

CHAPTER ccxxvi.

An Act to amend the Law relating to Highways in the Isle of Wight, and for other purposes. [25th August 1883.] A.D. 1883.

WHEREAS by a local Act passed in the fifty-third year of the reign of King George the Third, chapter ninety-two, "For amending the roads and highways in the Isle of Wight," certain parishes and extra-parochial places therein named in the Isle of Wight were consolidated for the purpose of widening, repairing, maintaining, and supporting the roads and highways within such parishes and places : 53 Geo. 3. c. 92.

And whereas certain persons were appointed Commissioners for carrying the said Act into execution, with provisions that in the event of death or disqualification of any Commissioner the surviving or remaining Commissioners should elect some other person in his room :

And whereas by and under various Acts of Parliament portions of some of the said parishes and places are now included in the urban sanitary districts of East Cowes, West Cowes, Newport, Ryde, Saint Helen's, Sandown, Shanklin, and Ventnor :

And whereas it is expedient to make better provision for the election of Commissioners, and for their incorporation, and for such other matters as are in this Act mentioned :

Be it therefore enacted by the Queen'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, as follows :

Preliminary.

1. The said Act passed in the fifty-third year of the reign of King George the Third, chapter ninety-two, may be cited as the Isle of Wight Highway Act, 1813, and this Act may be cited as the Isle of Wight Highway Act, 1883; and both Acts may be cited as the Isle of Wight Highway Acts, 1813 and 1883, and shall be construed together as one Act. Short title and construction of Acts.

A.D. 1883.
Interpreta-
tion.

2. In and for the purposes of this Act—

The expression “consolidated parish” means any parish or place for the time being subject to the provisions of the Isle of Wight Highway Acts.

The expression “lands” includes lands, tenements, tithes, and hereditaments of any tenure.

The expression “owner” means any person who, in his own right or in right of his wife, is in the actual possession or receipt of the rents and profits of any lands.

The expression “urban sanitary district” means an urban sanitary district within the meaning of the Public Health Act, 1875.

“Rateable value” means rateable value according to the valuation list for the time being in force.

“Existing” means existing at the date of the passing of this Act.

Provisions
for parishes
partly in-
cluded in
urban
sanitary
districts.

3. Where part of any parish or place in the Isle of Wight is at the date of the passing, or becomes at any time after the date of the passing of this Act, included in any urban sanitary district, the excluded part of such parish or place shall, within the meaning and for the purposes of the Isle of Wight Highway Acts, be a consolidated parish, and the part included as aforesaid shall cease to be subject to any of the provisions of the said Acts.

As to de-
tached parts
of parishes.
39 & 40 Vict.
c. 61.
45 & 46 Vict.
c. 58.
42 & 43 Vict.
c. 54.

4. Where any part of a parish in the Isle of Wight has been, or shall hereafter be by the Divided Parishes and Poor Law Amendment Acts, 1876 and 1882, or by the Poor Law Act, 1879, or either of them, or any Act amending the same, or by any order made under those Acts or either of them, amalgamated with another parish, that part shall be deemed, if the parish with which it is amalgamated is a consolidated parish, to be amalgamated with it for all the purposes of the Isle of Wight Highway Acts.

Commissioners.

Establish-
ment and
incorpora-
tion of Com-
missioners.

5. For the purposes of the execution of the powers and provisions of the Isle of Wight Highway Acts there shall be a body of Commissioners (in this Act referred to as “the Commissioners”), who shall be a body corporate by the name of the Isle of Wight Highway Commissioners, with a perpetual succession and a common seal, with power to acquire and hold lands for the purposes of their constitution without any license in mortmain.

Constitution
of Commis-
sioners.

6. The Commissioners shall consist of ex-officio Commissioners and of elective Commissioners.

The ex-officio Commissioners shall be the justices of the peace for the county of Southampton acting for and resident in the petty sessional division of the Isle of Wight.

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The elective Commissioners shall be the Commissioners elected by the several consolidated parishes in manner herein-after provided.

7. For each consolidated parish there shall be elected in proportion to its rateable value one or more elective Commissioners according to the following scale:—

Number of Commissioners to be elected by each parish.

Rateable Value of Consolidated Parish.	Number of Commissioners to be elected.
Not exceeding 2,500 <i>l.</i> - - - - -	1
Exceeding 2,500 <i>l.</i> and not exceeding 5,000 <i>l.</i> - - - - -	2
Exceeding 5,000 <i>l.</i> and not exceeding 10,000 <i>l.</i> - - - - -	3
Exceeding 10,000 <i>l.</i> - - - - -	4

8. A person shall not be qualified to be an elective Commissioner unless he is—

Qualification of elective Commissioners.

- (a.) Owner of lands rated to the poor rate on a rateable value of not less than forty pounds; or
- (b.) Heir apparent of an owner of lands rated as aforesaid on a rateable value of not less than eighty pounds; or
- (c.) Occupier of lands rated as aforesaid on a rateable value of not less than one hundred pounds; or
- (d.) Owner of lands rated as aforesaid on a rateable value of not less than twenty pounds, and also occupier of lands rated as aforesaid on a rateable value of not less than fifty pounds; or
- (e.) Heir apparent of an owner of lands rated as aforesaid on a rateable value of not less than forty pounds, and also occupier of lands rated as aforesaid on a rateable value of not less than fifty pounds; or
- (f.) Entitled as rector or vicar to the receipt of tithes or rent-charge arising within a consolidated parish to the yearly amount of at least forty pounds.

Provided that a person shall not have or acquire any qualification in respect of lands not included in the area of a consolidated parish.

9. (1.) The first election of elective Commissioners shall take place in each consolidated parish in Easter week of the year one thousand eight hundred and eighty-four, and an election shall take place in Easter week of every succeeding year.

Time and place of elections.

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(2.) Every such election shall be held in the usual place for meetings in vestry of the inhabitants of the consolidated parish, or in such other place as the Commissioners, or, in the case of the first election, the existing Commissioners may appoint; and shall subject to the provisions of this Act, be conducted in like manner as nearly as may be as an election of a surveyor of highways under the Highway Acts; and notice of the result of such election shall forthwith be given by the chairman of every such meeting to the clerk to the Commissioners.

(3.) The clerk to the Commissioners, or (in the event of his death absence or incapacity to act) some person appointed by the Commissioners, shall cause notice of the time and place of each election to be given, in like manner as parochial notices are usually given; but omission to give such notice shall not invalidate an election.

(4.) The elective Commissioners elected in the year one thousand eight hundred and eighty-four and in every subsequent year shall come into office on Monday in the week following the week of their election, and shall continue in office till Monday in the week following the week of the election of their successors.

Qualification
of electors.

10. At any election of an elective Commissioner or Commissioners for a consolidated parish, every person who would be entitled to vote at a meeting of the inhabitants of such parish in vestry assembled shall be entitled to vote and to give the like number of votes as he would be entitled to give at such meeting as aforesaid.

Provided that where a consolidated parish is part only of a poor-law parish, no person shall be entitled to vote in respect of any lands which are not situate in the consolidated parish.

Provision in
case of
failure to
elect.

11. In case of failure of the inhabitants of any consolidated parish to elect a Commissioner, or a sufficient number of Commissioners, for their parish under this Act, the retiring Commissioner or Commissioners, or, in case of any dispute, such as shall be determined by lot, shall continue to hold office for the ensuing year.

Declaration
to be made
by elective
Commis-
sioners.

12. (1.) Every elective Commissioner shall, before entering on the execution of his office, make and sign a declaration in the form in the first schedule to this Act, or to the like effect.

(2.) Such declaration may be made and signed before a justice of the peace, or before any two or more Commissioners who have themselves made and signed the declaration.

(3.) If any person falsely or corruptly makes and signs the declaration aforesaid, knowing the same to be untrue in any material particular, he shall be guilty of a misdemeanor.

13. If any Commissioner—

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(a.) Holds any office or place of profit under the Commissioners; or

Disqualification of Commissioners.

(b.) Participates in the profits of any work done by order of the Commissioners; or

(c.) Is concerned in or participates in the profits of any contract entered into by the Commissioners, or becomes bankrupt, or compounds with his creditors, or submits his affairs to liquidation;

(d.) Refuses or neglects to make such declaration as aforesaid for the period of three months after his election;

such person shall cease to be a Commissioner, and his office shall thereupon become vacant, subject to the exceptions following; that is to say,

(i.) A Commissioner shall not vacate his office by reason of his being a shareholder in any company interested in any contract with the Commissioners, or by reason of his having any interest in any newspaper in which any advertisement relating to the affairs of the Commissioners is inserted;

(ii.) A Commissioner shall not vacate his office by reason of his being interested in any sale or lease of any lands or any loan of money to the Commissioners, or in any contract made, in pursuance of a licence of a court of summary jurisdiction, for the supply or cartage of gravel or other material; such licence to be granted on the application of the clerk of the Commissioners, who must be authorised to make such application by a resolution of the Commissioners at a meeting of which notice has been given.

Nevertheless, no Commissioner shall be entitled to vote in respect of any contract with any company in which he is a shareholder, or in respect of any question connected therewith, or in respect of any such sale lease loan or contract as lastly herein-before mentioned; and if he does so vote he shall incur a penalty not exceeding twenty pounds, to be recovered summarily.

14. Any Commissioner may resign his office by notifying in writing his intention so to do to the chairman or clerk of the Commissioners for the time being.

Resignation of Commissioners.

15. Any casual vacancy in the number of elective Commissioners occurring by death disqualification resignation or otherwise, may be filled by the Commissioners at any time within six weeks of its occurrence by the appointment of a qualified person; but any

Casual vacancies, how filled.

[Ch. ccxxvi.] *Isle of Wight Highway Act, 1883.* [46 & 47 VICT.]

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person so appointed shall hold office so long only as the person in whose stead he is appointed would have held office.

Appoint-
ment of
officers.

16. Subject to the provisions of this Act as to the officers of the existing Commissioners, the Commissioners may from time to time appoint such clerk, treasurer, toll collectors, surveyors, and other officers and servants as they may require for the purposes of the Isle of Wight Highway Acts; and may assign them their duties and award them their salaries remuneration or wages, and, if thought fit, take security from any such officer or servant, and from time to time dismiss, suspend from duty, or remove any officer or servant so appointed.

Meetings
of Commis-
sioners.

17. (1.) A general meeting of the Commissioners shall be held in the month of October in every year, and is termed the general annual meeting.

(2.) To constitute a meeting for the transaction of business, there must be not fewer than three Commissioners present.

(3.) Questions arising at any meeting of the Commissioners shall be decided by a majority of votes of those present and voting, and in case of an equality of votes the Commissioner in the chair at the meeting shall have a second or casting vote.

(4.) An order or resolution of the Commissioners can only be rescinded or altered at a meeting of the date and object of which not less than seven days notice has been served on each Commissioner.

(5.) Subject to the provisions of this Act, the Commissioners may meet for the despatch of business, adjourn and otherwise regulate their proceedings, as they may think fit; and may from time to time make alter and rescind standing orders for the purpose.

Calling of
special
meetings.

18. (1.) The chairman of the Commissioners may call a special meeting at any time, and shall do so on a written requisition signed by at least three Commissioners, and specifying the object of the required meeting.

(2.) If the chairman fails to do so for seven days from the time of service on him of such requisition, or is absent from the Island, the requisitionists, or any two of them, may themselves call a meeting to be held not later than one month from the time of service.

(3.) At least three days notice shall be given to each Commissioner of any meeting called in pursuance of this section and of the object thereof.

19. (1.) The Commissioners at their first meeting after Easter week in every year shall choose one Commissioner to be chairman and another to be vice-chairman.

A.D. 1883.
Chairman
and vice-
chairman.

(2.) If at any meeting of the Commissioners the chairman is not present within fifteen minutes after the time appointed for the meeting, the vice-chairman shall take the chair; or if the vice-chairman is not then present, the Commissioners then present shall choose one of themselves to take the chair at that meeting.

20. (1.) It shall not be the duty of the justices of the peace acting within the Isle of Wight, nor shall they be empowered, to cause to be levied or collected any assessment or rate which they can lawfully make or order to be made, or which the Commissioners can make by or with their authority or consent under the Isle of Wight Highway Act, 1813; but they shall certify to the Commissioners the amount in the pound of every assessment or rate made or authorised by them to be made as aforesaid.

Collection of
rates under
Act of 1813.

(2.) Every such assessment or rate shall be made on the rateable value as defined by this Act, notwithstanding anything contained in the Isle of Wight Highway Act, 1813.

(3.) Whenever a rate has been made by the justices or by the Commissioners under the said Act, and is required to be levied in whole or in part, the Commissioners shall issue a precept to the overseers of every poor law parish in the Island, which is coincident in area with a consolidated parish, or comprises the whole or any part of a consolidated parish.

(4.) The precept shall state the amount of rate in the pound to be levied in the consolidated parish or part of such parish.

(5.) Precepts of the Commissioners may be issued in order to raise money either prospectively for the payment of future charges and expenses, or retrospectively for the payment of charges and expenses incurred before their constitution, or for the payment of charges and expenses incurred at any time within six months before the issue of the precept, or partly prospectively and partly retrospectively.

(6.) A precept of the Commissioners under this section may be in the form in the second schedule to this Act, or to the like effect.

21. (1.) The overseers of every such parish shall, where their parish is coincident in area with a consolidated parish, provide the contribution required by any such precept by levying the same as an addition to the poor rate; and where their parish comprises a consolidated parish or part of a consolidated parish, either by

Levy of
rate by
overseers.

A.D. 1883. — levying the amount required as an addition to the poor rate within such consolidated parish or part, or by the levy within such consolidated parish or part, of a separate rate in the nature of a poor rate: Provided that, when the amount is levied by an addition to the poor rate, the demand note and the rate receipt shall distinguish the amount of rate required for the purposes of this Act from the amount required for any other purpose.

(2.) A separate rate under this section shall as respects the powers of the overseers in relation to making assessing and levying such rate, audit, and all other incidents thereof except the purposes to which it is applicable, be subject to the same provisions as apply in law (including the right of appeal) to a rate levied for the relief of the poor.

(3.) If the amount required by any precept of the Commissioners to be paid by the overseers of a parish is not paid within the time specified by the precept, the Commissioners shall have the like remedy for recovery from the overseers of the amount not paid as guardians have for the time being for recovery from overseers of contributions of parishes, and for that purpose a copy of the precept certified by the clerk of the Commissioners requiring the payment shall be evidence of the amount.

(4.) Where a copy of a precept of the Commissioners under this section has been served on any one of the overseers of a poor law parish, it shall be lawful for the Commissioners to enforce such precept against the person served as fully and effectually as if a copy thereof had been served on every one of such overseers.

(5.) The overseers may employ for the making and collection of any such rates the officer ordinarily employed in the collection of the poor rates or some other person appointed by them, and may pay to such officer or person out of the moneys raised by them under this Act such remuneration as the Commissioners may approve.

Accounts of
Commis-
sioners and
audit.
41 & 42 Vict.
c. 77.
42 & 43 Vict.
c. 6.
45 & 46 Vict.
c. 27.
42 & 43 Vict.
c. 39.
23 & 24 Vict.
c. 51.
40 & 41 Vict.
c. 66.

22. (1.) The accounts of the Commissioners shall be made up balanced and audited, and money goods or chattels certified to be due, shall be recoverable, in conformity with the provisions of section nine of the Highways and Locomotives (Amendment) Act, 1878, as amended by the District Auditors Act, 1879, the Highways Rate Assessment and Expenditure Act, 1882, and any other subsequent enactment; and the above provisions shall be read and have effect accordingly, as if the Commissioners were a highway board.

(2.) The Highway Accounts Return Act, 1879, shall operate to make applicable the Local Taxation Returns Acts, 1860 and 1877,

in the case of the Commissioners, as if for the purposes of all the Acts above mentioned the Commissioners were a highway board. A.D. 1883.

23. No act or proceeding of the Commissioners shall be questioned on account of any vacancy or vacancies in their body, and no defect in the qualification or election of any Commissioner or Commissioners shall be deemed to vitiate any proceedings of the Commissioners in which he or they have taken part in cases where the majority of Commissioners parties to such proceedings are entitled to act. Validity of acts of Commissioners.

24. The Commissioners shall cause to be entered in books kept for the purpose minutes — Minutes to be kept by Commissioners.

(i.) Of the names of the Commissioners present at each meeting of the Commissioners ;

(ii.) Of all orders, resolutions, and proceedings of meetings of the Commissioners, and of any other matter which the Commissioners deem it expedient to enter.

All minutes so kept shall be open to the inspection at all reasonable times of creditors of the tolls and of persons paying rates under the Isle of Wight Highway Acts; and any such creditor or person, as well as any Commissioner, shall be entitled to copies thereof or extracts therefrom on payment of not exceeding one shilling for every ninety words.

25. Any minute made of proceedings at meetings of the Commissioners, if signed by any person purporting to be chairman of the Commissioners, either at the meeting of the Commissioners at which such proceedings took place or at the next ensuing meeting of the Commissioners, shall be receivable in evidence in all legal proceedings without further proof; and until the contrary is proved, every meeting of the Commissioners in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held, and all the Commissioners present thereat to have been duly qualified. Minutes to be evidence.

26. No matter or thing done, and no contract entered into by the Commissioners, or any other person whomsoever acting under the direction of the Commissioners, shall, if the matter or thing were done or the contract were entered into bonâ fide for the purpose of executing the Isle of Wight Highway Acts, subject them or any of them personally to any action liability claim or demand whatsoever; and any expense incurred by the Commissioners, or by any officer or other person acting as last aforesaid, shall be borne and repaid out of the rates leviable under the Isle of Wight Highway Acts. Protection of Commissioners from personal liability.

A.D. 1883.
Application
of rates, &c.

27. It shall be lawful for the Commissioners to apply from time to time any moneys in their hands, whether arising from tolls or rates, in payment of any expenses of executing the Isle of Wight Highway Acts, including such salaries remuneration or wages, to any of their officers or servants as the Commissioners may see fit, and also including such reasonable remuneration to overseers of the poor for copies of and extracts from any books under their control as the Commissioners may see fit.

Justices not
disqualified.

28. A justice of the peace shall not be disqualified from acting in the execution of, or adjudicating in cases arising under, the Isle of Wight Highway Acts by reason of his being liable to any charge or rate under the said Acts; nor shall any justice of the peace be disqualified from adjudicating in cases arising under the said Acts by reason of his being a Commissioner.

Transfer of Powers.

Cesser of
existing
Commis-
sioners.

29. On Monday in the week following Easter week in the year eighteen hundred and eighty-four the Commissioners appointed under the Isle of Wight Highway Act 1813 shall cease to hold office.

Transfer of
powers,
duties, and
property of
existing
Commis-
sioners.

30. All property, real and personal (including things in action), vested in or belonging to the existing Commissioners, and all powers rights duties capacities liabilities and obligations exercisable by or attaching to those Commissioners shall on and from the said day on which the existing Commissioners cease to hold office, be (subject to the provisions of this Act) transferred to and vested in and shall be exercisable by and attached to the Commissioners under this Act.

Saving for
contracts, &c.

31. Notwithstanding the said transfer, all agreements contracts deeds and other instruments, and all actions and other proceedings or causes of action or other proceeding existing or pending against or in favour of the existing Commissioners at the date of the said transfer shall continue valid and shall not be prejudicially affected by the transfer, but on the contrary may be enforced and proceeded with by or against the Commissioners under this Act; and all rates and other sums owing at the date of the said transfer to the existing Commissioners may be recovered by the Commissioners under this Act.

Position and
duties of
officers of
existing
Commis-
sioners.

32. Any officer or servant of the existing Commissioners under the Isle of Wight Highway Act, 1813, at the date of the said transfer shall become from and after that date an officer or servant of the Commissioners under this Act, and shall hold his office or

situation by the same tenure and on like terms and conditions as nearly as may be in all respects under the said Commissioners as he would have held the same under the existing Commissioners if this Act had not been passed.

A.D. 1883.

Miscellaneous.

33. The provisions of sections seventy, seventy-two, seventy-five, and seventy-eight of the Highway Act, 1835, and of sections twenty-five and fifty-one of the Highway Act, 1864, and of section six of the Locomotives Act, 1865, shall extend and be applicable throughout the limits of the Isle of Wight Highway Acts; and for the purposes of the provisions so made applicable, the existing Commissioners, while they remain in office, and afterwards the Commissioners, shall be deemed to be the Highway Board, or the surveyor, as the case may require.

Application of certain provisions of the Highway Acts. 5 & 6 Will. 4. c. 50. 27 & 28 Vict. c. 101. 28 & 29 Vict. c. 83.

34. If any collector or receiver of tolls who has ceased to hold office under the Isle of Wight Highway Acts, or if the wife or widow or any of the family of any such collector or receiver, or any other person, refuses to deliver up possession of any toll-house or premises connected therewith, for ten days after service of notice in that behalf from the Commissioners or their clerk, then it shall be lawful for any two justices, having jurisdiction in the place where such toll-house and premises are situate, by warrant to order any constable, with such assistance as may be necessary, to enter such house and premises in the day time, and to remove the person or persons found therein, together with his or their goods, and to put the Commissioners or their officer in possession of such house and premises.

Toll collector refusing to give up possession.

35. Notices orders and any other documents required or authorised to be served under the Isle of Wight Highway Acts may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or, where addressed to the owner or occupier of premises, by delivering the same or a true copy thereof to some person on the premises; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service it shall be sufficient to prove that the notice, order, or other document was properly addressed and put into the post.

Service of notices.

36. Sections two to sixteen (both included), and sections eighteen and nineteen, and sections fifty-seven to sixty-one (both

Repeal.

[Ch. ccxxvi.] *Isle of Wight Highway Act, 1883.* [46 & 47 VICT.]

A.D. 1883. — included), and section sixty-four of the Isle of Wight Highway Act, 1813, are hereby repealed, but without prejudice to anything done or suffered, or to any right or liability accrued or incurred under the enactments hereby repealed, and any such right or liability may be enforced as if this Act had not been passed; and notwithstanding such repeal, the existing Commissioners shall remain in office, and shall continue to execute the powers and provisions of the said Act, till the day by this Act appointed for their ceasing to hold office:

Provided that the provisions respecting collection and levy of rates and audit of the accounts of the Commissioners shall not apply to the existing Commissioners; but so long as the existing Commissioners remain in office, the rates made under the Act of 1813 shall continue to be collected, levied, and recovered, and the accounts thereof shall be kept and audited, as if this Act had not been passed.

SCHEDULES.

A.D. 1883.

FIRST SCHEDULE.

FORM OF DECLARATION BY ELECTIVE COMMISSIONER.

I, *A.B.*, do hereby solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and judgment, perform the duties of an Isle of Wight Highway Commissioner, under the Isle of Wight Highways Acts, and any Act amending the same; and also that I [*here set forth a statement of the possession of the qualification (describing it) required*].

Signature of Declarant _____

„ (*two Commissioners*) _____

or

„ (*a Justice of the Peace*) _____

Dated this _____ day of _____ 18 .

SECOND SCHEDULE.

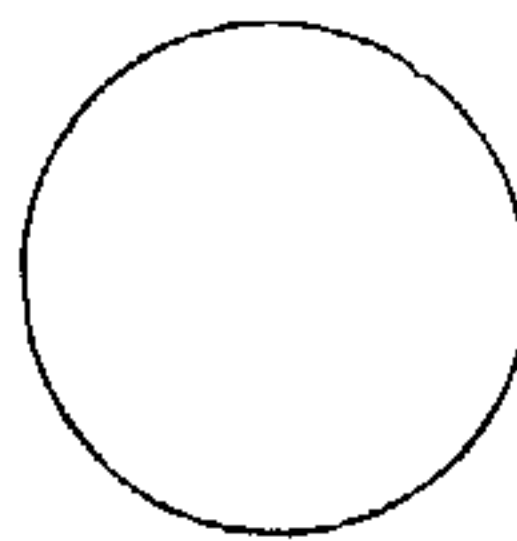
FORM OF PRECEPT.

Isle of Wight Highways Act, 1883.

BY virtue of the above Act and of every other power enabling them in that behalf, the Isle of Wight Highway Commissioners require you, the overseers of the parish of _____, to pay, on or before the _____ day of _____, into the hands of _____, treasurer of the said Commissioners [the whole or one-half or quarter] of the rate, at _____ in the pound, made on the _____ day of _____ 18 , for the purposes of the said Act in the said parish up to the [_____] day of _____.

And the said Commissioners hereby require you to levy the same in conformity with the provisions of the said Act.

The Seal of the Commissioners was affixed hereto the _____ day of _____, 18 .



Seal of Commissioners.

In the presence of,

_____ } Commissioners.
Clerk.

