereas the Trustees appointed for the Road comprised in the last-recited Act, in or by virtue of the several recited Acts, have from Time to Time improved and repaired the said Road, and have borrowed on the Credit of the Tolls authorized to be taken on the said Road divers Sums of Money, which are still due and owing with an Arrear of Interest, and which cannot be paid off, nor can the said Road be effectually amended, varied, improved, and kept in Repair, unless some of the Powers of the said Acts be altered and enlarged, and the Tolls increased; and it is desirable that the Powers heretofore granted by the said recited Acts passed for repairing the said Road, and such further Powers as may be necessary for keeping in Repair such Road, should be contained in One Act: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Twenty-ninth Day of *September* next after the passing of this Act, the said Acts of the Twenty-sixth Year of the Reign of His late Majesty King *George* the Second, and of the Thirteenth and Thirty-second Years of the Reign of His present Majesty, shall, so far as the same relate to the Road leading from *Blakedown Pool* in the Parish of *Hagley* in the County of *Worcester*, to the *Cross of Hands* near to *Holloway Head*, and thence to the Top of *Smallbrooke Street*, and also from the *Five Ways* in the Parish of *Edgbaston* to *Easy Row* in *Birmingham* aforesaid, be and the same are hereby declared to be repealed; and instead thereof this Act shall commence and take Effect on the said Twenty-ninth Day of *September*, and be put in Execution for and during the Term herein-after mentioned, for the Purpose of more effectually repairing, widening, altering, improving, and keeping in Repair the Road herein-after described.

New Terms
and Tolls
liable to
Debts, &c.

II. And be it further enacted, That this Act, and the Term and Tolls hereby granted, shall be and they are hereby made subject and liable to the Payment of all Monies which have been borrowed and are now due and owing on the Credit of the Tolls authorized to be taken by the said recited Acts on the said Road, and of all Interest due and to grow due thereon, as fully and effectually to all Intents and Purposes, as if such Monies had been borrowed or become due and owing on the Credit or Security of the Tolls granted by this Act; and all and every Person and Persons who may owe or be subject or liable to the Payment of any Sum or Sums of Money to the Trustees of the said Road, or to any other Person or Persons for the Benefit of the said Trust, shall be liable to the Payment of all such Sum and Sums of Money to the Trustees for executing this Act; and all Bonds, Covenants and Agreements, Contracts and Securities, entered into by any Person or Persons to or with any of the Trustees of the said Road, according to the Provisions and Directions of the said recited Acts, shall remain in full Force and Effect, and be and continue available in all Courts of Law and Equity, until the same are fully satisfied and performed on account and for the Benefit of the Trust created by this Act; and all Contracts or Agreements duly made or entered into by the Trustees of the said Road to or with any Person or Persons shall remain in full Force and Effect, and be observed and kept by the Trustees for executing this Act, according to the Terms or Stipulations thereof respectively, notwithstanding the Repeal of the said recited Acts, so far as relates to the said Road hereby directed to be repaired.

III. And be it further enacted, That *John Adenbrooke Adenbrooke, Trustees.*
Charles Adams, Edward Allport, William Allcock, John Amphlett of Clent,
John Arnold, Matthias Attwood, George Attwood, William Bayliss, William
Bedford, James Bingham, Thomas Bissel the younger, Joseph Bissel, Thomas
John Smith Bissel, the Reverend George Biggs, Richard Bloxidge, Robert
Blyth, William Blakeway, the Reverend George Frank Blakiston, Thomas
Bower, Thomas Brettel, John Causel, William Clymer of Churchill, Richard
Colley, John Crane, the Reverend Charles Curtis, Joseph Derby, Edward
Dixon, James Dolphin, the Reverend George Durant, Thomas Francis,
William Francis, Roger Williams Gem, Thomas Worrall Grazebrook, Edward
Green, John Green, Josiah Green, John Guest, William Guest, Thomas
Hanson, William Hayes, John Heeley, Francis Hill, George Hinchliffe Attorney,
Hyla Holden, Edward Jackson, Clement Ingleby, John Kettle, Thomas Lee,
Eyre Lee, Thomas Lea the younger, Frederick Ledsam, Charles Lloyd,
Samuel Lloyd, James Lloyd, Joseph Lycett, Thomas Lyell of Clent, James
Male, James Male the younger, George Edward Male Doctor of Medicine,
Arthur Male, Daniel Matthews, Thomas Pargeter, John Pidcock, the
Reverend Charles Pixell, William Powell, Richard Pratchet, Theodore Price,
Philemon Price, Theophilus Richards, the Reverend Robert Robertson Clerk,
Joseph Robins, Joseph Rogers, Daniel Rogers, Edward Round, Samuel
Ryland, the Reverend Joseph Sharpe, George Simcox, Thomas Green Simcox,
Robert Samuel Skey, Ferdinando Smith, Richard Smith, Timothy Smith,
William Smith Attorney, William Wynne Smith, Richard Spooner, William
Spurrier, John Taylor, William Taylor, George Timmins, Jacob Turner,
Thomas Shrawley Vernon, William Waldron of Hagley, Thomas Waldron of
Clent, William Whateley, William Wight, Thomas Wight, Thomas Willmore,
 and *James Woolley,* and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Trustees for repairing, altering, varying, widening, and improving the Road leading from *Blake-down Pool* in the Parish of *Hagley* in the County of *Worcester*, to the *Cross of Hands* near to *Holloway Head*, and thence to the Top of *Smallbrooke Street*, and from the *Five Ways* in the Parish of *Edgbaston* to *Easy Row* in *Birmingham*, and for otherwise putting this Act in Execution.

IV. And be it further enacted, That it shall be lawful for the said Trustees, or any Five or more of them, at a Meeting to be held for that Purpose (of which Meeting Fourteen Days Notice shall be given as is herein-after directed respecting the Appointment of Trustees on Vacancies), to elect, nominate, and appoint any Number of fit and able Persons, not exceeding Ten, to be Trustees for the Purposes of this Act, in addition to the Trustees hereby nominated and appointed. Power to appoint additional Trustees.

V. And be it further enacted, That when and as often as any of the Trustees hereby appointed, or to be elected and appointed in Manner herein mentioned, shall die or be disqualified to act, or by Writing under their Hands, refuse to act in the Execution of this Act, it shall be lawful for the remaining or surviving Trustees, from Time to Time to elect and appoint One or more other fit Person or Persons to be a Trustee or Trustees in the room of all and every Trustee or Trustees dying, becoming disqualified, or refusing to act as aforesaid; provided that public Notice of the Time and Place of Meeting of the said Trustees for every such Election be given by the Clerk to be appointed by the said Trustees as herein-after is mentioned, by affixing such Notice in Writing, upon all the Power to elect other Trustees on Deaths, &c.
Toll

Toll Gates then erected and being upon the said Road, Fourteen Days at least before every such Meeting; and all and every Person and Persons who shall be elected and appointed a Trustee or Trustees pursuant to the Directions of this Act, shall and may act with the surviving and remaining Trustees in the Execution of this Act to all Intents and Purposes as if he or they had been named and appointed a Trustee or Trustees in and by this Act.

Qualification
of Trustees.

VI. Provided always, and be it further enacted, That no Person shall be capable of acting as a Trustee in the Execution of this Act, unless he shall be in his own Right, or in Right of his Wife, seised or possessed of, and in the actual Possession or Receipt of the Rents and Profits of Messuages, Lands, Tenements, or Hereditaments of the clear yearly Value of Fifty Pounds above Reprizes, or shall be Heir apparent of a Person so seised of Messuages, Lands, Tenements, or Hereditaments of the clear yearly Value of Two hundred Pounds above Reprizes, or shall be possessed of a clear Personal Estate of the Amount or Value of One thousand Pounds; and if any Person not being so qualified shall act as a Trustee in the Execution of this Act, every such Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person or Persons who shall 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, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than one Impar lance, shall be allowed; and every Person so prosecuted shall prove that he is qualified as aforesaid, or otherwise shall pay the said Penalty, upon Proof being given of his having acted as a Trustee in the Execution of this Act: Provided nevertheless, that all the Acts and Proceedings of any such Person as a Trustee in the Execution of this Act, previous to his being convicted of the said Offence, shall be as valid and effectual as if such Person had been qualified according to the Directions of this Act.

Trustees to
take an Oath.

VII. Provided also, and be it further enacted, That every Trustee appointed, or to be elected and appointed by virtue of this Act, before he shall act as such, except in administering the Oath or Affirmation next herein-after mentioned, at the First or Second Meeting of the said Trustees, shall take an Oath or Affirmation before One or more of the said Trustees, who is and are hereby empowered to administer the same, in the Form or to the Effect following; that is to say,

‘ I do swear [or, being one of the People called Quakers, do
‘ solemnly affirm], that I am in my own Right (or in the Right of my
‘ Wife), truly and *bonâ fide* seised or possessed of, and in the actual Pos-
‘ session or Receipt of, the Rents and Profits of Messuages, Lands, Tene-
‘ ments, or Hereditaments of the clear yearly Value of Fifty Pounds
‘ above Reprizes; [and in case of an Heir apparent] I, do
‘ swear, [or, being a Quaker, do solemnly affirm] that I am Heir apparent
‘ of who, to the best of my Knowledge and Belief,
‘ is truly and *bonâ fide* seised or possessed of, and in the actual Possession
‘ or Receipt of, the Rents and Profits of Messuages, Lands, Tenements,
‘ or Hereditaments of the clear yearly Value of Two hundred Pounds
‘ above Reprizes; [and in case of Personal Estate] I, do swear
‘ [or

‘ [or, being a Quaker, do solemnly affirm] that I am truly and *bond fide*
 ‘ possessed of a clear Personal Estate of the Amount or Value of One
 ‘ thousand Pounds; and that I will truly and faithfully execute the Powers
 ‘ and Trusts reposed in me by an Act passed in the Fifty-eighth Year
 ‘ of the Reign of His Majesty King *George* the Third, intituled *An Act*
 ‘ [here set forth the Title of this Act.] So help me GOD.’

VIII. Provided also, and be it enacted, That no Person shall be capable of acting as a Trustee in the Execution of this Act during the Time he shall hold any Place of Profit, or shall be interested or concerned in any Contract, or shall be a Lessee or Farmer of the Tolls under this Act; and that all such Trustees as are Justices of the Peace may act as Justices of the Peace within their respective Jurisdictions, in the Execution of this Act, notwithstanding their being Trustees, except only in Cases where they shall be personally interested; nor shall any Mortgagee or Assignee of any Mortgage or other Security, nor any Lender of Money upon the Credit of the Tolls granted by this Act, or receiving Interest thereout for the same, be on that Account deemed unqualified to act as a Trustee in the Execution of this Act.

Trustees
holding
Places of
Profit not
to act.

IX. Provided always, and be it enacted, That no Person or Persons who shall keep any Victualling-house or other House of Public Entertainment, or who shall sell any Wine, Cider, Beer, Ale, Spirituous or other Strong Liquors, by Retail, shall be capable of acting as a Trustee, or of taking, holding, or enjoying any Place or Places of Trust or Profit under the said Trustees, or of collecting the Tolls hereby granted and made payable, during such Time as he, she, or they shall keep such Victualling-house, Alehouse, or other Place of public Entertainment, or shall sell any Wine, Cider, Beer, Ale, Spirituous or other Strong Liquors, by Retail; but no such Person shall be precluded from farming such Tolls, provided he, she, or they employ a Person or Persons to collect such Tolls, who shall not be under any such Incapacity.

Victuallers
not to be
Officers, or
act as Trust-
tees.

X. And be it further enacted, That the said Trustees shall meet at the *Royal Hotel* in the Town of *Birmingham*, or at some other House in *Birmingham* aforesaid, on the First *Monday* after the Commencement of this Act, between the Hours of Nine and Twelve in the Forenoon, or as soon after as conveniently may be, and shall then proceed to carry this Act into Execution; and the said Trustees shall then and from Time to Time afterwards adjourn themselves, and meet at the same Place, or at such other Place either in the said Town of *Birmingham*, or in some one of the said Parishes through or into which the said Road is made or carried, and at such Times as the said Trustees shall from Time to Time order and direct, provided that no Adjournment shall be made for a longer Time than Three Calendar Months; and if, at any Meeting appointed to be held by virtue of this Act, there shall not appear a sufficient Number of Trustees to act, or in case the Trustees at any Meeting assembled shall not adjourn themselves, the Clerk of the said Trustees shall from Time to Time, as often as such Case shall happen, by Notice in Writing to be affixed on all the Toll Gates then erected in, upon, across, or on the Sides of the said Road, at least Fourteen Days before the next intended Meeting, appoint the Trustees to meet at the Place where the last Meeting was appointed to have

General
Meeting of
Trustees.

[Local.]

4 B

been

been held on that Day Six Weeks next after the Day on which such last Meeting was appointed: Provided always, that no Business shall be done or proceeded upon by the said Trustees at any Meeting, except the First Meeting to be held under this Act, before the Hour of Eleven in the Forenoon, nor shall any Meeting be appointed to be held at any later Hour than Two in the Afternoon of the Day on which such Meeting may be appointed to be holden.

Meetings on Emergencies.

XI. And be it further enacted, That if, after any Adjournment of the said Trustees or their Clerk, it shall at any Time be thought necessary that an earlier Day of Meeting should be appointed than the Day appointed by such Adjournment, in that Case the Clerk to the said Trustees, upon an Order in Writing, signed by Two or more of the said Trustees, mentioning the Time, Place, and Purpose of such Meeting, shall forthwith give Notice thereof in the Manner before directed, and of the Time and Place which shall be mentioned in the Order of the said Trustees (such Meeting not being less than Seven Days after such Notice), and such earlier Meeting shall and may be held accordingly; and all the Orders and Determinations of the said Trustees at all such Meetings shall be as valid and effectual as they would have been in case such Meetings had been held in pursuance of Adjournments; and the said Trustees, or the Majority of them, at all Meetings held in pursuance of this Act, are hereby empowered to make all necessary Orders, Determinations, and Agreements in the Execution of this Act, and no such Order, Agreement, or Determination shall be made, unless the Majority of the Trustees present at such Meeting shall concur therein, such Majority not being less than the Number of Trustees by this Act authorized to make any such Order, Agreement, or Determination; and no such Order, Agreement, or Determination shall be revoked or altered at any subsequent Meeting, unless special Notice shall be given at least Ten Days before, by affixing the same in Writing upon all the Toll Gates then erected on the said Road, nor unless a greater Number of the Trustees shall concur in the Revocation or Alteration thereof than concurred in the making of any such Order, Agreement, or Determination; and the said Trustees at all their Meetings shall defray their own Expences; and at every Meeting of the said Trustees a Chairman shall and may be appointed, and when and as often as it shall happen that there shall be an Equality of Votes at any such Meeting, upon any Question, including the Vote of the Chairman, then and in every such Case it shall and may be lawful to and for the Chairman to give the decisive or casting Vote.

How Orders of the Trustees are to be made and revoked.

Trustees to pay their own Expences.

Chairman to have a casting Vote.

All Acts may be done by Five Trustees, unless otherwise directed.

Orders, &c. to be entered.

XII. And be it further enacted, That all Acts, Proceedings, Matters, and Things relative to the Execution of this Act, may be done and executed by any Five or more of the Trustees hereby nominated and appointed, or who shall hereafter be elected and appointed as aforesaid, except only in Cases herein particularly directed to be done and executed by any greater or less Number of them.

XIII. And be it further enacted, That all Orders and Proceedings of the Trustees shall be entered into a Book or Books to be kept for that Purpose, and such Orders and Proceedings so entered shall be signed by the Trustees making the same, or by their Chairman; which Book or Books, and also the Book and Books herein-after directed to be kept for registering

registering Mortgages and Assignments, or Transfers thereof, shall be admitted as Evidence in all Courts whatsoever, touching any Thing done in pursuance of this Act.

XIV. And be it further enacted, That the said Trustees shall and they are hereby required from Time to Time, and at all Times during the Continuance of this Act, to order and direct a Book or Books to be provided and kept, by their Clerk or Treasurer for the Time being, in which Book or Books such Clerk or Treasurer shall enter or cause to be entered true and regular Accounts of all Sums of Money received, paid, laid out, and expended for or on account of the said Road, and of the several Articles, Matters, and Things for which any Sums of Money shall have been disbursed, laid out, and paid; which Book or Books shall at all reasonable Times be open to the Inspection of the said Trustees, or any Creditor or Creditors on the Tolls hereby granted, without Fee or Reward; and the said Trustees and Creditors, shall or may take Copies of or Extracts from the said Book or Books, or any Part or Parts thereof, without paying any Thing for the same; and in case the said Clerk or Treasurer, or the Person or Persons who shall have the Care and Custody of the said Book or Books, shall refuse to permit the said Trustees or such Creditors, or any of them, to inspect the same, or take such Copies or Extracts as aforesaid, such Clerk or Treasurer, or Person or Persons, shall forfeit and pay any Sum not exceeding Five Pounds, to be levied and recovered in manner herein-after mentioned.

Accounts to be kept of Receipts and Disbursements, which shall be open to the Inspection of the Trustees and Creditors.

XV. And be it further enacted, That the said Trustees may and they are hereby empowered by Writing under their respective Hands to appoint such Collector or Collectors of the said Tolls, and Clerk or Clerks, Treasurer or Treasurers, Surveyor or Surveyors of the said Road, and such other Officers as the said Trustees shall think necessary, and such Collectors, Clerks, Treasurers, Surveyors, and other Officers, or any of them, from Time to Time to remove, and on the Removal, Death, or Resignation of any such Collectors, Clerks, Treasurers, Surveyors, or other Officers, to appoint others in their stead, and may and they are hereby authorized and empowered, out of the Monies arising by virtue of this Act, to allow and pay to the several Collectors, Clerks, Treasurers, Surveyors, and other Officers, and to such other Person or Persons as shall be assisting them or any of them in or about the Execution of this Act, such Salaries, Rewards, and Allowances for their Attendance, Care, Labour, and Services, as the said Trustees shall deem reasonable; and all such Officers and Persons shall from Time to Time, when thereunto required by the said Trustees, deliver to such Trustees, or to such Person or Persons as they shall for that Purpose appoint, true, exact, and perfect Accounts, in Writing under their respective Hands, of all Monies which they and every of them respectively shall have received to that Time by virtue of this Act, and how much thereof hath been paid and disbursed, and for what Purposes, together with the proper Vouchers for such Payments, and shall pay all such Monies as shall remain in their or any of their Hands to the said Trustees, or to such Person or Persons as they shall appoint to receive the same, and not otherwise; and if any such Officer or Person shall refuse or neglect to produce or deliver up such Vouchers relating to the same, or shall refuse or neglect to pay the Money due on such Account in manner aforesaid, or if any such Officer or Person shall refuse or neglect to deliver up to the said

Trustees to appoint Officers, and fix Salaries.

Officers to account.

said Trustees, or to such Person or Persons as they shall appoint, within Ten Days after being thereunto required by the said Trustees, all the Books, Papers, and Writings in his Custody or Power, relating to the Execution of this Act, then and in every or any of the said Cases it shall be lawful for any Two or more Justices of the Peace for the County, City, Town, or Place wherein such Officer or Person so refusing or neglecting shall be or reside, upon Complaint made to them by any Two or more of the said Trustees, and such Justices are hereby authorized and required, by Warrant or Warrants under their Hands and Seals, to cause such Officer or Officers, or Person or Persons, to be brought before them, and upon his, her, or their appearing, or not being to be found, to hear and determine the Matter of such Complaint in a summary Way, and to settle the said Account or Accounts, if produced; and if upon Confession of the Officer or Officers, or Person or Persons against whom any such Complaint shall be made, or by the Oath or Oaths of any Witness or Witnesses, which Oath such Justices within their respective Jurisdictions are hereby empowered and required to administer without Fee or Reward, or upon Inspection of the said Accounts, if produced, it shall appear to such Justices that any of the Monies which shall have been collected or received shall be in the Hands of such Officer or Officers, or Person or Persons, such Justices may and they are hereby authorized and required, upon Non-payment thereof, by a Warrant or Warrants under their Hands and Seals, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer or Officers, Person or Persons respectively; and if no Goods or Chattels can be found sufficient to answer and satisfy the said Money and the Charges of distraining and selling the same, or if such Officer or Officers, or other Person or Persons shall not appear before such Justices, unless for some sufficient Excuse, at the Time and Place by them appointed for that Purpose, or if appearing shall refuse or neglect to give and deliver to such Justices an Account or Accounts of all Receipts and Payments as aforesaid, or to produce and deliver up to the said Justices the several Vouchers and Receipts relating to such Accounts respectively, or the Books, Accounts, Papers, and Writings in his, her, or their Custody or Power, relating to the Execution of this Act, or to the said Road, then and in either of the Cases aforesaid, such Justices may and they are hereby authorized and required, by Warrant or Warrants under their Hands and Seals, to commit such Officer or Officers, or Person or Persons to the Common Gaol or House of Correction of the County, City, Town, or Place where such Offender shall be or reside, there to remain without Bail or Mainprize until he shall have given and made a true and perfect Account and Payment as aforesaid, or until he shall have compounded and agreed with the said Trustees, and shall have paid such Composition in such Manner as the said Trustees shall appoint, which Composition the said Trustees are hereby empowered to make, or until he shall have delivered up such Books, Papers, and Writings as aforesaid, or made Satisfaction in respect thereof to the said Trustees: Provided always, that no Person who shall be so committed for want of sufficient Distress shall be detained in Prison by virtue of this Act for a longer Space of Time than Six Calendar Months.

Treasurer to give Security. XVI. And be it further enacted, That the said Trustees shall and they are hereby required to take sufficient Security from the Treasurer or Treasurers, Receiver or Receivers, Collector or Collectors, or other Officers to

to be appointed for the Purposes of this Act, for the faithful Execution of their respective Offices; and no such Treasurer, Receiver, Collector or other Officer, shall be permitted to enter upon such their Offices respectively, unless they shall have given such Security.

XVII. And be it further enacted, That upon the Death, Incapacity, absconding, or Absence of any Collector or Receiver of Tolls, any Three or more of the Trustees, though not assembled at any General Meeting of the Trustees appointed by virtue of this Act, by Writing under their respective Hands, shall and may nominate and appoint a proper Person to be a Collector or Receiver of the said Tolls, to continue until the then next Meeting of the said Trustees, in the stead of such Collector or Receiver as shall so die, become incapable, abscond, or absent himself, which Person so nominated and appointed shall have the like Power and Authority, and be answerable and accountable in the same Manner in all Respects, as the Person who shall so die, become incapable, abscond, or absent himself, would have had or been subject to.

Trustees may appoint temporary Collectors in certain Cases.

XVIII. Provided always, and be it further enacted, That after the first Nomination and Appointment of any Officers in pursuance of this Act, no Trustee shall be capable of voting or acting in any future Nomination or Appointment of any such Officers respectively, upon Death or any other Vacancy or Vacancies, unless such Trustee shall have attended at a public Meeting, and acted as a Trustee in the Execution of this Act, at least once within the Space of Twelve Calendar Months next preceding the Time of such last-mentioned Nomination or Appointment.

No Trustee shall vote for Officers, who has not acted in the preceding Year.

XIX. Provided always, and be it further enacted, That it shall not be lawful for the said Trustees to appoint the Person who may be appointed to act as their Clerk in the Execution of this Act, or the Partner of any such Clerk, the Treasurer for the Purposes of this Act, or to appoint the Person who may be appointed Treasurer, or the Partner of any such Treasurer, the Clerk to the said Trustees for executing this Act; and if any Person shall act in both the Capacities for Clerk and Treasurer for the Purposes aforesaid, or if any Person being the Partner of any such Clerk shall act as Treasurer, or being the Partner of any such Treasurer shall act as Clerk in the Execution of this Act, every Person so offending shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person or Persons who shall 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, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than One Imparlanche, shall be allowed.

Offices of Clerk and Treasurer not to be held by the same Person.

XX. And be it further enacted, That all Persons who are or have been employed, or who have received any Tolls or other Money on account of the said Road by virtue of the said Acts, or who have or shall have in their Custody or Possession any Money, Books, Accounts, Papers, Writings, or other Things relating to the said Road, shall account for, pay, and deliver over the same and every Part thereof to the Trustees in and by this Act named and appointed, in like Manner and under the like Penalties as the several Collectors or other Persons receiving any Money by virtue of this Act are herein-before required to pay or account for the same.

Books, &c. relative to former Acts, to be delivered to the Trustees.

[Local.]

4 C

XXI. And

Trustees may
sue and be
sued in the
Name of their
Clerk.

XXI. And be it further enacted, That the said Trustees may sue or be sued for or concerning any Thing to be done by virtue or in pursuance of this Act, in the Name of their Clerk for the Time being, and no Action or Suit to be brought or commenced by the Direction of or against the said Trustees by virtue of this Act, in the Name of their Clerk, shall abate or be discontinued by the Death or Removal of any such Clerk, or by the Act of any such Clerk, without the Consent of the said Trustees, but the Clerk for the Time being to the said Trustees shall be deemed to be Plaintiff or Defendant, as the Case may be, in every such Action: Provided always, that every such Clerk in whose Name any Action or Suit shall be commenced, sued, prosecuted, or defended in pursuance of this Act; shall be fully reimbursed and paid, out of the Monies to arise by virtue of this Act, all such Costs, Charges, Damages, and Expences, as by the Event or in consequence of any such Action or Proceeding he shall pay, bear, expend, or be put unto, or become chargeable with, by reason of his being so made Plaintiff or Defendant as aforesaid.

Power to
erect Toll
Gates.

XXII. And for the Purpose of collecting and receiving the Tolls hereby granted and made payable, be it enacted, That the said Trustees may and they are hereby authorized to continue all or any of the Toll Gates and Toll Houses which have been erected in, upon, or across any Part of the said Road by virtue of the said Acts, and shall and may erect or cause to be erected such and so many other Toll Gates and Toll Houses in, upon, or across any Part of the said Road by this Act directed to be widened, varied, improved, or kept in Repair; and also such and so many Toll Gates and Toll Houses on the Sides of the said Road, and in, upon, or across any Street, Lane or Bye-way that does or shall lead into or out of the same, as they the said Trustees shall think proper and expedient, subject nevertheless to such Restrictions and Directions as are herein-after mentioned concerning the same, and also shall or may erect or provide a Toll House with suitable Buildings, a Garden and other Conveniences, not exceeding Half a Rood of Land, at or near each of the said Toll Gates: Provided nevertheless, that no Toll Gate shall be erected between the said Place called *The Five Ways* and the Town of *Birmingham*.

Restrictions
as to placing
Gates.

Toll Houses,
&c. vested in
Trustees.

XXIII. And it is hereby enacted and declared, That the Right and Property of and in all the Toll Gates and Toll Houses, Weighing Machines, Buildings, Lamps, Bars, Toll Boards, Direction Boards, Milestones, Posts, Rails, and Fences already erected on the said Road by virtue of the said Acts, and which shall be erected and provided in pursuance of this Act, with the several Grounds, Conveniences, and Appurtenances thereto respectively belonging, and the Materials of which the same shall consist, and all Materials, Tools, and Implements which have been or which shall be provided for repairing the said Road by this Act directed to be widened, varied, improved, or kept in Repair, shall be vested in the said Trustees for the Time being, and they are hereby authorized and empowered to apply and dispose of the same as they shall think fit, and to bring or cause to be brought any Action or Actions, and to prefer and prosecute, or order and direct the preferring and prosecuting of any Informations or Indictments against any Person or Persons who shall dig up, break, or pull down, steal, take or carry away, spoil, destroy, injure or damage any of the Toll Gates or Toll Houses, Weighing Machines, Buildings, Lamps, Bars, Toll Boards, Milestones, Direction Boards, Posts, Rails and Fences, or any of the
Conveniences

Conveniences and Appurtenances thereunto belonging, or any of the Materials, Tools, or Implements aforesaid; in which Bill or Bills of Indictment it shall be sufficient to state generally such Toll Gates and Toll Houses, Weighing Machines, Buildings, Lamps, Bars, Toll Boards, Milestones, Direction Boards, Posts, Rails and Fences, Tools or Implements, to be the Property of the Clerk for the Time being to the said Trustees.

XXIV. Provided always, 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 empowered from Time to Time, when and as often as they shall think proper, to cause any of the Toll Gates or Toll Bars already erected, or which shall be continued or erected in, upon, or across, or on the Side or Sides of any Part of the said Road by virtue of this Act, to be removed, to and erected in, upon, or across, or on the Side or Sides of such other Part or Parts of the said Road as the said Trustees or any Five or more of them shall from Time order and direct; provided that none of the said Toll Gates or Toll Bars shall be removed as aforesaid, unless Notice in Writing of the Intention to remove the same shall have been affixed Twenty-one Days at least upon all the Toll Gates then standing upon the said Road.

Power to
remove Toll
Gates.

XXV. And be it further enacted, That it shall be lawful for the said Trustees absolutely to sell and dispose of any Toll House or Toll Houses erected upon the said Road by virtue of the said Acts, or hereafter to be erected by virtue of this Act, and the Ground whereon the same may stand, with the Outhouses, Gardens, and Appurtenances thereunto belonging, when they shall be considered by the said Trustees useless and unnecessary for the Purposes of this Act, to any Person or Persons whomsoever, either by public Auction or private Sale, at or for such Price or Prices as they the said Trustees can obtain for the same; and in case of Sale to convey the said Toll Houses, Gardens, and Appurtenances to the Person or Persons who shall purchase the same, as an Estate or Estates of Inheritance in Fee-simple; and the Person or Persons who shall purchase the same, his, her, or their Heirs or Assigns, shall, upon Payment of his, her or their Purchase Money to the said Trustees or their Treasurer or Treasurers for the Time being, hold and enjoy the Premises by him, her, or them so purchased, discharged from all Trusts, and free from all Incumbrances whatsoever, and shall not be obliged to see to the Application of his, her, or their Purchase Money, nor be answerable for the Misapplication or Non-application thereof: Provided always, that such Preference of purchasing shall be given to the Person or Persons from whom any Land on which any such Toll Houses may have been erected was purchased, as is herein directed to be given where any Piece or Pieces of Ground or old Road not wanted for the Purposes of this Act is authorized to be sold and disposed of.

Power to sell
the present
Toll Houses.

XXVI. And be it further enacted, That it shall be lawful for the said Trustees, or any Person or Persons to be appointed by virtue of this Act Collector or Collectors as aforesaid, to demand and take the several Tolls and Duties following, subject to the Restrictions herein-after contained, at the Toll Gates or Toll Bars, or Toll Gate or Toll Bar, or Side Bars or Side Gates already erected upon the said Road by virtue of the said Acts hereby repealed, and which, by virtue of this Act, shall be continued or erected

Power to
take Tolls.

erected in, upon, or across, or on the Side or Sides of the Road, and on every Day, such Day to be computed from Twelve of the Clock at Night to Twelve of the Clock in the next succeeding Night; that is to say,

Tolls.

For every Horse, Mule, or other Beast, drawing any Coach, Chariot, (except a Hackney Coach or Hackney Chariot), Sociable, Landau, Berlin, Vis-a-Vis, Barouche, Phaeton, Curricle, Calash, Chaise, Chair, Gig, Whiskey, Taxed Cart, Caravan, Hearse, Litter, or other such Carriage, (if more than one Horse, Mule, or other Beast), the Sum of Four-pence Halfpenny; and if one only, the Sum of Sixpence:

For each and every Horse drawing any Hackney Coach or Hackney Chariot, passing through the Toll Gate erected at the *Five Ways* aforesaid, which shall go or pass a greater Distance than Seven hundred Yards on the said Road from the said Gate, the Sum of Four-pence Halfpenny:

For each and every Horse drawing any Hackney Coach or Hackney Chariot, which shall pass through the Toll Gate erected at the *Five Ways* aforesaid, and shall not pass or go a greater Distance than Seven hundred Yards on the said Road from the said Gate, (such Distance to be marked or denoted by a Stone or Board to be placed on the said Road South of the said Gate), the Sum of Two-pence, such Toll to be paid and payable on each and every fresh Fare:

For each and every Horse drawing any Hackney Coach or Hackney Chariot, passing through the said Gate erected at the *Five Ways* aforesaid, to the Villages of *Edgbaston* and *Harborne*, or either of them, the Sum of Two-pence, such Toll to be paid and payable on each and every fresh Fare:

For every Horse, Mule, or other Beast, drawing any Waggon, Wain, Cart, or other such Carriage, having upright cylindrical Wheels of equal Diameter in the whole Breadth of the Fellies or Sole of the Breadth of Nine Inches, the Sum of Four-pence:

For every Horse, Mule, or other Beast, drawing any Waggon, Wain, Cart, or other such Carriage, having Wheels of the Breadth of Six Inches, and less than Nine Inches, or which shall not be upright, and cylindrical Wheels of equal Diameter in the whole Breadth of the Fellies or Sole, the Sum of Five-pence:

For every Horse or other Beast of Draught, drawing any Waggon, Wain, Cart, or other such Carriage, having Wheels of less Breadth than Six Inches, the Sum of Sixpence:

For every Horse, Mule, or Ass, not drawing, the Sum of One Penny:

For every Drove of Oxen or Neat Cattle, the Sum of One Shilling and Eight-pence *per* Score; and so in proportion for any greater or less Number:

And for every Drove of Calves, Hogs, Sheep, or Lambs, the Sum of Ten-pence *per* Score; and so in proportion for any greater or less Number:

And for every Cow which shall pass through the said Turnpike Gate, erected at the *Five Ways* aforesaid, for the Purpose of being milked in the said Town of *Birmingham*, the Sum of One Penny.

One Toll and
a Half on
Sundays.

XXVII. And on each and every *Sunday* during the Continuance of this Act there shall be demanded and taken at the respective Toll Gates on the said Road, by the respective Collectors, before any Horse, Mule or other

other Beast, drawing or not drawing, and before any Oxen, Cows, Neat Cattle, Calves, Sheep, Lambs, Hogs or Swine, shall be permitted to pass through the same respectively, in addition to the Tolls or Sums hereinbefore mentioned and authorized to be collected on any other Day under or by virtue of this Act, one Half more of the said Tolls.

XXVIII. And the said respective Tolls shall (subject to the Restrictions in this Act contained) be demanded and taken before any Horse, Mule, Cow, or other Beast, Coach, Waggon, Cart, or other Carriage whatsoever, or Drove of Oxen or Neat Cattle, Calves, Hogs, Sheep or Lambs, be permitted to pass through any Toll Gate erected or to be erected or continued upon the said Road by virtue of this Act, or in, upon, or across any Lane, Street, or way leading into the same; and upon Payment of any of the Tolls, the Collector or Receiver shall and he is hereby required to deliver *gratis*, to the Person paying such Toll, a Note or Ticket denoting such Payment, on which Note or Ticket shall be named and specified the several Toll Gates freed by such Payment.

Tolls to be paid before the Cattle pass the Gate.

XXIX. Provided also, and be it further enacted, That no more than Two full Tolls on the whole Line of Road shall be demanded or taken of or from any Person or Persons, for or in respect of the same Horse or Horses, or other Beasts or Cattle, or Carriage or Carriages (except Hackney Coaches and Hackney Chariots as aforesaid), in any one Day for passing and repassing through all or any of the said Toll Gates or Toll Bars erected or continued, or to be erected or continued on the said Road, such Day to be computed from Twelve of the Clock of the Night to Twelve of the Clock in the next succeeding Night, (that is to say) one full Toll between the Town of *Birmingham* and the Town of *Halesowen*, and One full Toll between the said Town of *Halesowen* and the Village of *Hagley* in the County of *Worcester*.

Limiting the Number of Tolls.

XXX. And be it further enacted, That all the said respective Tolls, and all and every Sum and Sums of Money which shall arise and be produced therefrom, shall be vested in the said Trustees for the Time being, and the same and every Part thereof shall be paid, applied, disposed of, and assigned in such Manner as is herein-after mentioned; and if any Person or Persons subject to the Payment of any of the said Tolls shall, after Demand thereof made by the Person or Persons so authorized to receive the same, neglect or refuse the Payment thereof, or any Part or Parts thereof, it shall be lawful for the Person or Persons so authorized to seize and distrain any Horse or other Cattle, together with their Bridles, Saddles, Harness or Accoutrements, or any Carriage, together with its Lading, upon which any Toll is by this Act imposed, (but no such Bridle, Saddle, Harness, or Accoutrements shall be so seized, without detaining and seizing the Horse or other Beast bearing the same), or any of the Goods and Chattels of the Person or Persons neglecting or refusing to pay the same; and if such Tolls, and the reasonable Charges of such Distress and keeping the same, shall not be paid within the Space of Five Days after the Day of making such Distress, the Person or Persons so distraining shall and may at any Time or Times thereafter sell the Horse, Cattle, Beast, Carriage, Goods and Chattels so distrained; and out of the Money which shall arise by such Sale, pay such Tolls and all reasonable Charges incurred by such Distress and Sale, returning the Overplus of

Tolls vested in Trustees.

[Local.]

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the Money which shall arise by such Sale, and what shall remain unsold (if any), on Demand, to the Owner or Owners thereof.

Exemptions
from Toll.

XXXI. And be it further enacted, That no Toll shall be demanded or taken for any Horse or Cattle drawing any Carriage passing through any of the Toll Gates or Toll Bars erected or continued or to be erected by virtue of this Act, carrying or conveying Stones, Bricks, Lime, Timber, Wood, Gravel, or other Materials to be used on or about the said Road, or for repairing any of the Highways in the Parishes, Districts, or Places which are liable to perform Statute Duty upon any Part of the said Road, or on returning empty having been so employed, or carrying or conveying Hay not having been stacked, Straw, or Corn in the Straw only, not sold or disposed of, but going to be laid up in the Houses, Out-houses, Barns or Yards of the Owners thereof in any of the said last-mentioned Parishes, Districts, or Places; or any Ploughs, Harrows, or other Implements of Husbandry, to be used in any of the same Parishes, Districts or Places, or to be taken to any Place for the Purpose of the same being repaired, or to be brought back from such Place after the same shall have been repaired; or any Lime, Dung, Mould, Ashes, Soil, or Compost of any Kind whatsoever, to be used in the Cultivation or Manuring of Lands; or for the Horses of any Clergyman going to or returning from visiting any of his sick Parishioners, or going to or returning from Church or Divine Service, or on any other his Parochial or Ministerial Duty, or from any other Person or Persons residing in any of the said Parishes, Districts, or Places, who shall pass through any of the said Toll Gates or Toll Bars to or from his, her, or their proper Parochial Church or Chapel, or other Place of Religious Worship tolerated by Law, on a *Sunday*, or on any other Day on which Divine Worship is ordered by Authority to be celebrated; or who shall attend the Funeral of any Person or Persons who shall die and be buried in any of the said Parishes, Districts, or Places; or for any Horse, Mule, Ass, or Cattle kept within such Parishes, Districts, or Places, going to or returning from Work in cultivating Lands therein; or for any Horse or Cattle going to or returning from Water or Pasture, or going to or returning from being shod; or for any Horse or Carriage, of whatsoever Description, employed or to be employed in conveying the Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying, fetching, or guarding the same, or in returning back from conveying or guarding the same; or for the Horses of Officers and Soldiers on their March or on Duty, or for Carriages or Horses or other Beasts employed in carrying the Arms or Baggage of such Officers or Soldiers, or in carrying any sick, wounded, or disabled Officers or Soldiers; or for any Horse, Mare, or Gelding furnished by or for any Persons belonging to any Corps of Yeomanry or Volunteer Cavalry, or to any Field Officer, Adjutant, or other mounted Officer of Volunteer Infantry, and rode by him in going to or returning from the Place appointed for and on the Days of Exercise; provided that all and every such Persons are 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 Exemption, and not otherwise; or 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, or Barrack,

or other Public or Commissariat Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces, or for any Carriage, Horse, or other Beast employed in the Conveyance of Vagrants travelling with legal Passes, or returning after having been so employed; or for any Horse or Carriage going to or returning from any Election of a Knight or Knights of the Shire to serve in Parliament for the Counties of *Worcester, Salop, Stafford, and Warwick*, or any of them, on the Day or Days of such Election, or on the Day before or Day after such Election shall begin or be concluded; and if any Person shall claim and take the Benefit of any of the Exemptions aforesaid, not being entitled thereto, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds: Provided always, that no Toll shall be demanded or taken for any Horse, Cattle, or other Beasts which shall not go or pass more than One hundred Yards on the said Road.

XXXII. And be it further enacted, That no Person shall be entitled to any Benefit or Exemption from Payment of Toll on any Part of the said Road, for or in respect of any Waggon, Cart, or other Carriage of Burthen, which hath or shall have Wheels of less Breadth than Six Inches on the Bottom or Sole thereof, or which shall not be upright and cylindrical Wheels of equal Diameter in the whole Breadth of the Fellies or Soles thereof.

No Exemption except for Broad Wheels.

XXXIII. 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, or Barrack, or 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, or the Horse or Horses drawing the same, while so employed, 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 the 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.

Exempting Stores from Overweight.

XXXIV. And be it further enacted, That it shall be lawful for the said Trustees or any Five or more of them at their Meetings, such Notice of such Meetings, and of the Purpose for which they are to be holden, to be given as other Notices of Meetings are by this Act directed to be given, to lessen and reduce the Tolls payable for any Cart, Waggon, or other Carriage, with the Lading thereof, which, upon passing over any Machine or Engine now erected or hereafter to be erected upon any Part of the said Road, shall be of greater Weight than is allowed by any Act or Acts of Parliament now in force relating thereto, not exceeding One Moiety thereof; any Thing in such Act or Acts contained to the contrary thereof in anywise notwithstanding.

Power to lessen Tolls in respect of Overweight.

XXXV. And be it further enacted, That it shall be lawful for the said Trustees from Time to Time, when and as often as they shall think proper, to lessen or reduce any of the Tolls hereby granted or made payable, and

Tolls may be reduced.

to

to cause the same to be collected in such Manner, Parts, and Proportions as they shall think fit, and to raise the same again so as they do not at any Time exceed the Tolls by this Act granted and made payable, and so as every Reduction thereof be made with the Consent of the Person or Persons for the Time being entitled to Five Sixth Parts of the Money then due on the Security of the Tolls; but no such Reduction shall be made unless Fourteen Days previous Notice shall be affixed in Writing upon all the Toll Gates then erected across the said Road, and also inserted in One or more of the Newspapers published or generally circulated in the Counties of *Worcester* and *Warwick*, or one of them.

Trustees may compound for Tolls.

XXXVI. And be it further enacted, That it shall and may be lawful for the said Trustees from Time to Time, as they shall see convenient, to compound and agree, for any Term not exceeding One Year at any one Time, with all or any of the Inhabitants of the several Parishes, Hamlets, or Places to or through which any Part of the said Road does or shall pass or lead, for the passing of all or any Description of their Horses, Cattle, or Carriages through all or any of the Toll Gates erected or continued, or to be erected by virtue of this Act; which Composition shall be paid yearly in Advance, and in Default thereof the Composition or Agreement with the Person or Persons making such Default shall thenceforth be void; and all such Composition Money shall be paid and applied in such Manner as the Tolls are hereby directed to be paid and applied.

For settling Disputes concerning Tolls.

XXXVII. And be it further enacted, That if any Dispute shall happen concerning any Tolls due, or the Charges occasioned by any Distress to be taken by virtue of this Act, it shall be lawful for the Collector so distraining to retain such Distress, or the Money arising from the Sale thereof, till the Amount of the Tolls and the Charges of such Distress shall be ascertained by some Justice of the Peace for the County, Town, or Place where any such Dispute shall arise, who, on Application made to him for that Purpose, shall examine the Matter on the Oath of the Parties, or of a Witness or Witnesses, and shall determine the Amount of the Tolls due, and shall award such Costs and Charges to either Party as to the said Justice shall appear right and proper; all which Costs and Charges shall and may be levied and recovered, in case of Non-payment thereof forthwith, by Warrant under the Hand and Seal of such Justice, rendering the Overplus (if any) on Demand, after Payment of such Costs and Charges, and the Costs and Charges of making such Distress and Sale, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

To prevent Evasion of Tolls.

XXXVIII. And be it further enacted, That if any Person or Persons shall with any Horse, Cattle, Beast, or Carriage whatsoever, in order to avoid Payment of the said Tolls or any of them, pass through any Land or Ground adjoining to or lying near any Toll Gate or Toll Bar erected or continued, or to be erected by virtue of this Act, (except the Owner or Owners, Occupier or Occupiers of such Land or Ground, or his, her, or their Servant or Servants, or any Person or Persons in his, her, or their Family), the same not being a common Road; or if any Owner or Occupier of any such Land or Ground shall knowingly permit or suffer any Person or Persons with any Horse, Cattle, Beast, or Carriage to pass through the same (save and except as aforesaid) with Intent to avoid the Payment of any of the said Tolls or any Part or Parts thereof; or if any Person

Person or Persons shall give to or receive from any Person other than the Collectors of such Toll, or forge or counterfeit any Ticket by this Act directed to be given by the Collectors of the said Tolls, or shall forcibly pass through any Toll Gate or Toll Bar with any Horse, Cattle, Beast, or Carriage, or shall at any Time or Times take off or cause to be taken off any Horse, Ox, or any other Cattle or Beast from any Carriage, whereby the Payment of any of the said Tolls, or any Part or Parts of the said Tolls, shall be evaded, or shall leave or cause to be left upon or near to any Part of the said Road any Carriage, Horse, Cattle, or Beast, with an Intent to evade the Payment of any of the said Tolls or any Part or Parts thereof, or with such Intent shall unload any Goods, Articles, or Things from any Carriage, that such Carriage may pass empty or with an exempted Load only, or not pass through any Toll Gate, every Person so offending in any of the Cases aforesaid, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, at the Discretion of the Justice or Justices before whom such Offender shall be convicted.

XXXIX. 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 under the Authority of the said Trustees, or under any Lessee or Lessees of the said Tolls, shall not be incompetent, on account of his or their being appointed to collect such Tolls, to give Evidence in any such Dispute, Suit, or Litigation.

Collectors
declared
competent
Witnesses.

XL. And be it further enacted, That all and every the Toll Collectors being Lessee of the said Tolls, or appointed either by the said Trustees or by any such Lessee or Lessees to collect the Tolls payable at any Toll Gate or Toll Bar to be continued and erected by virtue of this Act, shall and he is hereby required to place his Christian and Surname, painted on a Board in legible Characters, on the Front or on some other conspicuous Part of the Toll House or Toll Gate, immediately on his beginning to collect such Tolls, or coming on Duty; each of the Letters of such Name or Names to be at least Two Inches in Length and of a Breadth in proportion, and painted either in Black Letters on a White Ground or White Letters on a Black Ground, and shall continue the same so placed during the whole Time he shall collect such Toll, or be upon such Duty; and if any Collector of the same Tolls shall not place such Board as aforesaid, and keep the same there during the Time aforesaid, or shall demand or take a greater or less Toll from any Person than he shall be authorized to do by virtue of the Powers of this Act, or of the Orders and Resolutions of the Trustees made in pursuance thereof; or shall demand and take a Toll from any Person or Persons who shall be exempt from the Payment thereof, and claim such Exemption; or shall refuse to permit or suffer, or shall in anywise hinder any Person or Persons from reading such Christian or Surname, or shall refuse to tell his Christian or Surname to any Person or Persons who shall demand the same on having paid the said Tolls or any of them, or shall, in Answer to such Demand, give a false Name or Names, or shall refuse or neglect to give a Ticket denoting the Payment of the Toll, and expressing the Names of the several Gates to be freed by such Payment; or, upon the legal Toll being paid or tendered, shall unnecessarily detain or wilfully obstruct, hinder, or prevent any Passenger or Passengers from passing through any Toll Gate or Toll

Punishing
Toll Col-
lectors misbe-
having.

[Local.]

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Bar;

Bar; or shall make use of any scurrilous or abusive Language to any Traveller or Passenger; then and in every such Case every such Toll Collector shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence, as the Justice or Justices before whom the Information shall be laid shall adjudge; and such Penalty shall be recovered and applied as other Penalties are by this Act directed to be recovered and applied.

Power to
lease the
Tolls.

13 G. 3. c. 84.

XXI. And be it further enacted, That it shall and may be lawful for the said Trustees, in such Manner and Form as is mentioned and directed in that Behalf in and by a certain Act of Parliament passed in the Thirteenth Year of the Reign of His present Majesty, intituled *An Act to explain, amend, and reduce into One Act of Parliament the general Laws now in being for regulating the Turnpike Roads in that Part of Great Britain called England, and for other Purposes*, from Time to Time to lease and demise the Tolls granted by this Act, and arising upon the said Road, to be widened, improved, or kept in Repair by virtue of this Act, or any Part or Parts thereof, for any Time or Term of Years not exceeding Three Years at any one Time, for the best Price that can be gotten for the same, payable at such Time and under such Covenants as the said Trustees shall think fit; they the said Trustees taking a Counterpart of all such Lease and Leases, and taking such sufficient Security from the Person and Persons to whom such Tolls shall be leased and demised for Payment of the Rents, and Performance of the Covenants to be reserved and comprized in such Lease or Leases, as the said Trustees shall think fit.

Trustees may
bid Once.

XLII. And be it further enacted, That when the Tolls payable at any Turnpike or Toll Gate or Gates shall be put up to be let to farm the Trustees may, if they think fit, appoint some Person to bid Once for the same, to the Intent that such Tolls may not be let for less than an adequate Value.

Enabling the
Trustees to
take Posses-
sion of the
Toll Houses,
&c. when let
to farm, or
held by the
Collectors
for the Trus-
tees.

XLIII. And be it further enacted, That in case all or any of the said Tolls arising by virtue of this Act shall be demised or let to farm to any Person or Persons in any Manner whatsoever, and the Lessee or Lessees, Farmer or Farmers thereof, shall neglect or refuse to perform the Terms and Conditions on which the same shall be so demised or let; or in case the Rent or Rents agreed to be paid by such Lessee or Lessees, Farmer or Farmers, shall be in Arrear by the Space of Seven Days next after any of the Days on which the same ought to be paid pursuant to the Agreement for demising or leasing thereof, and in case the Toll House or Toll Houses shall be in Possession of any Collector or Collectors who shall be removed or discharged from his or their Office of Collector, or shall depart this Life; then and in either of those Cases it shall and may be lawful for any Justice of the Peace for the County, Town, or Place in which any such Toll House may be situated, by Warrant under his Hand and Seal, to order a Constable or other Peace Officer, with such Assistance as shall be necessary, to enter upon and take Possession of any Toll House or Toll Houses, and the Buildings, Gates, and Appurtenances thereto belonging, and to remove and put out such Lessee or Lessees, Farmer or Farmers of the Tolls arising thereat respectively, or such Collector or Collectors, or other Person or Persons having Possession of the said Toll House or Toll Houses, from the Possession thereof, and from the Collection of Tolls; and thereupon it shall be lawful for the said Trustees, if they shall think fit, to vacate and determine

determine the Contract or Agreement, if any, for demising or letting the said Tolls to such Lessee or Lessees, Farmer or Farmers, and the same shall be from that Time utterly void to all Intents and Purposes, save as to the Covenants or Agreements for Payment up to that Time of the Rent or Rents thereby reserved, or other Covenants or Agreements on the Lessee's Part which shall have been broken, as if such Demise or Agreement had never been made; and it shall be lawful for the said Trustees in every such Case to demise or let to farm the said Tolls again to any other Person or Persons, or cause them to be collected, as if no former Demise, Contract, or Agreement had been made relative thereto; any Rule of Law or Right to the contrary notwithstanding.

XLIV. And be it further enacted, That if the Lessee or Farmer for the Time being of any of the Tolls hereby granted, or any Person acting under him or her, shall, without the Concurrence of the Trustees acting in the Execution of this Act, compound for, or agree to permit, or shall suffer any overweighted Waggon, or other Carriage subject to a Forfeiture or Penalty by reason of the Weight thereof, to pass or repass through any of the Toll Gates to be erected or continued by virtue hereof, without demanding, taking, and keeping the full Fine or Penalty by Law inflicted upon such overweighted Waggon or other Carriage, such Lessee or Farmer shall for every such Offence forfeit any Sum not exceeding Five Pounds, whereof One Moiety shall go to the Informer or Informers, and the other Moiety shall be applied in such Manner as other Penalties are herein-after directed to be applied.

Penalty on Lessees compounding for overweighted Carriages.

XLV. And be it further enacted, That it shall and may be lawful to and for the said Trustees or any Five or more of them at any Meeting, to borrow and take up at Interest, upon the Credit and Security of the Tolls to arise by virtue of this Act, in such Manner as they shall think proper, such further Sum or Sums of Money, not exceeding the Sum of Three hundred Pounds, as they or any Five or more of them shall think fit; and for securing the Repayment of all such Sum and Sums of Money with lawful Interest for the same, they the said Trustees or any Five or more of them are hereby empowered from Time to Time, by any Writing or Writings under their Hands, to demise or mortgage the said Tolls or any Part or Parts thereof, and the Toll Gates, Toll Bars, and Toll Houses for collecting the same, during the Continuance of this Act (the Charges of such Mortgages to be paid out of such Tolls), as a Security or Securities to any Person or Persons who have advanced or shall at any Time advance any Money for widening, improving, or keeping in Repair the said Road or any Part thereof, their respective Executors, Administrators, and Assigns, for the Money so to be advanced, with lawful Interest for the same; which Writing or Writings may be made in the Form following, or in any other Words to the like Effect; (that is to say),

For borrowing Money on Security of Tolls.

BY virtue of an Act passed in the Fifty-eighth Year of the Reign of His Majesty King George the Third, intituled *An Act* [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 _____ in Hand advanced and paid by _____ of _____ to the Treasurer of the said Road, do hereby grant, bargain, sell, and demise unto the said _____ his Executors, Administrators, and Assigns,

Form of Mortgage.

Assigns, for and during the Continuance of this Act, such Proportion of
 the Tolls to arise upon the said Road, and the Toll Gates, Toll Bars,
 and Toll Houses already made and erected, or hereafter to be made
 and erected, for collecting the same, as the said Sum of
 doth or shall bear to the whole Sum now or hereafter to
 become due and owing on the Security thereof, to be had and holden
 from the Date hereof for and during the Continuance of the said Act,
 unless the said Sum of , with legal Interest, shall
 be sooner repaid and satisfied. Given under our Hands and Seals this
 Day of in the Year
 of our Lord

And all such Mortgages or Mortgage Securities shall be entered in a Book
 or Books to be kept for that Purpose by the Clerk to the said Trustees, and
 such Book or Books shall and may at all seasonable Times be perused and
 inspected by the said Trustees, or any Creditor or Creditors of the said
 Trust, without Fee or Reward; and it shall be lawful for all Persons
 respectively, to whom any Mortgage shall be made as aforesaid, or who
 shall be from Time to Time entitled to the Money thereby secured, to
 assign and transfer his, her, or their Right, Title, and Interest in and to
 such Mortgage, and the Principal Money and Interest thereby secured, to
 any other Person or Persons whomsoever, which Assignment or Transfer
 may be made in the following Words, or Words to the like Effect, to be
 indorsed on such Mortgage Security, or to be underwritten or thereunto
 annexed, and signed in the Presence of and attested by One or more
 credible Witness or Witnesses; (that is to say),

I the within named or I Assignee,
 Executor, or Administrator of the within named as the
 Case may happen, do hereby assign and transfer this Mortgage Security,
 with all my Right and Title to the Principal Money thereby secured,
 and all Interest now due and hereafter to grow due upon the same, unto
 of his Executors, Administrators,
 and Assigns. Dated this Day of in the
 Year of our Lord

Witness to the signing hereof.

Which Transfer shall be produced and notified to the said Clerk within
 Three Calendar Months next after the Day of the Date thereof, who
 shall enter the same in the said Book or Books, for which Entry the said
 Clerk shall be paid the Sum of Five Shillings and no more; and such
 Transfer shall then entitle such Assignee, his Executors, Administrators,
 and Assigns, to the full Benefit of such Mortgage Security; and every
 such Assignee may in like Manner assign or transfer the same, and so *toties
 quoties*; and it shall not be in the Power of any Person or Persons (except
 the Person or Persons to whom the same shall be last transferred, his, her,
 or their respective Executors or Administrators, to release, discharge, or
 make void the original Mortgage Security, or the Monies due thereon, or
 any Part thereof; and all Persons to whom any such Mortgage or Transfer
 shall be made as aforesaid, shall, in proportion to the Sum or Sums of
 Money thereby secured, be Creditors on the Tolls by this Act granted,
 and on the said Toll Gates, Toll Bars, and Toll Houses, in equal Degree
 one with another, and shall have no Preference in respect of Priority of
 advancing

advancing their Monies, or of the Dates of their respective Securities or otherwise, except as herein-after mentioned.

XLVI. And be it further enacted, That the said Trustees shall and may, if thereunto required by the Person or Persons entitled thereto, destroy and cancel all or any of the Mortgages, Assignments, Declarations of Trust or Securities now subsisting, that have been made by virtue of the said Acts, of the Tolls thereby authorized to be collected on the said Road, and to give and execute a Mortgage or Mortgages of the Tolls by this Act granted in Manner herein-before directed, for such Sum or Sums of Money as may be expressed in any Mortgage, Assignment, or Security, to be cancelled by virtue of this Act.

Old Mortgages may be cancelled, and new ones granted.

XLVII. Provided always, and be it further enacted, That in case the said Trustees shall at any Time or Times be desirous of paying off any Portion of the principal Monies due and owing upon the Credit of the said Road, it shall and may be lawful for them, or any Five or more of them, at any Meeting to be holden as aforesaid, (Notice of such intended Meeting, and of the Purpose thereof, being first given at least Twenty-one Days preceding the same, by Advertisement in some Newspaper printed in or usually circulated within the said Counties of *Worcester* and *Warwick*;) if they shall think fit, instead of paying the same rateably amongst all the Creditors, to determine by Lot to which of such Creditors the Whole or any Portion thereof shall be so paid, and to pay the same to such Creditor or Creditors only, or to any of the Creditors with the Consent of all the other Creditors; any Thing herein contained to the contrary thereof notwithstanding.

For paying Creditors by Lot.

XLVIII. And be it further enacted, That all the Monies which, before the Day of the Commencement of this Act, shall have been raised and produced by virtue of the said Acts, or any of them, for or in respect of the said Road, and which shall be remaining undisposed of on the Day of the Commencement of this Act, and also all the Monies which shall arise and be produced by and from the Tolls by this Act granted and made payable, together with the Monies which shall be borrowed on the Credit thereof, and all other Monies which shall arise and be produced by virtue of this Act, and not herein otherwise appropriated or directed to be applied, shall be vested in the said Trustees for the Time being, and be applied to and for the several Uses, Intents, and Purposes, and in the Order and Manner following; (that is to say), in Payment of all the Costs, Charges, and Expences which shall have been incurred in the applying for or obtaining and passing of this Act, and in defraying the Expences of erecting and providing Toll Gates, Toll Bars, Toll Houses, and other Buildings, and keeping the same in Repair, and of altering, raising, widening, repairing, and preserving the said Road by this Act directed to be kept in Repair as aforesaid, and of erecting and making necessary and convenient Culverts, Arches, or Bridges upon the said Road, and otherwise executing the several other Purposes of this Act; and in reducing, paying off, and discharging the several principal Sums of Money and Interest which shall have been borrowed and secured, in pursuance of and for the Purposes of the said Acts, in respect of the said Road, and the several principal Sums of Money which may be hereafter borrowed and secured by virtue of this Act; such Reduction, Payment, and Dis-

Application of the Money.

[Local.]

4 F

charge

charge to be made and done either rateably or by Lot, as the said Trustees shall think proper.

Variation of
the present
Line.

Plan of
Variation
deposited.

Trustees
may widen
or alter
Roads and
purchase
Lands.

XLIX. And whereas it is desirable for the Public that a Variation of the present Line of Road should be made from the Meeting-house, at a Place called *The Quinton* in the Parish of *Halesowen* in the County of *Salop*, for the Distance of Six hundred Yards or thereabouts, in a straight Line through Lands severally belonging to the Right Honourable *George Lord Lyttelton*, *Ambrose Foley*, and *Aaron White*, to a Place called *Crock Street* in the same Parish: And whereas, by such Variation, Part of the Road from a Public-house called the *Black Boy* to *Crock Street* aforesaid will be no longer wanted for the public Convenience, and other Part of the said Road from the said Meeting-house to the *Black Boy* aforesaid will be unnecessary to be continued Turnpike: And whereas a Map or Plan describing the Line of the said intended Variation, and the Lands through which the same is intended to be made, together with a List of the Names of the Owners and Occupiers of such Lands, have been deposited with the Clerk of the Peace for the County of *Salop*: Be it therefore enacted, That the said Map or Plan and List of Names shall remain in the Custody of the Clerk of the Peace for the said County, to the End that all Persons may at all seasonable Times have Liberty to inspect and peruse the same, and to take Copies or Extracts therefrom at their Will and Pleasure, paying to the Clerk of the Peace the Sum of Two Shillings and Sixpence for every such Inspection, and at the Rate of Sixpence for every Seventy-two Words, of such Copies or Extracts of the said Map or Plan and List of Names; and it shall be lawful for the said Trustees, and they are hereby empowered, to make such Variation in the said Road; and the said Trustees, in making the said Variation, 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 whose Lands or Grounds such Deviation shall be made; and in case the said Trustees shall think proper to widen, turn, vary, or alter any other Part or Parts of the said Road for the better Accommodation of Coaches, Carriages, and Passengers, it shall be lawful for the said Trustees, and they are hereby authorized and empowered from Time to Time, to treat, contract, and agree with any Person or Persons for the Purchase or Exchange of any Lands, Grounds, or Hereditaments lying near or contiguous to the said Road, and for the Loss or Damage the Owners, Proprietors, and Occupiers thereof, or any of them, shall or may in any-wise sustain by such widening, turning, varying, or altering such Road, and to pay out of the Monies hereby vested in the said Trustees, for the Purposes of this Act, such Sum or Sums of Money as shall be agreed upon between such Owners, Proprietors, Occupiers, or Persons interested as aforesaid, and the said Trustees, and for the Costs attending such Purchase; which Road, when widened, turned, varied, or altered by virtue of this Act, shall be and remain Sixty Feet wide at the least; and such Lands and Grounds, when so purchased as aforesaid, shall, by the Order and Direction of the said Trustees, be laid into and made Part of such Road, in such Manner as the said Trustees shall think convenient, with proper Drains, Ditches, and Fences for that Purpose, and shall thenceforth be deemed and taken to be a public or common Highway, and Part of the Road to be repaired by virtue of this Act: Provided always,

that

that it shall not be lawful for the Trustees acting in the Execution of this Act, in turning, varying, or altering any Part of the present Road, or of the new Line of Road when made as herein-before directed, to deviate more than One hundred Yards without the Consent in Writing of the Owners or reputed Owners and Occupiers for the Time being of the Estate, Lands, or Grounds which may be affected by any such Deviation respectively.

L. Provided always, and be it further enacted, That nothing in this Act contained shall extend to the taking down of any Dwelling House or other Building, or to the taking in of any Land that is a Garden or Orchard adjoining to any Dwelling House, or any Yard, Park, Paddock, Planted Walk, inclosed Nursery for Trees, or Avenue to any House or any Part thereof, without the Consent of the Owner or Proprietor thereof respectively in Writing first had and obtained other than and except a Brew-house, and Part of a Garden in the Occupation of *William Foley*, a Nail Shop in the Occupation of *John Downing*, and Part of a House in the Occupation of *Peter Chatwin*, all the Property of *Thomas Tomlinson*; a Cottage and Garden in the *Beech Lane* in the Parish of *Halesowen* in the County of *Salop*, the Property of *Hannab Parkes*, in her own Occupation; a Waggon House and Part of a Cow-shed, Fold-yard, and Garden, at a Place called *The Hawthorn* in the Parish of *Halesowen* aforesaid, the Property of *Charles Hill* Esquire, in the Occupation of *Samuel Nicholls*; a Building at the East End of a Meeting-house, and Two Gardens and Part of an Orchard, at a Place called *The Quinton* aforesaid, the Property of *Ambrose Foley*, Part in his own Occupation, and Part in the Occupation of *Thomas Dutton*; Part of a House and Court-yard in the Occupation of *William Robinson*, and Part of a Garden in the Occupation of *Thomas Hill*, situate at *Red Hill* in the Parish of *Halesowen* aforesaid, the Property of *Thomas Birch*; Two small Tenements opposite the End of *Long Lane*, in the Occupations of *John Guest* and *John Gould*, and Three small Tenements and Two Gardens in the Occupation of *John Fox*, *John Taylor*, and *William Cutler*, situate in the *Beech Lane* in the Parish of *Halesowen* aforesaid, all the Property of *William Powell*.

Dwelling Houses, Gardens, &c. not to be damaged.

LI. Provided always, and be it further enacted, That if any of the before-mentioned Premises, or the Places where they are situated, or the Persons whose Property or in whose Possession they are stated to be, shall happen to be misnamed or improperly described, it shall not prevent or retard the varying or widening the Road through or over any such Premises, but the same shall and may be taken and used for the Purposes of this Act, in such and the same Manner as if the same were properly named and described.

Misnomers not to prevent the Execution of this Act.

LII. And be it further enacted, That when and as soon as the Variation of the said Road shall have been completed, the Trustees for executing this Act shall thenceforth be discharged from the future Repairs of any Parts of the said Road by this Act authorized to be stopped up or discontinued as a Turnpike Road.

Trustees discharged from Repair of Roads to be discontinued.

LIII. And be it further enacted, That in all Cases where the said Trustees shall turn or alter any Part or Parts of the present Road, or make any new Road over and through any private Grounds, or shall take away any

Trustees to fence the Road.

any Fence for widening the said Road, the said Trustees shall make or cause to be made and planted proper Quickset Hedges or Fences on both Sides of such new-made Road, or on the Side upon which any such Fence may be so removed as aforesaid, with sufficient Ditches to the same, and a sufficient Post and Rail or other Fence to protect the Growth thereof, so as effectually to guard and fence off the Lands adjoining to the said Road, and also proper Gates, Bridges, and Arches where necessary, out of the said Road into the Lands adjoining, and shall keep such Fences so to be made in good Order and Repair for and during the Term of Seven Years, from the Time that such Fences shall have been made or set up, unless the Owner or Proprietor for the Time being of any such Land or Ground shall agree with the Trustees to keep such Fences in Repair from an earlier Period.

Trustees may
contract for
purchasing
Lands.

LIV. And be it further enacted, That it shall be lawful for any Owner or Proprietor, and for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Trustees, or any other Person or Persons whomsoever, not only for and on behalf of themselves, but also for and on behalf of their Infants, Wards, *Cestuique* Trusts, Lunatics, Idiots, or Persons of unsound Memory and Understanding, 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 and Persons whomsoever who are or shall be seised or 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 any such Lands or Hereditaments, or any Part thereof, for any of the Purposes of this Act; 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 whatsoever to the contrary notwithstanding; and all such Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Trust, Executors, Administrators, Guardians, and Trustees, and all other Persons, are and shall be hereby indemnified for what they shall do by virtue or in pursuance of this Act; and if any such Owner, Proprietor, Occupier, Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or Trustees, or any other Person or Persons interested in any such Lands or Hereditaments, upon Notice to him, her, or them given in Writing, or left at the Dwelling House or Houses, or Place or Places of Abode of such Person or Persons, or of the Head Officer or Officers of such Bodies Politic, Corporate or Collegiate, Corporations Aggregate or Sole, or at the House of the Tenant in Possession of the Lands or Hereditaments which may be used or taken for the Purposes of widening or improving the said Road, or any Part or Parts of such Road, shall, by the Space of Forty Days 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 hindered from treating, then and in every such Case the said Trustees shall cause such Damage to be inquired into and ascertained by and on the Oaths of a Jury of Twelve indifferent Men of the County wherein such Lands or Hereditaments shall be situated (which Oaths any Two or more of the said Trustees are hereby empowered and required to administer), what Damages will be sustained by, and what Recompence and Satisfaction shall be made to such Owners, Proprietors, or Occupiers, or other Person or Persons interested, for or on account of the using and taking of such Lands or
Grounds

Grounds for the Purposes of this Act; 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 the said Jury, and examine upon Oath, all and every Person and Persons whomsoever who shall be thought necessary and proper to be examined as a Witness or Witnesses touching or concerning the Premises (which Oath any Two or more of the said Trustees are hereby empowered to administer); and they shall also order and cause the said Jury to view the Places in question if there be Occasion, and use all lawful Ways and Means as well for their own as the Jury's better Information in the Premises, as the said Trustees shall think fit; and after the said Jury shall have inquired of, ascertained, and settled such Damage and Recompence, the said Trustees shall thereupon order, adjudge, and determine the said Sum or Sums of Money so assessed by the said Jury to be paid to the said Owners, Occupiers, or Proprietors of, or other Persons interested in the said Lands or Hereditaments, according to such Verdict or Inquisition of the said Jury; which said Verdict or Inquisition and Judgment, Order or Determination so had and made, shall be final, binding, and conclusive to all Intents and Purposes against all Parties and Persons whomsoever claiming or to claim in Possession, in Fee, or in Tail General or Special, Reversion or Remainder, or otherwise, their Heirs and Successors, as well absent as present, Infants, Females Covert, and Persons under any Disability whatsoever, Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, as well as all other Persons whomsoever; and all and every such Owners, Occupiers, and Proprietors, and all and every Person and Persons anyways interested in such Lands or Grounds, shall, upon Payment or Tender of the Sum or Sums of Money so assessed as aforesaid, or upon depositing the same in the Bank of *England* in the Manner directed by this Act (as the Case may require), thereby be thenceforth to all Intents and Purposes divested of all Right, Title, Claim, Interest, and Property of, in, to, or out of the same; and for the summoning or returning of such Jury or Juries, the said Trustees are hereby empowered to issue their Warrant or Warrants to the Sheriff of such County, thereby commanding and requiring the said Sheriff to impanel, summon, and return an indifferent Jury of Twenty-four Persons to appear before the said Trustees at such Time and Place as in such Warrant shall be appointed; and such Sheriff or his Deputy or Deputies is and are hereby required to impanel, summon, and return such Number accordingly; and out of the Persons so impanelled, summoned, and returned, or out of such of them as shall appear on such Summons, the said Trustees shall swear or cause to be sworn Twelve who shall be the 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-by, or that can be speedily procured to attend that Service, to the Number of Twelve, and all Persons concerned shall have their lawful Challenges against any of the said Jurymen when they come to be sworn, but shall not challenge the Array; and the said Trustees acting in the Premises shall have Power from Time to Time to impose any reasonable Fine or Fines on such Sheriff or his Deputy or Deputies, Bailiffs, or Agents making default in the Premises, and on any of the Persons that shall be summoned and returned on such Jury, and shall not appear without sufficient Excuse, or who shall refuse to be sworn on the said Jury, or being so sworn shall refuse to give or shall not give their Verdict, or in any other

Verdict of
the Jury to
be final.

Sheriff, &c.
to be fined
on Neglect
of Duty.

[Local.]

4 G

Manner

Manner shall 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 touching the Premises, shall refuse or neglect to appear, having been paid or tendered a reasonable Sum for his, her, or their Costs, Charges, and Expences, without sufficient Excuse, or appearing shall refuse to be sworn and give Evidence, and from Time to Time to levy and apply such Fine or Fines in the same Manner as other Penalties, Forfeitures, and Fines are herein-after directed to be levied and applied, so that such Fines shall not exceed the Sum of Twenty Pounds upon any such Sheriff or his Deputy, and the Sum of Five Pounds upon any other of the Persons aforesaid, for any one Offence.

How Ex-
pence of Jury,
&c. shall be
paid.

LV. And be it further enacted, That in case any Jury shall give in and deliver a Verdict or Assessment for more Money as a Recompence for the Right, Interest, or Property of any Person or Persons in any 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 or returning of the Jury, as a Recompence or Satisfaction for any such Right, Interest or Property, or Loss or Damage as aforesaid, then and in such Case the Costs and Expences of summoning and returning the Jury and Witnesses shall be borne and paid by the Treasurer or Treasurers to the said Trustees out of any Money arisen or to arise by virtue of this Act; but if such Jury shall give in and deliver a Verdict or Assessment for no more or for less Money than shall have been agreed to and offered by the said Trustees, before the summoning and returning of such Jury, as a Recompence or Satisfaction for any such Right, Interest, or Property, or Loss or Damage as aforesaid, then the full Costs and Expences of summoning and returning the said Jury and Witnesses, and all other Expences attending the hearing and determining of such Differences, shall be borne and 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 within whose Jurisdiction such Difference shall arise, not interested in the Matter in question, who is hereby required to examine and settle the same at a Time and Place to be by him appointed, after summoning the Parties interested therein to attend him for that Purpose, 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 on Demand, after being so ascertained and settled as aforesaid, may be recovered by the Clerk to the said Trustees by such Ways and Means as are herein-after provided for the Recovery of Penalties and Forfeitures: Provided, that where by reason of Absence any Person or Persons shall have been prevented from treating with the said Trustees touching the Matters aforesaid, the whole of such Fees and Expences shall be paid by the said Trustees.

Upon Pay-
ment of the
Purchase
Money, the
Lands to be
taken for the
Road.

LVI. And be it further enacted, That every Sum of Money or Recompence to be agreed for or assessed as aforesaid shall be paid by the said Trustees or any Five or more of them to the Parties or Persons respectively entitled thereto, or to his, her, or their Agent or Agents; and upon

Payment

Payment thereof in Manner aforesaid, or upon depositing the same in the Bank of *England*, under the Direction of the Court of Chancery, in Manner by this Act directed, and after Fourteen Days Notice given to such Parties or Persons, or to his, her or their Agent or Agents, or left at his, her, or their Place or Places of Abode, or with the Tenant in Possession of the Lands or Hereditaments so to be agreed for or purchased as aforesaid; such Lands or Hereditaments shall be used and taken for the Purposes of this Act, in such Manner as the said Trustees shall direct, and shall be sufficiently ditched and fenced off from the Lands adjoining thereto, and shall to all Intents and Purposes become and be deemed a common Highway, and shall thenceforth for ever be deemed as Part of the Road by this Act directed to be made, amended, and kept in Repair; and thenceforth all Parties and Persons whomsoever shall be divested of all Right and Title to such Lands and Hereditaments.

LVII. And whereas the Trustees for executing this Act may be seized of some Piece or Pieces of Ground over and above what may be necessary for effecting the Purposes of this Act, and it is expedient that they should have Power to sell the same, as also to sell certain Parts of the old Road situate at *Holloway Head* in the Parish of *Birmingham*; and the Strip of Land lying between the same and the new Road there, and also such other Part of the Road as is herein authorized to be stopped up and discontinued: Be it therefore further enacted, That it shall and may be lawful for the said Trustees or any Five or more of them from Time to Time to sell and dispose of such several Pieces of Ground and old Road, together or in Parcels, either by public Sale or private Contract, as they shall find most advantageous and convenient, to such Person or Persons as shall be willing to contract for and purchase the same.

Trustees empowered to sell Ground not wanted for the Purposes of the Act.

LVIII. Provided always, and be it further enacted, That in case the said Trustees shall think proper to sell or dispose of any Piece or Pieces of old Road or Ground not wanted for the Purposes of this Act, and which is not by this Act directed to be otherwise disposed of, they shall first offer the same for Sale to the Person or Persons of whom the same shall have been purchased, or in case such Ground shall be a Piece or Pieces of old Road, or a Strip or Strips of Land cut off by any Deviation of Road, to the Person or Persons whose Lands shall adjoin thereto; and if such Person or Persons respectively shall then and thereupon refuse or shall not agree, except with respect to or on account of the Price thereof, to purchase the same respectively within Forty Days next after such Offer, an Affidavit to be made and sworn before a Master or Master Extraordinary of the High Court of Chancery, or before One of His Majesty's Justices of the Peace for the County, Town, or Place where such Ground or Road shall lie, who is hereby respectively empowered to take such Affidavit, 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 then and thereupon refused or was not agreed to by the Person or Persons to whom the same was made, shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made and was refused or not agreed to 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 such Piece or Pieces of Ground, and he, she, or they, and the said Trustees, shall differ or not agree with respect to the

First Offer to whom to be made.

Price

Price thereof, then the Price or Prices thereof shall be ascertained by a Jury in Manner by this Act directed with respect to disputed Value of Premises to be purchased by the said Trustees in pursuance of this Act; and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as by this Act is 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 Pieces of 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 Nonapplication of such Money.

Application
of Money if
amounting
to 200l.

LIX. And be it further enacted, That the principal Money to arise from the Sale of any Lands, Tenements, or Hereditaments which shall be purchased, for the Purposes of this Act, of any Body Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Feoffees in Trust, Guardians, Committees, or other Trustees, or from any Femes Covert, or other incapacitated Person or Persons, 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 *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, or Hereditaments, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrances, or Part thereof as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting any other Lands, Tenements, or Hereditaments standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under and with 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 the Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime 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 meantime 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 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 said Lands, Tenements, and Hereditaments so to be purchased under the Authority of this Act, in case such Purchase or Settlement were made.

LX. Pro-

LX. Provided always, and be it further enacted, That if any Money 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 any Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall 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 of *England*, with the Privity and in the Name 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 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 and Approbation of the said Court of Chancery.

Where less than 200 l. and above 20 l.

LXI. Provided also, and be it further enacted, That when such Money so agreed or awarded to be paid as last before mentioned shall not exceed 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, or Hereditaments so purchased, taken, or used for the Purposes of this Act, in such Manner as the said Trustees or any Five or more of them 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.

Where not more than 20 l.

LXII. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or Hereditaments to be purchased by virtue of this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises to the Satisfaction of the said Trustees, or in case such Person or Persons to whom such Sum or Sums of Money shall be so awarded 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 be lawful for the said Trustees or any Five or more of them to order the said Sum or Sums of Money so awarded as aforesaid 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 said Lands, Tenements, or Hereditaments (describing them), subject to the Order, Control, and Disposition of the said Court of Chancery; which said Court, on the Application of any Person or Persons making claim to such Sum and Sums of Money or any Part thereof by Motion or Petition, shall be and is hereby empowered, in a summary way

In case of not making out a good Title, &c.

[Local.]

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of

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, and 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 and 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.

Where any Question shall arise touching the Title of any Person to any Money to be paid into the Bank, the Person in Possession of the Land, &c. shall be deemed entitled thereto.

LXIII. 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 said 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 of this Act, 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 some Estate or Interest therein.

The Court of Chancery may order reasonable Expences of Purchases to be paid by the Trustees.

LXIV. 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 of Chancery, 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, to be paid by the said Trustees out of the Monies to be received by virtue of this Act, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

For getting Materials for making and repairing the Road.

LXV. And be it further enacted, That it shall be lawful for the Surveyor and Surveyors, and such Person and Persons as he or they shall appoint, to dig, take, and carry away any Furze, Heath, Stone, Flints, Sand, Gravel, and other Materials, proper and convenient for making, widening, altering, improving, or repairing the said Road, or for other the Purposes

of this Act, out of any Waste or Common Land, Common River or Brook, not being within the Distance of One hundred Yards of any Bridge, Dam, Weir, or Jetty in any Parish, Town, Village, or Hamlet within which the said Road or any Part or Parts thereof lies, or is or are intended to be made and pass, and for want of sufficient Quantities of such Furze, Heath, Stone, Sand, Gravel, or other Materials in the Places last described, then to dig, take, and carry away the like Materials out of any Waste or Common Land, Common River or Brook, not being within the like Distance from any Bridge, Dam, Weir, and Jetty in any adjoining Parish, Town, Village or Hamlet, without making any Recompence for the same, the said Surveyor or Surveyors filling up, fencing, and levelling all such Pits and Holes as shall be made or occasioned by digging for or taking away such Materials, and making such Allowance or Satisfaction to the Person or Persons through whose Lands or private Ways such Materials shall be brought or carried, for the Damages done and occasioned thereby, as the said Trustees shall judge fit and reasonable; and in case sufficient Materials cannot be gotten in such Wastes, Common Lands, Common Rivers and Brooks as aforesaid, it shall be lawful for such Surveyor or Surveyors, by Order of any Two or more Justices of the Peace for the County in which the Land may be situated, to dig for and take away the like Materials out of the private Grounds of any Person or Persons (not being a Garden, Yard, Paddock, Park, planted Walk, or Avenue to any House or inclosed Grounds planted, set apart, or used as a Plantation or Nursery for Trees) where such Materials are or may be found in any such Parish or Place, and from Time to Time to carry away such and so much of the said Materials respectively as the said Surveyor or Surveyors shall judge necessary for making, improving, and repairing the said Road, paying such Recompence for the same, and for the Damage done to the Owners and Occupiers of the respective Grounds where, through, and whence the same shall be dug and carried away, as the said Trustees shall judge reasonable; and in case of any Difference between such Owners and Occupiers, or any of them, and the said Trustees, touching the Damages aforesaid, or the Value of the Materials, then the Amount thereof to be settled by any Two or more Justices of the Peace for such County, but subject to such Appeal to the General Quarter Sessions of the Peace to be holden in and for the said County as is hereinafter directed.

LXVI. And be it further enacted, That it shall not be lawful for any Surveyor or Surveyors, or any 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, without the Consent in Writing of the Owners or Occupiers thereof first had and obtained for that Purpose, and until Fourteen Days previous Notice in Writing, signed by the Surveyor of the said Road, shall have been given to the Owners or Occupiers of the Premises from which such Materials are intended to be taken, or left at the House or last usual Place of Abode of such Owners or Occupiers, to appear before Two or more Justices of the Peace acting in and for the County, Town, or Place in which such Lands or Grounds shall be situate, to shew Cause why such Materials should not be had from such Lands or Grounds; and in case such Owner or Occupier, or his Agent, shall attend pursuant to such Notice, but shall not shew sufficient Cause to the contrary, such Justices shall

Notice to be given before Materials taken.

shall, if they think proper, authorize such Surveyor or other Persons to dig, gather, get, take, and carry away such Materials in such Manner and at such Time or Times as to such Justices shall seem proper; and if such Owner or Occupier shall neglect or refuse to appear by himself or his Agent, such Justices may, upon Proof on Oath of the Service of such Notice, and which Oath they or any of them are hereby empowered to administer, make such Order therein as they shall think fit, as fully and effectually to all Intents and Purposes as if such Owner or Occupier, or his Agent, had attended.

Penalty on taking away Materials got by Surveyor.

LXVII. And be it further enacted, That if any Person or Persons shall take or carry away any Materials which shall have been dug or gathered for the Purposes of this Act, or if any Person or Persons shall get or take away any Materials out of any Pit or Quarry which shall have been made for the Purpose of getting Materials for the said Road, before the said Surveyors or their Workmen shall have discontinued working therein for the Space of Thirty Days, except the Owner or Occupier of any private Ground, and the Person or Persons authorized by such Owner or Occupier to get Materials therein for his own private Use only, and not for Sale; all and every such Person and Persons so offending shall forfeit for every such Offence any Sum not exceeding Five Pounds.

Surveyor may remove Annoyances.

LXVIII. And be it further enacted, That it shall be lawful for the said Surveyor or Surveyors, and such Person or Persons as he or they shall appoint, from Time to Time to remove and prevent all Nuisances and Annoyances on any Part or Parts of the said Road by Timber, Stones, Cariages, Sawpits or other Pits, Tunnels, Culverts, Alhes, Dung, Filth, Rubbish or otherwise, and to turn any Watercourses, Gutters, Conduits or Drains running into the same to the Prejudice thereof, and to open, scour, cleanse, deepen, and enlarge any Gutter, Ditch, Conduit, or Watercourse adjoining or near to the said Road, or any Part or Parts thereof; and all and every Persons and Person occasioning any such Nuisances and Annoyances on any Part or Parts of the said Road, or by Neglect or otherwise causing any Watercourse, Gutter, Conduit, or Drains to run into the same, shall be subject and liable to repay all the Charges and Expences of removing such Nuisances and Annoyances, in case he or they shall refuse or neglect, after Fourteen Days Notice from the Surveyor, to remove the same in such Manner as the Surveyor shall direct; such Charges and Expences to be levied, together with such Penalty or Forfeiture, if any, as is by this Act imposed on such Offence, by Warrant of any Justice of the Peace acting in and for the County where the said Offence shall be committed, or where the Person or Persons so offending shall reside, in the same Manner as is authorized for Forfeitures incurred by virtue of this Act.

Surveyors may make Causeways, &c. and cut Drains.

LXIX. And be it further enacted, That it shall be lawful for such Surveyor and Surveyors, and such other Person and Persons as shall be appointed by the said Trustees, to make Footpaths or Causeways in or along the Sides of the said Road, and to cut or make Drains or Watercourses upon and through any Grounds lying contiguous to the said Road, not being a Yard, Garden, Orchard, planted Walk, or Avenue to any House, and to erect and keep in Repair the Bridges and Arches thereupon, and also to make Ditches or Trenches in such Places and in such Manner

Manner as such Surveyor or Surveyors by Order of the said Trustees, shall judge necessary, and make sufficient Fences, Barriers, and other Erections on any Part or Parts of the said Road, in order to prevent any Rivulet or Current of Water from flooding the same, as such Surveyor or Surveyors shall judge necessary.

LXX. And be it further enacted, That the said Trustees may, if they think fit, cause the said Road to be measured, and Stones or Posts to be placed in or near the Sides of the said Road, and also to cause to be erected Direction Posts upon such Parts of the said Road, where the same are crossed or joined by other Roads, as they shall think proper; and if any Person or Persons shall wilfully pull up or damage any Bridge or Bridges, Culvert or Culverts, Direction or Mile-post, or Stone erected or fixed, or to be erected or fixed in, across, or near the Side or Sides of the said Road, or shall obliterate or deface any of the Letters, Figures, or Marks inscribed thereon; or if any Person shall ride upon any Footpath or Causeway formed upon or on the Side of, or adjoining to the said Road, or shall drive or lead any Horse, Beast, or Swine, or wheel any Hand-cart, or other Carriage upon, or cause any Damage to be done to any Footpath or Causeway; or if any Person shall cause to be hauled or drawn upon any Part of the said Road any Timber, Stone, or other Thing, (except upon Wheeled Carriages) or shall suffer any Timber, Stone or other Thing which shall be carried upon Wheel Carriages to drag upon 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 and damage the same, or the Fences on either Side thereof; or if any Person shall turn or suffer any Horse, Ass, Beast, or Swine to be turned on or to be or remain upon the said Road, to graze or depasture on the Sides thereof; or if any Person driving any Carriage upon the said Road shall ride on the Shafts or other Part of the said Carriage without holding the Reins of the Horse or Horses, or meeting another Carriage, shall not keep his or her Carriage on his or her left or near Side of the said Road, and also keep on the same Side himself; or if any Person shall in any other Manner wilfully prevent any other Person or Persons from passing him or her, or any Carriage under his or her Care, upon the said Road; or if any Person shall make or assist in making any Fire or Fires commonly called Bonfires, or shall set fire to, or let off, or throw any Squib, Rocket, Serpent, or Fireworks whatsoever, or play at Football, or any other Game or Games, within Ten Yards from the Centre of any Part of the said Road; or if any Person shall leave any Carriage (except in Cases of Accident) upon or on the Side of the said Road longer than may be necessary to load or unload the same, either with or without any Horse or Beast of Draught harnessed or yoked thereto, and then such Carriage shall be placed as near to the Side of the said Road as conveniently may be; or shall lay any Timber, Stones, Chalk, Marl, Lime, Hay, Straw, Dung, Manure, Soil, Rubbish, or other Thing whatsoever upon the said Road or on the Side or Sides thereof, between the said Roads and the Fences now standing or hereafter to be erected on the Sides thereof, or shall plough up, dig up, or break up any of the Soil between any Part of the said Road and such Fences as aforesaid, for the Purpose of making Compost or Manure, or otherways shall scrape off any Soil or other Thing from the said Road or the Sides thereof, or shall take up and carry away any Scrapings thereof, or any Dung, Mould, Soil, Compost or Manure from the Sides thereof, except such as may be lying on

Roads may be measured and Mile-stones erected, &c.

[Local.]

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his own Ground, and be carried away without being brought over any Part of the said Road, or that the same be done at such Times and under such Regulations as the Trustees or their Surveyors shall direct and order; or shall carry Bars or Rods of Iron across the Back of any Horse, Mule, or Ass passing along the said Road; every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, to be recovered and applied as herein-after directed.

Gates to open inwards.

LXXI. And be it further enacted, That no Gate of any Park, Paddock, Field, or Inclosure whatsoever, shall be made to open into or towards any Part of the said Road, or be suffered to continue so to open, except the Hanging-post thereof shall be Thirty Feet at least from the Centre of such Parts of the said Road, and the Occupier or Occupiers of every Park, Paddock, Field, or Inclosure having any Gate opening contrary to the Directions of this Act, shall, within Fourteen Days after Notice to him, her, or them given, either personally or in Writing from the Surveyor of the said Road, cause such Gate to be hung in the Manner hereby directed, whenever the same shall be practicable, but in every Case in such a Manner as that no Part of the Gate when open shall project over any Part of the said Road, or any Footpath belonging thereto; and in default thereof the Surveyor of the said Road is hereby authorized to cause such Gate to be so hung, and the Person or Persons guilty of such Neglect or Default shall upon Complaint made to any Justice or Justices of the Peace acting in and for the County in which such Gate shall have been erected, and upon Conviction thereof upon the Oath of One credible Witness, pay to such Surveyor such Sum as the said Justice or Justices shall direct, to defray the Expence of making the Alteration and hanging such Gates, and shall also forfeit and pay a further Sum not exceeding Forty Shillings for his, her, or their Neglect therein, to be fixed by and at the Discretion of the Justice or Justices before whom such Conviction shall be made as aforesaid.

Trustees may contract for Repairs or any other Work.

LXXII. And be it further enacted, That it shall be lawful for the said Trustees or any Five or more of them from Time to Time to contract and agree with any Person or Persons for forming, making, varying, widening, altering, improving, or repairing the said Road or any Part or Parts thereof, or for doing any other work, in pursuance or Execution of this Act, in such Manner and for such Sum or Sums of Money annually, or for a Term of Years or otherwise, as the said Trustees or any Five or more of them shall think proper.

Persons liable to repair the Road to continue so.

LXXIII. And be it further enacted, That all Owners, Occupiers, Grantees, Trustees, Feoffees, and Committees of any Lands, Tenements, Rents, and Annuities, or any Sum or Sums of Money which have been given or are liable to the maintaining or amending of any Part or Parts of the said Road, or any Bridge or Bridges, or other necessary Things thereon, or any Part or Parts thereof, shall still remain liable and chargeable to the Repairs thereof in such Manner and to the same Extent, but not in any other Manner, nor to any greater Extent, than as they were liable and chargeable before the passing of this Act.

Statute Labour.

LXXIV. Provided always, and be it further enacted, That all Persons who by Law are or shall be liable to do Statute Work, or are or shall be chargeable

chargeable towards repairing and amending the said Road or any Part thereof; shall still remain liable thereto in like Manner as heretofore; and it shall be lawful for any Two or more Justices of the Peace for the said Counties of *Worcester, Warwick, Stafford, and Salop*, within their respective Jurisdictions, and they are hereby empowered and required, (upon Application made to them for that Purpose by the said Trustees, or by their Treasurer, 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, Hamlets, or Places in which the said Road lies, and also what Proportion of the Money received by the Surveyor or Surveyors of the Highways of every such Parish, Hamlet, or Place, in lieu of or as a Composition for such Statute Work as aforesaid, shall be by him or them paid to the said Trustees or to their Treasurer or Treasurers; and in order thereunto it shall be lawful for such Justices from Time to Time to summon the Surveyor or Surveyors of the Highways for every such Parish, Hamlet, 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, Hamlet, or Place respectively, 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 such Manner and under such Regulations and Restrictions as is, are, or may be directed by any Law or Statute in Force and Effect for the Repair of Public Highways; and out of such Lists such Justices shall or may appoint, and order such and so many of the Persons who shall appear to be subject and liable to do 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 on such Parts of the said Road as the said Trustees, or any Five or more of them, or their Surveyor or Surveyors, shall from Time to Time order, direct, and appoint; and the said Justices may also order and direct the Persons who by such Lists shall appear to be subject or 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 to their Treasurer, at such Time or Times as the said Justices shall direct; and in default of Payment thereof the same shall or 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, signed by the Surveyor or Surveyors to 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 or liable to by any Law or Statute in Force and Effect for the Repair of the Public Highways; and

and if any Person who shall come to work as a Labourer; or who shall be sent with any Team or Draught to work on the said Road, shall be found idle or negligent by any Surveyor to the said Trustees, such Surveyor is hereby empowered to remove and dismiss the Person who shall be found idle or negligent as aforesaid; and in that case every such Person shall be subject and liable to the respective Forfeitures and Payments aforesaid, as if he had neglected or refused to come, or 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 said Surveyor or Surveyors of the Highways for any of the said Parishes, Hamlets, or Places respectively, 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 so offending shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings.

Statute Work
may be com-
pounded for.

LXXV. And be it further enacted, That it shall be lawful for the said Trustees to compound and agree with any Person or Persons, Bodies Politic or Corporate, for the 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, Hamlets, or Places in which the said Road is situate, for a certain Sum of Money, by the Year or otherwise, as the said Trustees shall think reasonable, in lieu of the whole or of 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, Hamlet, or Place, or by the Person or Persons so compounding, to the Treasurer to the said Trustees, in Advance, on or before the First Day of *October* in each and every Year; or otherwise the Inhabitants and Occupiers of such Parish, Hamlet, or Place shall not be permitted to compound for that Year.

For securing
transient Of-
fenders.

LXXVI. And whereas Offences may be committed against this Act by Persons unknown to the Trustees, Collectors, Surveyors, or other Officers appointed to put the same in Execution, be it therefore further enacted, That it shall be lawful for the said Trustees, Collectors, Surveyors, or other Officers respectively, and such Person or Persons as they or he shall call to their or his Assistance, without any Warrant or other Authority than this Act, to seize and detain any such unknown Person or Persons as shall commit any such Offence or Offences, and to take him, her, or them before any Justice of the Peace of the County, Town, or Place where the Offence or Offences shall be committed, to be dealt with according to Law.

Penalties and
Forfeitures
how to be
recovered and
applied.

LXXVII. And be it further enacted, That all Penalties, Forfeitures, and Fines hereby inflicted or authorized to be imposed (if the Manner of levying and recovering thereof be not herein otherwise directed), shall, upon of the Offence respectively before any one Justice of the Peace for the County, Town, or Place wherein the Offence shall be committed, or wherein the Offender shall be and reside, either by Confession of the Party or Parties offending, or by the Oath of One or more credible Witness or Witnesses, be levied by Distress and Sale of the Goods and Chattels

Chattels of the Party or Parties offending, by Warrant under the Hand and Seal of such Justice, which Warrant such Justice is hereby empowered and required to grant for those Purposes; and the Overplus, after such Penalties, Forfeitures, and Fines, and the Charges of the Distress and Sale, are recovered and deducted, shall be returned on Demand to the Owner or Owners of such Goods and Chattels; and the Penalties, Forfeitures, and Fines, when paid and recovered, if not otherwise directed to be applied by this Act, shall be from Time to Time paid, one Half Part thereof to the Informer, and the other Half Part thereof to the Treasurer or Clerk to the said Trustees, and applied to the Purposes of this Act; and in case such sufficient Distress shall not be found, and such Penalties, Forfeitures, and Fines shall not be forthwith paid, it shall be lawful for any Justice of the Peace as aforesaid, and he is hereby authorized and required, by Warrant or Warrants under his Hand and Seal, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction for such County, Town, or Place, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unless such Penalties, Forfeitures, or Fines, and all reasonable Charges, shall be sooner paid and satisfied.

LXXVIII. And for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That all and every the Justice and Justices of the Peace before whom any Person or Persons shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up in the following Form of Words (as the Case shall happen), or in any other Form of Words to the same Effect; (that is to say),

To wit. } **B**E it remembered, That on the
Day of in the Year Form of Conviction.
of our Lord is convicted before me, one of His
Majesty's Justices of the Peace for the said County, Town, or Place
[as the Case may be], by virtue of an Act of the Fifty-eighth Year of the
Reign of King George the Third, intituled *An Act* [here set forth the Title
of this Act, and specify the Offence, and when and where committed.] Given
under my Hand and Seal, the Day and Year above written.

LXXIX. Provided always, and be it further enacted, That if any Person shall think himself or herself aggrieved by any Thing done in pursuance of this Act, either by the said Trustees or by any one or more of His Majesty's Justices of the Peace, or by any other Person or Persons whomsoever, such Person may appeal to the Justices of the Peace at the next General Quarter Sessions of the Peace to be holden for the County in which the Cause of Complaint shall have arisen, if sufficient Time after the Cause of such Complaint shall have arisen, first giving or causing to be given Fourteen Days Notice at least in Writing of his or her Intention of bringing such Appeal, and of the Matter thereof, to the Clerk to the said Trustees, and within Four Days next after such Notice entering into a Recognizance before some Justice of the Peace for the said County, with Two sufficient Sureties, conditioned to try such Appeal and abide the Order thereon, and to pay such Costs as shall be awarded by the Justices at such Quarter Sessions, and for want of sufficient Time for giving such Notice previous to the First Quarter Sessions after the Cause of such Complaint shall have happened, then such Appeal after such Notice, and under such Recognizance,

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zance, may be made at the Second General Quarter Sessions of the Peace to be holden for the said County; and the Justices at such First or Second Sessions, upon due Proof of such Notice having been given as aforesaid, and of the entering into such Recognizance, shall hear and finally determine the Cause and Matter of such Appeal in a summary way, and award such Costs to the Parties appealing or appealed against as they the said Justices shall think proper; and the Determination of such Justices at such Quarter Sessions shall be final, binding, and conclusive, to all Intents and Purposes; and the said Justices at such Sessions may also by their Order or Warrant levy such Costs so awarded by Distress and Sale of the Goods and Chattels of the Person or Persons who shall refuse or neglect to pay the same, and for want of sufficient Distress commit such Person or Persons to the Common Gaol or House of Correction for such County, there to remain for any Time not exceeding Three Calendar Months, or until Payment of such Costs.

Proceedings
not to be
quashed for
want of
Form.

LXXX. And be it further enacted, That no Order made touching or concerning any of the Matters in this Act contained, or of any Proceedings to be had touching the Conviction of any Offender or Offenders against this Act, shall be quashed for want of Form, or be removed or removable by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*; and where any Distress shall be made for any Sum or Sums 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 Summons, Conviction, Warrant of Distress, or any other Proceedings relating thereto; nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining; but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the Special Damage (if any) in an Action on the Case; but no Plaintiff or Plaintiffs shall recover in any Action for such Irregularity as aforesaid, if Tender of sufficient Amends hath been made by or on behalf of the Party distraining before such Action brought.

Limitation
of Actions.

LXXXI. And be it further enacted, That no Action or Suit shall be commenced against any Person or Persons for any Thing done in pursuance of this Act, until Fourteen Days Notice thereof shall be given to the Clerk of the said Trustees, nor after a sufficient Satisfaction or Tender thereof hath been made to the Party or Parties aggrieved, nor after Three Calendar Months next after the Fact committed; and every such Action or Suit shall be laid or brought in the County where the Cause of Action shall have arisen, and not elsewhere; and the Defendant or Defendants in every such Action shall or may, at his or their Election, plead specially, or the General Issue not Guilty, and give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if the same shall appear to have been so done, or that such Action or Suit shall have been brought before Fourteen Days Notice thereof was given as aforesaid, or after sufficient Satisfaction shall be made or tendered as aforesaid, or shall be brought in any other County than as aforesaid, then the Jury shall find for the Defendant or Defendants; and upon such Verdict, or if the

the Plaintiff or Plaintiffs shall be nonsuited, or discontinue his, her, or their Action or Suit after the Defendants shall have appeared, or if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, then the Defendant or Defendants shall recover Treble Costs, and have such Remedy for the same as any Defendant or Defendants hath or have in any Case by Law.

LXXXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to hinder or prevent the Commissioners for carrying into Execution an Act passed in the Fifty-second Year of the Reign of His present Majesty, intituled *An Act for better paving, lighting, watching, cleansing, and otherwise improving the Town of Birmingham in the County of Warwick, and for regulating the Police and Markets of the said Town*, from exercising and carrying into Execution any of the Powers or Authorities vested in them by the said Act for removing and preventing all Nuisances, Obstructions, and Annoyances whatsoever which shall or may exist or be made upon that Part of the said Turnpike Road which lies in the Parish of *Birmingham* aforesaid; but that all and every of the Powers, Provisions, and Authorities vested in them by the said Act shall and may be exercised and carried into Effect in, over, and upon the said Road, as in other Parts of the said Town of *Birmingham*, in like manner in every respect as if this Act had not passed.

Saving Right of Commissioners under Birmingham Improvement Act.
52G.3.c.113.

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

Public Act.

LXXXIV. And be it further enacted, That this Act shall commence on the Twenty-ninth Day of *September* next after the passing of this Act, and shall continue and be in force for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

Continuance of this Act.

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