ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

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C A P. LXI.

An Act for the better Management of Highways in *England*. [29th *July* 1862.]

WHEREAS it is expedient to amend the Law relating to Highways in *England:* Be it 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.

Limits of Act.

1. This Act shall not extend to *Scotland* or *Ireland*.

Definition of "County" and "Borough."

2. The Word "County" in this Act shall not include a "County of a City" or "a County of a Town," but where a County, as herein-before defined, is divided into Ridings or other Divisions having a separate Court of Quarter Sessions of the Peace, it shall mean each such Division or Riding, and not the entire County; and for the Purposes of this Act all Liberties and Franchises, except the Liberty of *Saint Albans*, which shall be considered a County, and except Boroughs as herein-after defined, shall be considered as forming Part of that County by which they are surrounded, or if partly surrounded by Two or more Counties, then as forming Part of that County with which they have the longest common Boundary; the Word "Borough" shall

shall mean a Borough as defined by the Act of the Session holden in the Fifth and Sixth Years of King *William* the Fourth, Chapter Seventy-six, "for the Regulation of Municipal Corporations in "*England* and *Wales*," or any Place to which the Provisions of the said Act have been or shall hereafter have been extended.

Definition of "Parish," "Highway District," and "Highway Board."

3. The Word "Parish" shall include any Place maintaining its own Highways; the Expressions "Highway District" and "Highway Board" shall refer only to Highway Districts formed and Highway Boards constituted in pursuance of this Act.

Definition of "Principal Act" and "Highway Acts."

4. The Act passed in the Session holden in the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, Chapter Fifty, and intituled *An Act to consolidate and amend the Laws relating to Highways in that Part of* Great Britain *called* England, is herein-after distinguished as "the Principal Act;" and this Act and the Principal Act, and the other Acts amending the Principal Act, are herein-after included under the Expression "the Highway Acts."

Formation of Highway Districts.

Power to Justices, in General or Quarter Sessions assembled, to issue Provisional Orders for forming Highway Districts.

5. Any Five or more Justices of a County may by Writing under their Hands require the Clerk of the Peace to add to or send with the Notice required by Law to be given of the holding of Courts of General or Quarter Sessions a Notice in the Form marked (A.) in the Schedule, or as near thereto as Circumstances admit, that at the Court therein mentioned a Proposal will be made to the Justices to divide the County or some Part thereof into Highway Districts, or to constitute the whole or some Part thereof a Highway District, and also require the Clerk of the Peace to send by Post in a prepaid Letter Notices in the aforesaid Form to the Churchwardens or Overseers of every Parish mentioned in the said Notice; and upon such Requisition being complied with the Justices assembled at the Court of General or Quarter Sessions mentioned in the Notice may entertain such Proposal, and make a Provisional Order dividing their County or some Part thereof into Highway Districts, or constituting the whole or some Part of their County a Highway District, for the more convenient Management of Highways, but such Order shall not be of any Validity unless it is confirmed by a Final Order of the Justices assembled at some subsequent Court of General or Quarter Sessions: Provided that when it is proposed that only a Part of a County shall be divided into a Highway District not less than Two out of the Five Justices making such Proposal shall be resident in the said District.

6. The

Regulations as to the Making, &c. of Orders of Justices.

6. The following Regulations shall be enacted as to the Making, Confirmation, and Approval of the Orders of Justices for forming Highway Districts:

1. The Justices making a Provisional Order under this Act shall appoint some subsequent Court of General or Quarter Sessions, to be held within a Period of not more than Six Months, for the taking into consideration the Confirmation of the Provisional Order by a Final Order:
2. The Clerk of the Peace shall add to or send with the Notice required by Law to be given of the holding of Courts of General or Quarter Sessions a Notice in the Form marked (B.) in the Schedule hereto, or as near thereto as Circumstances admit, of the Appointment so made by the Justices in relation to the Confirmation of the Provisional Order:
3. The Justices assembled at the appointed Court of General or Quarter Sessions may make a further Order quashing the Provisional Order, or confirming it with or without Variations, or respiting the Consideration of such Provisional Order to some subsequent Court of General or Quarter Sessions, provided —

   Firstly, that where the Variations made extend to altering the Parishes constituting any Highway District or Districts as formed in the Provisional Order, the Order shall be deemed to be provisional only, and shall be dealt with accordingly:

   Secondly, that where a Respite is made to any subsequent General or Quarter Sessions, the Clerk of the Peace shall give Notice of such Respite in manner in which he is required to give Notice in respect of Sessions at which a Provisional or Final Order is proposed to be made:
4. The Provisional Order shall state the Parishes to be united in each District, the Name by which the District is to be known, and the Number of Waywardens (such Number to be at least One) which each Parish is to elect:
5. In addition to the foregoing Matters, the Provisional Order may and the Final Order shall state the Time, not being more than Seven Days after the First Election of Waywardens in pursuance of this Act, and the Place at which the First Meeting of the Highway Board is to be held in the District:
6. Notice of the Provisional and Final Orders shall as soon as possible after the making thereof be given by the Clerk of the Peace, by publishing a Copy in the *London Gazette* and in One or more Newspapers circulating in the County, or if the whole County is not affected by such Order in One or more Newspapers circulating in the District affected by such Orders, and by sending a Copy by Post in a prepaid Letter to the Overseers of every Parish within the proposed Highway

Highway District, and there shall be added to the Notice of the Provisional Order the Date of the Sessions at which the Confirmation of such Order will be considered.

Restrictions on Formation of Highway Districts.

7. The follow ingRestrictions shall be imposed with respect to the Formation of Highway Districts in pursuance of this Act:

Firstly, there shall not be included in any Highway District formed in pursuance of this Act any of the following Places; that is to say,

Any Part of a County to which the Act passed in the Session holden in the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Sixty-eight, and intituled *An Act for the better Management and Control of the Highways in* South Wales, extends:

The *Isle of Wight:*

Any District constituted under the Public Health Act, 1848, and the Local Government Act, 1858, or either of such Acts:

Any Parish or Place the Highways of which are at the Time of the passing of this Act, or may be within Six Months afterwards, under the Superintendence of a Board established in pursuance of Section Eighteen of the Principal Act, unless with the Consent of such Board:

Any Parish or Place within the Limits of the Metropolis as defined by the Act passed in the Session holden in the Eighteenth and Nineteenth Years of Her Majesty, Chapter One hundred and twenty, and intituled *An Act for the better Local Management of the Metropolis:*

Any Parish or Place, or Part of a Parish or Place, the Highways whereof are maintained under the Provisions of any Local Act of Parliament:

Secondly, there shall not be included in any Highway District formed in pursuance of this Act any Parish or Place, or Part of a Parish or Place, within the Limits of a Borough without the Consent, firstly, of the Council of such Borough, and, secondly, of the Vestry of the Parish which, or Part of which, is proposed to be included:

Thirdly, where any Parish separately maintaining its own Highways is situate in more than One County the whole of such Parish shall, for the Purposes of this Act, be deemed to be within the County within which the Church of such Parish, or (if there be no Church) the greater Part of such Parish, is situate:

Lastly, where a Parish separately maintaining its own Poor is divided into Townships, Tithings, Hamlets, or Places, each of which separately maintains its own Highways, it shall be lawful for the Justices, if they think fit, in their Provisional Order

Order to combine such Townships, Tithings, Hamlets, and Places, and to declare that no separate Waywardens shall be elected for such Townships, Tithings, Hamlets, and Places, and that such Parish shall be subject to the same Liabilities in respect of all the Highways within it which were before maintained by such Townships, Tithings, Hamlets, and Places separately, as if all their several Liabilities had attached to the whole Parish; and that a Waywarden or Waywardens shall be elected for such Parish as a whole; and where such Order is made, all the Provisions herein contained in relation to Parishes within the Meaning of this Act shall be applicable to the Parish formed by such Combination.

Legal Objections to Formation of District.

Rules as to Objections and Evidence.

8. No Objection shall be made at any Trial or in any legal Proceeding to the Validity of any Orders or Proceedings relating to the Formation of a Highway District, after the Expiration of Three Calendar Months from the Date of the Publication in the Gazette of the Order under which the District is formed; and the Production of a Copy of the *London Gazette* containing a Copy of the Order of Justices forming a Highway District shall be receivable in all Courts of Justice, and in all legal Proceedings, as Evidence of the Formation of the District and of the Matters in the said Order mentioned.

Highway Board.

Constitution of Highway Board.

9. There shall be enacted, with respect to the Constitution of the Highway Board in each Highway District, the Provisions following; (that is to say,)

(1.) The Highway Board shall consist of the Waywardens elected in the several Places within the District, in manner herein-after mentioned, and of the Justices acting for the County and residing within the District:

(2.) The Board shall be a Body Corporate, by the Name of the Highway Board of the District to which it belongs, having a perpetual Succession and a Common Seal, with a Power to acquire and hold Lands for the Purposes of the Highway Acts, without any Licence in Mortmain:

(3.) No Act or Proceeding of the Board shall be questioned on account of any Vacancy or Vacancies in their Body:

(4.) No Defect in the Qualification or Election of any Person or Persons acting as Members or Member of the Board or Committee of a Board shall be deemed to vitiate any Proceedings of such Board in which he or they have taken part in Cases where the Majority of Members Parties to such Proceedings are duly entitled to act:

(5.) Any Minute made of Proceedings at Meetings of the Board or of Committees of the Board if signed by any Person purporting to be the Chairman of the Board or Committee of the Board, either at the Meeting of the Board or Committee of the Board at which such Proceedings took place, or at the next ensuing Meeting of the Board or Committee of the Board, shall be receivable in Evidence in all legal Proceedings without further Proof; and until the contrary is proved every Meeting of the Board or Committee of the Board 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 Members thereof to have been duly qualified:

(6.) No Member of a Board, by being Party to, or executing in his Capacity of Member, any Contract or other Instrument on behalf of the Board, or otherwise lawfully exercising any of the Powers given to the Board, shall be subject to be tried or prosecuted, either individually or with others, by any Person whomsoever; and the Bodies or Goods or Lands of the Members shall not be liable to Execution of any legal Process by reason of any Contract or other Instrument so entered into, tried, or executed by them, or by reason of any other lawful Act done by them in execution of any of the Powers of the Board; and the Members of the Board may apply any Monies in their Hands for the Purpose of indemnifying themselves against any Losses, Costs, or Damages they may incur in execution of the Powers granted to them:

(7.) The Rules contained in the Schedule hereto with respect to the Proceedings of Highway Boards, and the other Matters therein contained, shall be observed in the same Manner as if such Rules were enacted in the Body of this Act.

Election of Waywardens.

Election of Waywardens.

10. The following Regulations shall be observed with respect to the Election of Waywardens in Highway Districts:

In every Parish forming Part of a Highway District there shall be elected every Year for the Year next ensuing a Waywarden, or such Number of Waywardens as may be determined by Order of the Justices:

Such Waywarden or Waywardens shall be elected in every Parish forming Part of a Highway District at the Meeting and Time and in the Manner, and subject to the same Qualification and the same Power of Appointment in the Justices, in the event of no Election taking place, or in the event of a Vacancy at, in, and subject to which a Person or Persons to serve the Office

Office of Surveyor would have been chosen or appointed if this Act had not passed:

The Justices shall in their Provisional Order make Provision for the Election of a Waywarden or Waywardens in Places where no Surveyor or Surveyors were elected previously to the Place forming Part of a Highway District:

A Waywarden shall continue to act until his Successor is appointed, and shall be re-eligible.

Consequences of Formation of Highway District.

11. At and after the First Meeting in any Highway District of the Board of such District the following Consequences shall ensue: Consequences of Establishment of Highway Board.

All such Property, Real and Personal, including all Interests, Easements, and Rights, in, to, and out of Property, Real and Personal, and including Things in Action, as belong to or are vested in, or would but for this Act have belonged to or been vested in, any Surveyor or Surveyors of any Parish forming Part of the District, shall pass to and vest in the Highway Board of that District for all the Estate and Interest of such Surveyor or Surveyors as aforesaid, but subject to all Debts and Liabilities affecting the same:

All Debts and Liabilities incurred in respect of any Property transferred to the Highway Board may be enforced against the Board to the Extent of the Property transferred:

All such Powers, Rights, Duties, Liabilities, Capacities, and Incapacities, (except the Power of making, assessing, and levying Highway Rates,) as are vested in or attached to, or would but for this Act have become vested in or attached to, any Surveyor or Surveyors of any Parish forming Part of the District, shall vest in and attach to the Highway Board:

All Property by this Act transferred to the Board shall be held by them upon Trust for the several Parishes or Places now maintaining their own Highways within their District to which such Property belongs, or for the Benefit of which it was held previously to the Formation of the District.

Appointment of Officers.

12. The Highway Board of a District shall, at their First Meeting or at some Adjournment thereof, by Writing under their Seal, appoint a Treasurer, Clerk, and District Surveyor; they may also at any Meeting, if they think fit, appoint an Assistant Surveyor; they may from Time to Time remove any of such Officers, and appoint others in the Room of such as may be so removed, or as may die or resign; they may also, out of any Monies in their Hands, pay such Salaries as they think reasonable to the Clerk and Power to Highway Board to appoint Officers.

District

District and Assistant Surveyor, and to the Treasurer, if they think necessary: Provided that before the Treasurer enter upon his Office the Board shall take sufficient Security from him for the due Performance of the Duties of his Office; but no Appointment, except the first, to any of the Offices specified in this Section, shall be made unless Notice in Writing has been sent to every Member of the Board.

Two Offices not to be held by the same Person.

13. Not more than One Office of Treasurer, Clerk, and District or Assistant Surveyor of the same Highway Board shall be held by the same Person, or by Persons in Partnership with each other, or by Persons in the Relation of Employer and Clerk, Agent, or Servant, one of the other, or of the Partner of either of them; and if any Person accepts or holds the Office of Treasurer, Clerk, or District or Assistant Surveyor, contrary to this Provision, he shall be liable to a Penalty not exceeding Fifty Pounds.

Duties of Treasurer.

14. The Treasurer of each Highway Board shall receive, and hold to the Account of such Board, all Monies paid to or for the Use of such Board, and shall make Payments thereout under Orders of such Board, and shall once in every Three Months, on or at such Days or Times as the Board may direct, or oftener if required by the Board, make up an Account of all Monies received and paid by him, and deliver the same to the Clerk of the Board.

Duties of Clerk.

15. The Clerk of every Highway Board shall in person, or by such Deputy as may be allowed by such Board, attend all Meetings of the Board, and shall conduct the Correspondence thereof, and enter and keep, in Books to be provided for the Purpose, Notes, Minutes, or Copies, as the Case may require, of the Meetings, Acts, Orders, Resolutions, Proceedings, and Correspondence of such Board, and shall keep all Books, Papers, and Documents committed to his Charge, and shall perform all such other Duties as the Board may direct.

Duties of District Surveyor.

16. The District Surveyor shall act as the Agent of the Board in carrying into effect all the Works and performing all the Duties by this Act required to be carried into effect or to be performed by the Board, and he shall in all respects conform to the Orders of the Board in the Execution of his Duties, and the Assistant Surveyor, if any, shall perform such Duties as the Board may require, under the Direction of the District Surveyor.

Works and Duties of Board.

Board to maintain Highways.

17. The Highway Board shall maintain in good Repair the Highways within their District, and shall, subject to the Provisions

visions of this Act, as respects the Highways in each Parish within their District, perform the same Duties, have the same Powers, and be liable to the same legal Proceedings as the Surveyor of such Parish would have performed, had, and been liable to if this Act had not passed. It shall be the Duty of the District Surveyor to submit to the Board at their First Meeting in every Year an Estimate of the Expenses likely to be incurred during the ensuing Year for maintaining and keeping in repair the Highways in each Parish within the District of the Board, and to deliver a Copy of such Estimate as approved or modified by the Board so far as the same relates to each Parish to the Waywarden of such Parish.

Proceedings where Roads are out of repair.

18. Where Complaint is made to any Justice of the Peace that any Highway within the Jurisdiction of the Highway Board is out of repair, the Justice shall issue Two Summonses, the one addressed to the Highway Board and the other to the Waywarden of the Parish liable to the Repair of such Highway, requiring such Board and Waywarden to appear before the Justices at some Petty Sessions, in the Summons mentioned, to be held in the Division where such Highway is situate; and at such Petty Sessions, unless the Board undertake to repair the Road to the Satisfaction of the Justices, or unless the Waywarden deny the Liability of the Parish to repair, the Justices shall direct the Board to appear at some subsequent Petty Sessions to be then named, and shall either appoint some competent Person to view the Highway, and report to them on its State at such other Petty Sessions, or fix a Day, previous to such Petty Sessions, at which Two or more of such Justices will themselves attend to view the Highway.

At such last-mentioned Petty Sessions, if the Justices are satisfied, either by the Report of the Person so appointed, or by such View as aforesaid, that the Highway complained of is not in a State of complete Repair, it shall be their Duty to make an Order on the Board limiting a Time for the Repair of the Highway complained of; and if such Highway is not put in complete and effectual Repair by the Time limited in the Order, the Justices in Petty Sessions shall appoint some Person to put the Highway into repair, and shall by Order direct that the Expenses of making such Repairs, together with a reasonable Remuneration to the Person appointed for superintending such Repairs, and amounting to a Sum specified in the Order, together with the Costs of the Proceedings, shall be paid by the Board; and any Order made for the Payment of such Costs and Expenses may be removed into the Court of Queen's Bench, in the same Manner as if it were an Order of General or Quarter Sessions, and be enforced accordingly.

All Expenses so directed to be paid by the Board in respect of the Repairs of any Highway shall be deemed to be Expenses

 incurred

incurred by the Board in repairing such Highway, and shall be recovered accordingly.

The Highway Board may appear before the Justices at Petty Sessions by their District Surveyor or Clerk, or any Member of the Board.

When Obligation to repair is disputed.

19. When, on the Hearing of any such Summons respecting the Repair of any Highway, the Liability to repair is denied by the Waywarden on behalf of his Parish, or by any Party charged therewith, the Justices shall direct a Bill of Indictment to be preferred, and the necessary Witnesses in support thereof to be subpœnaed, at the next Assizes to be holden in and for the said County, or at the next General Quarter Sessions of the Peace for the County, Riding, Division, or Place wherein such Highway is situate, against the Inhabitants of the Parish, or the Party charged therewith, for suffering and permitting the said Highway to be out of repair; and the Costs of such Prosecution shall be paid by such Party to the Proceedings as the Court before whom the Case is tried shall direct, and if directed to be paid by the Parish shall be deemed to be Expenses incurred by such Parish in keeping its Highways in repair, and shall be paid accordingly.

Expenses.

Expenses how charged.

20. The Salaries of the Officers appointed for each District, and any other Expenses incurred by any Highway Board for the common Use or Benefit of the several Parishes within such District, shall be annually charged to a District Fund, to be contributed by and charged upon the several Parishes within such District in proportion to the Average of the Expenditure incurred during the Three last preceding Years in such Parishes respectively in maintaining and keeping in repair the Highways thereof; but the Expenses of maintaining and keeping in repair the Highways of each Parish within the District, and all other Expenses in relation to such Highways, except such Expenses as are in this Act authorized to be charged to the District Fund, shall be a separate Charge on each Parish.

Mode of defraying Expenses.

21. For the Purpose of obtaining Payment from the several Parishes within their District of the Sums due from them, the Highway Board shall order Precepts to be issued to the Overseers of the said Parishes, stating the Sum to be contributed by each Parish, and requiring the Overseers of such Parish, within a Time to be limited by the Precept, to pay the Sum therein mentioned to the Treasurer of the Board, and the Overseers shall comply with the Requisition of such Precept by paying the Sums to be contributed by their respective Parishes out of any Monies in their Hands applicable to the Relief of the Poor, but

but no Contribution required to be paid by any Parish at any One Time in pursuance of this Act shall exceed the Sum of Tenpence in the Pound, and the Aggregate of Contributions required to be paid by any Parish in any One Year in pursuance of this Act shall not exceed the Sum of Two Shillings and Sixpence in the Pound, except with the Consent of Four Fifths of the Ratepayers of the Parish in which such Excess may be levied, present at a Meeting specially called for the Purpose, of which Ten Days previous Notice has been given by the Waywarden of such Parish, and then only to such Extent as may be determined by such Meeting: Provided, that in any Parish where, for a Period of not less than Seven Years immediately preceding the passing of this Act, it has been the Custom of the Surveyor of Highways for such Parish to levy a Highway Rate in respect of Property not subject by Law to be assessed to Poor Rates, the Monies payable in pursuance of the Precept of the Highway Board shall not be paid by the Overseers, but may be raised and paid by the Waywarden of such Parish out of a Highway Rate, to be assessed and levied in manner and in respect of the Property in and in respect of which the same would have been assessed and levied if this Act had not passed.

Provision where Parish as defined by Act not co-extensive with Parish maintaining its own Poor.

22. Where any Parish as defined by this Act, and in this Section called a Highway Parish, is not a Parish separately maintaining its own Poor, in this Section called a Poor Law Parish, the Highway Board shall issue their Precept or Precepts to the Overseers of the Poor Law Parish, or of the several Poor Law Parishes if more than One, of which such Highway Parish forms Part, and in the Precept or Precepts so issued shall specify the Part or Parts of the Poor Law Parish or Poor Law Parishes constituting the Highway Parish in which the Sum required by the Board is to be levied, and if there be more than One such Parish shall apportion among such Parts the Amounts to be levied in each Parish.

Where any Highway Parish is so situate that there are no Overseers to be found to whom the Precepts of the Board may be issued, or it is uncertain to what Overseers such Precepts should be issued, the Precepts of the Highway Board shall be directed to the Waywarden of such Parish, and it shall be his Duty to levy the Sums therein required to be levied.

Power to Overseers, &c. to levy Rates for making Payments to Highway Board.

23. Subject to the above-mentioned Restrictions as to the Amount of Rates to be levied in pursuance of this Act, all Overseers or other Persons to whom Precepts of a Highway Board are hereby directed or authorized to be issued shall have the same Powers, Remedies, and Privileges for and in respect of levying the Rates hereby authorized to be levied for making Payments to a Highway Board as they would have in the Case of levying ordinary Rates for the Relief of the Poor.

24. If

Highways.

Mode of enforcing Payments to Highway Boards.

24. If any Payment required to be made by the Overseers of any Parish, or other Persons authorized to levy Rates by this Act, of Monies due to a Highway Board is in arrear, it shall be lawful for any Two Justices, on Application under the Hand of the Chairman for the Time being of such Board, to summon the said Overseers or other Persons to show Cause at Petty Sessions why such Payment has not been made; and the Justices at such Petty Sessions, after hearing the Complaint preferred on behalf of the Board, may, if they think fit, cause the Amount of Payment in arrear, together with the Costs occasioned by such Arrear, to be levied and recovered from the said Overseers or other Persons or any of them, in like Manner as Monies assessed for the Relief of the Poor may be levied and recovered, and the Amount of such Arrear, together with the Costs aforesaid, when levied and recovered, to be paid to the said Board.

Accounts.

Accounts to be made up to 25th March, and Statement to be published.

25. The Accounts of every Highway Board shall be made up and balanced to the Twenty-fifth Day of *March* in every Year, and for the Space of Seven clear Days immediately following shall be open for the Inspection at the Office of the Clerk, or any other convenient Place, of every Ratepayer in the several Parishes within the District, between the Hours of Ten and Four; at the Expiration of such Time the Accounts shall be audited by such Board, and signed by the Chairman, on or before the Twenty-fifth Day of *April*; and such Board shall cause a Statement showing the Receipt and Expenditure in respect of each Parish, and the apportioned Part of Expenditure chargeable thereto in respect of the District Fund, and such other Particulars, and in such Form, as the Secretary of State may direct, as hereinafter mentioned, to be printed and sent within Thirty Days after the said Audit, by Post or otherwise, to each Member of the Board and to the Overseers of every Parish within the District; and the Clerk of the Board shall furnish a Copy of such Statement to any Ratepayer within the District on his Application, and on the Payment of a Sum not exceeding One Penny.

Power to appeal in respect of Account of Board.

26. Where a Waywarden or any Ratepayer of any Parish is of opinion that the Amount charged to his Parish for maintaining and keeping the Highways therein, or in respect of the other Expenses in relation to such Highways, is more than the Sum that has actually been expended in his Parish, or than ought to have been charged thereto, he may appeal to the Justices assembled at any Court of General or Quarter Sessions held within the Period of Four Months from the Time at which the Accounts were audited by the Board, but no such Appeal shall be entertained unless Notice of the Intention to appeal, specifying the Amount complained of, is given to the Board

Board by the Appellant in Writing under his Hand within Fourteen Days after the Statement of such Accounts shall have been sent to the Overseers of such Parish.

On the Hearing of such Appeal the Court may rectify the Accounts complained of, and may also rectify the Sum to be contributed to the Common Fund, and calculated on the Expenditure complained of.

If the Appellant is successful the Costs shall, unless the Court otherwise orders, be paid by the Board, and shall be charged to the Parishes within the Jurisdiction of the Board other than the Parish to which Appellant belongs, in the same Proportions in which such Parishes contribute to the Common Fund of the Board.

If the Appellant is unsuccessful, the Board, if the Waywarden be the Appellant, may charge the Costs of the Appeal to the Parish to which the Appellant belongs, in the same Manner as if they were Expenses incurred in repairing the Roads in such Parish, and may levy the Sum accordingly, and may carry the Sum so levied to the Account of the several Parishes within the Jurisdiction of the Board other than the Parish to which the Appellant Waywarden belongs, in the same Manner as if they were Expenses contributed by such Parishes to the Common Fund of the Board; but if some Rate-payer other than the Waywarden is the Appellant, the Court may order the Costs of the Appeal to be paid by such Appellant, and such Costs shall be recoverable in the same Manner as a Penalty is recovered under this Act.

Clerk of Highway Board to transmit Statement to Secretary of State. Penalty for Neglect.

27. The Clerk to every Highway Board shall, within such Thirty Days after the said Audit, transmit such Statement to One of Her Majesty's Principal Secretaries of State; and any such Clerk who shall not within the Time aforesaid transmit the said Statement to the said Secretary of State shall for every such Offence, upon a summary Conviction for the same before Two Justices of the Peace, be liable to a Penalty not exceeding Ten Pounds.

Abstract of Statements to be laid before Parliament.

28. The Secretary of State shall cause the Statements so transmitted to be abstracted, and the Abstracts thereof to be laid before both Houses of Parliament, with the other Statements in relation to Highways required to be abstracted and laid before Parliament by the Act of the Session holden in the Twelfth and Thirteenth Years of Her Majesty, Chapter Thirty-five.

Secretary of State may cause Form of Statement to be prepared.

29. It shall be lawful for One of Her Majesty's Principal Secretaries of State to cause to be prepared such Forms for such Statement as he may from Time to Time deem suitable, and also from Time to Time to alter the Forms for the annual Statement prescribed by the said Act of the Twelfth and Thirteenth Years of

Her Majesty, but no Statement shall be transmitted under that Act concerning Parishes wholly within a Highway District under this Act.

Quarterly Account to be sent to Overseers.

30. The Highway Board shall, at the End of each Quarter, deliver or send in a prepaid Letter to the Overseers of every Parish an Account of the Expenses of maintaining and keeping in repair the Highways within their respective Parishes during the preceding Quarter.

Officers appointed by Highway Board to account to them when required.

31. All Officers appointed by the Highway Board shall, as often as required by them, render to them or to such Persons as they appoint a true, exact, and perfect Account in Writing under their respective Hands, with the proper Vouchers, of all Monies which they may respectively to the Time of rendering such Accounts have received and disbursed on account or by reason of their respective Offices, and in case any Money so received by any such Officer remains in his Hands, the same shall be paid to the Board, or to such Person or Persons as they in Writing under their Hands empower to receive the same; and if any Officer refuses or wilfully neglects to render and give such Account, or to deliver up such Vouchers, or for the Space of Fourteen Days after being thereunto required by the Board refuses or wilfully neglects to give up to them or to such Person or Persons as they appoint all Books, Papers, Writings, Tools, and Things in his Hands, Custody, or Power relating to the Execution of his Office, it shall be lawful for any Justice of the Peace for the County where the Officer so making Default is or resides, upon Application made to him for that Purpose by or on behalf of the Board, to make Inquiry of and concerning any such Default as aforesaid in a summary Way, as well by the Confession of the Party as by the Testimony of any credible Witness or Witnesses upon Oath, and by Warrant under his Hand and Seal to cause such Money as may appear to him to be due and unpaid to be levied by Distress and Sale of the Goods and Chattels of such Officer, rendering to him the Overplus (if any), on Demand, after Payment of the Money remaining due and deducting the Charges and Expenses of making such Distress and Sale; and if sufficient Distress cannot be found, or if it appears to any such Justice in manner aforesaid that any such Officer has refused or wilfully neglected to give such Account, or to deliver up all Books, Papers, Writings, Tools, Matters, and Things in his Custody or Power relating to the Execution of his Office, the Justice shall commit him to the House of Correction or Common Gaol of the County where such Offender is or resides, there to remain without Bail until he gives a true and perfect Account and verifies the same in manner aforesaid, and produces and delivers up the Vouchers relating thereto, and

and pays the Money (if any) remaining in his Hands as aforesaid according to the Direction of the Board, or has compounded with the Board for such Money and paid such Composition (which Composition the Board are hereby empowered to make and receive), or until he delivers up such Books, Papers, and Writings, Tools, Matters, and Things as aforesaid, or has given Satisfaction to the Board concerning the same; but no Officer who may be committed on account of his not having sufficient Goods and Chattels as aforesaid shall be detained in Prison by virtue of this Act for any longer Time than Six Calendar Months.

Supplemental Provisions.

Provision as to Extra-parochial Places.

32. Where in pursuance of an Act passed in the Twentieth Year of the Reign of Her present Majesty, Chapter Nineteen, and intituled *An Act for the Relief of the Poor in Extra-parochial Places*, any Place is declared to be a Parish, or where Overseers of the Poor are appointed for any Place, such Place shall for the Purposes of this Act be deemed to be a Parish separately maintaining its own Highways; and where in pursuance of the same Act any Place is annexed to any adjoining Parish, or to any District in which the Relief of the Poor is administered under a Local Act, such Place shall for the Purposes of this Act be deemed to be annexed to such Parish or District for the Purposes of the Maintenance of the Highways, as well as for the Purposes in the said Act mentioned.

Provision for outlying Part of Parishes.

33. Where Part of a Parish is not contiguous to the Parish of which it is a Part, such outlying Part may at the Discretion of the Justices be annexed to a District, and, when so annexed, it shall, for all the Purposes of the Highway Acts, be deemed to be a Parish separately maintaining its own Highways.

Expenses of Repair of Highways may be recovered from Party liable to repair ratione tenuræ.

34. Where any Highway which any Body Politic or Corporate or Person is liable to repair by reason of Tenure of any Land, or otherwise howsoever, shall be adjudged in the Manner provided by the Principal Act to be out of repair, the Highway Board of the District in which such Highway is situate may, if they see fit, direct their Surveyor to repair the same, and the Expenses to be incurred in such Repair shall be paid by the Party liable to repair as aforesaid; and it shall be lawful for any Justice, upon the Application of any Person authorized in this Behalf by the Highway Board, to summon the Party liable to pay such Expenses to appear before Two Justices at a Time and Place to be named in such Summons, and upon the Appearance of the Parties, or in the Absence

Absence of either of them, it shall be lawful for such Justices to hear and determine the Matter, and make such Order, as well as to Costs or otherwise, as to them may seem just.

Highways repairable retione tenuræ may be made repairable by the Parish.

35. Where any Person or Corporation is liable, by reason of Tenure of Lands or otherwise, to repair any Highway situate in a Highway District, the Person or Corporation so liable may apply to any Justice of the Peace for the Purpose of making such Highway a Highway to be repaired and maintained by the Parish in which the same is situate; and such Justice shall thereupon issue Summonses requiring the Waywarden of such Parish, the District Surveyor, and the Party so liable to repair such Highway as aforesaid, to appear before Two or more Justices in Petty Sessions assembled, and the Justices at such Petty Sessions shall proceed to examine and determine the Matter, and shall, if they think fit, make an Order under their Hands that such Highway shall thereafter be a Highway to be thereafter repaired and maintained by the Parish, and shall in such Order fix a certain Sum to be paid by such Person or Corporation to the Highway Board of the District, in full Discharge of all Claims thereafter in respect of the Repair and Maintenance of such Highway; and in default of Payment of such Sum the Board may proceed for the Recovery thereof in the same Manner as for the Recovery of Penalties or Forfeitures recoverable under this Act: Provided always, that when the Sum so fixed to be paid in full Discharge of all Claims thereafter in respect of the Repair and Maintenance of such Highway exceeds Fifty Pounds, the same, when received, shall be invested in the Name of the Highway Board of the District in some Public Government Securities, and the Interest and Dividends arising therefrom shall be applied by such Board towards the Repair and Maintenance of the Highways within the Parish in which such Highway is situate; but when such Sum does not exceed Fifty Pounds the same or any Part thereof, at the Discretion of such Highway Board, shall from Time to Time be applied by such Board towards the Repair and Maintenance of the Highways within such Parish: Provided that any Person aggrieved by any Order of Justices made in pursuance of this Section may appeal to a Court of General or Quarter Sessions holden within Four Months from the Date of such Order; but no such Appeal shall be entertained unless the Appellant has given to the other Party to the Case a Notice in Writing of such Appeal, and of the Matter thereof, within Fourteen Days after such Order, and Seven clear Days at the least before such Sessions, and has entered into a Recognizance, with Two sufficient Sureties, before a Justice of the Peace, conditioned to appear at the said Sessions, and to try such Appeal, and to abide the Judgment of the Court thereupon, and to pay such Costs as may be by the Court awarded;

awarded; and upon such Notice being given, and such Recognizance being entered into, the Court at such Sessions shall hear and determine the Matter of the Appeal, and shall make such Order thereon, with or without Costs to either Party, as to the Court may seem meet:

From and after the making of such Order by the Justices, or by the Court on Appeal, as the Case may require, such Highway shall be repaired in like Manner and at the like Expense as Highways which a Parish is liable to repair.

Provision as to Roads laid out.

36. Where the Inhabitants of any Parish are desirous of undertaking the Repair and Maintenance of any Driftway, or any private Carriage or Occupation Road, within their Parish, in return for the Use thereof, the District Surveyor may, at the Request of the Inhabitants of such Parish assembled in a Vestry duly convened for the Purpose, and with the Consent in Writing of the Owner and the Occupier of every Part thereof, apply to the Justices in Petty Sessions to declare such Driftway or Road to be a public Highway to be repaired at the Expense of the Parish; and upon such Application being made it shall be lawful for the Justices to declare the same to be a public Carriage Road to be repaired at the Expense of the Parish.

Surveyor of Highway Board exempted from Turnpike Tolls.

37. No Toll shall be demanded by virtue of any Act of Parliament on any Turnpike Road from the Surveyor of a Highway Board when executing or proceeding to execute his Duties as such Surveyor, and all Provisions applicable to the Exemptions in the Act of the Third Year of King *George* the Fourth, Chapter One hundred and twenty-six, shall apply to the Case of the Exemptions conferred by this Enactment.

Limiting Jurisdiction of Justices.

38. No Justice of the Peace shall act as such in any Matter in which he has already acted as a Member of the Highway Board, and in which the Decision of such Board is appealed against.

Power to alter Highway Districts.

39. Any Highway District formed under this Act may from Time to Time be altered by the Addition of any Parishes in the same or in any adjoining County, or the Subtraction therefrom of any Parishes, and new Highway Districts may be formed by the Union of any existing Highway Districts in the same or in any adjoining County, or any Parishes forming Part of any existing Highway Districts or any Highway District may be dissolved; but any such Alteration of existing Districts, or Formation of new Districts, or Dissolution of any District, shall be made by Provisional and Final Orders of

the Justices; and all the Provisions of this Act with respect to the Formation of Highway Districts and Provisional and Final Orders of Justices, and the Notices to be given of and previously to the making of such Orders, and all other Proceedings relating to the Formation of Highway Districts, shall, in so far as the same are applicable, extend to such Alteration of existing or Formation of new Districts, or Dissolution of Districts, as is mentioned in this Section; and in addition thereto Provision shall be made, if necessary, in any Orders of Justices made under this Section for the Adjustment of any Matters of Account arising between Parishes or Parts of Districts in consequence of the Exercise of the Powers given by this Section. Where any Parish is added to or any District united with any District in another County, the Final Order of the Justices of the County in which such Parish or District is situate shall not be confirmed by them until they shall have received the Approval of their Provisional Order for such Addition or Union from the Justices of the County in which the District is situate to or with which such Addition or Union is to be made. Where any Highway District is dissolved, or where any Parish is excluded from any Highway District, the Highways in such District or Parish shall be maintained, and the Provisions of the Principal Act in relation to the Election of Surveyors and to all other Matters shall apply to the said Highways, in the same Manner as if such Highways had never been included within the Limits of a Highway District.

Provision in case of Failure of Board to hold First Meeting.

40. If any Highway Board make default in holding its First Meeting in pursuance of this Act, such Board shall not thereupon become disqualified from acting, but the Justices in General or Quarter Sessions shall, on the Application of any Persons liable to pay Highway Rates within the District, make such Order as they think fit for the holding of such Board at some other Time, and any Order so made shall be deemed to be an Order capable of being removed into the Court of Queen's Bench, in pursuance of the Act passed in the Session holden in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter Forty-five, and may be enforced accordingly, and the Costs of any Application to the Court of Quarter Sessions in pursuance of this Section shall be defrayed out of the District Fund of the Board.

Reservation of Right to adopt Local Government Act.

41. Any Parish or Part of a Parish included in a Highway District may adopt the Local Government Act in the same Manner and under the same Circumstances in and under which it might have adopted the same if it had not been included in such District; and upon such Adoption being made such Parish or Part of

of a Parish shall cease to form Part of such District, subject nevertheless to the Payment of any Contribution that may at the Time of such Adoption be due from such Parish or Part of a Parish to the Highway Board.

Application of Principal Act.

Construction of Principal Act and this Act.

42. The following Regulations shall be observed with respect to the Construction of the Principal Act and this Act:

1. This Act shall be construed as One with the Principal Act so far as is consistent with the Provisions of this Act:
2. The Ninth Section of the Principal Act, whereby it is enacted that a Surveyor may be appointed by the Inhabitants of a Parish with a Salary, shall not apply to any Parish within any District formed under this Act:
3. The Tenth Section of the Principal Act, whereby it is enacted that the Surveyor or Surveyors at the Time of passing his or their Accounts as therein mentioned shall deliver to the Justices a Statement in Writing of the Name and Residence of the Person or Persons appointed to succeed him or them as a Surveyor or Surveyors, shall not apply to any Parish within any District formed under this Act:
4. The Thirteenth, Fourteenth, Fifteenth, Sixteenth, and Seventeenth Sections of the Principal Act, providing for the Formation of Parishes into Districts, and the Eighteenth and Nineteenth Sections of the Principal Act, providing for the Appointment of a Board in large Parishes, shall not apply to any Parish within any District formed under this Act:
5. The Penalty imposed by Section Twenty of the Principal Act on the Surveyor for Neglect of Duty shall not apply to a Highway Board constituted under this Act:
6. Any Summons or Notice, or any Writ or any Proceeding, at Law or in Equity, requiring to be served upon the Board, may be served by the same being left at or transmitted through the Post in a pre-paid Letter directed to the Office of the Board, or being given personally to the District Surveyor or Clerk of the Board:
7. The Thirty-fifth Section of the Principal Act, whereby it is provided that the Ratepayers of any Parish may divide amongst themselves the Carriage of Materials in manner therein mentioned, shall not apply to any Parish within any District formed under this Act:
8. The Thirty-ninth, Fortieth, Forty-third, Forty-fourth, and Forty-fifth Sections of the Principal Act, relating to the Accounts of Surveyors, shall not apply to the Highway Board of any District formed under this Act.

43. On

Relative Duties of outgoing Surveyors and Highway Board.

43. On the Formation of a Highway District the following Regulations shall be enacted with respect to the Surveyors and the Highway Board:

1. No Surveyor shall be appointed under the Principal Act for any Parish within such District:
2. The outgoing Surveyor of every Parish within the District shall continue in Office until Seven Days after the Appointment of the District Surveyor by the Highway Board of the District of such outgoing Surveyor, and no longer; and he may recover any Highway Rate made and then remaining unpaid, in the same Manner as if this Act had not been passed, and the Money so recoverd shall be applied, in the first place, in reimbursing any Expenses incurred by him as such Surveyor, and in discharging any Debts legally owing by him on account of the Highways within his Jurisdiction, and the Surplus (if any) shall be paid by him to the Treasurer of the Highway Board; and he shall be entitled to receive from the Highway Board any Sum not exceeding Five Pounds, which on the Allowance of his Account shall be found to be due to him as such Surveyor after the Collection and Expenditure of the whole of the Highway Rate made in such Parish during the last Year:
3. The Highway Board shall, for all the Purposes of the Principal Act except that of levying Highway Rates, be deemed to be the Successor in Office of the Surveyor of every Parish within the District.

Provisions of Principal Act to be applicable to Highways under Local or Personal Acts.

44. All the Provisions of the Principal Act for widening, diverting, and stopping up Highways shall be applicable to all Highways which now are or may hereafter be paved, repaired, or cleansed under or by virtue of any Local or Personal Act or Acts of Parliament, or which may be situate within the Limits of any such Act or Acts, except Highways which any Railway Company, or the Owners, Conservators, Commissioners, Trustees, or Undertakers of any Canal, River, or Inland Navigation, are liable by virtue of any Act of Parliament relating to such Railway, Canal, River, or Inland Navigation to make, maintain, repair, or cleanse.

Enabling Councils of certain Boroughs to adopt Parish Roads and Highways, and to apply Rates for their Repair.

45. Whereas there are in certain Boroughs in *England* and *Wales* Roads and Highways that are now and have heretofore been repaired by the Inhabitants of the several Parishes or Townships within which such Roads and Highways are situated, and who also contribute and pay to the General Rates levied for the Repair of the public Streets, Roads, and Highways maintained and kept in repair by the Council of such Boroughs, by reason whereof a great Burthen is imposed upon

upon the Ratepayers of the said Parishes and Townships; and it being doubtful whether the Council of such Boroughs have the Power to adopt such Parish Roads and Highways, or to apply the Rates collected in such Boroughs in repairing the same, be it enacted, That it shall and may be lawful for the Council of every such Borough in *England* and *Wales*, upon the Petition of the Majority of the Ratepayers of such Parishes or Townships present at a Public Meeting duly convened, to adopt all or any of such Parish Roads and Highways as the Council shall in its Discretion consider advisable, and to apply the Rates levied and collected by the said Council for the Repair of the public Streets, Roads, and Highways within such Borough in repairing and maintaining such Parish Roads and Highways: Provided always, that it shall be competent for such Council, previous to adopting such Parish Roads and Highways, to require the Provisions contained in any Local Act applying to the public Streets, Roads, and Highways of such Borough to be complied with.

District Highway Boards may permit Landowners to erect Fences without incurring Liability to repair Highways.

46. No Person through whose Land a Highway passes, which is to be repaired by the Parish, shall become liable for the Repair of such Highway by erecting Fences between such Highway and the adjoining Land, if such Fences are erected with the Consent in Writing of the Highway Board of the District within which such Highway is situate in the Case of a Place within the Jurisdiction of a Highway Board, and in the Case of any other Place with the Consent of the Surveyor or other Authority having Jurisdiction over the Highway.

Recovery of Penalties.

47. All Penalties under this Act, and all Monies recoverable as Penalties, may be recovered summarily before any Two or more Justices in the Manner directed by the Act of the Session of the Eleventh and Twelfth Years of Her present Majesty, Chapter Forty-three, and any Act amending the same; but where any Sum adjudged to be paid under this Act in respect of such Penalties or Monies exceeds Five Pounds, an Appeal may be had by any Person aggrieved to a Court of General or Quarter Sessions in manner provided by the One hundred and tenth Section of the Act passed in the Session holden in the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter Ninety-six, intituled *An Act to consolidate and amend the Statute Law of* England *and* Ireland *relating to Larceny and other similar Offences.*

SCHEDULE.

Proceedings of Highway Boards.

(1.) The Board shall meet for the Despatch of Business, and shall from Time to Time make such Regulations with respect to the summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business, including the Quorum at Meetings of the Board, as they think fit, subject to the following Conditions:

(*a.*) The First Meeting shall be held at the Time and Place fixed by the Order of the Justices in that Behalf:

(*b.*) Not less than Four Ordinary Meetings shall be held in each Period of Twelve Months:

(*c.*) An Extraordinary Meeting may be summoned at any Time on the Requisition of Three Members of the Board addressed to the Clerk of the Board:

(*d.*) The Quorum to be fixed by the Board shall consist of not less than Three Members:

(*e.*) All Questions shall be decided by a Majority of Votes of the Members present:

(*f.*) The Names of the Members present, as well as of those voting upon each Question, shall be recorded.

(2.) The Board shall, at their First Meeting, and afterwards from Time to Time at their First Meeting after each annual Appointment of Members of the Board, as hereafter mentioned, appoint One of their Members to be Chairman and One other of their Members to be a Vice Chairman for the Year following such Choice.

(3.) If any casual Vacancy occur in the Office of Chairman or Vice Chairman, the Board shall, as soon as they conveniently can after the Occurrence of such Vacancy, choose some Member of their Number to fill such Vacancy; and every such Chairman or Vice Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Vacancy had not happened.

(4.) If at any Meeting the Chairman is not present at the Time appointed for holding the same, the Vice Chairman shall be the Chairman of the Meeting, and if neither the Chairman nor

nor Vice Chairman shall be present then the Members present shall choose some One of their Number to be Chairman of such Meeting.

(5.) In case of an Equality of Votes at any Meeting, the Chairman for the Time being of such Meeting shall have a Second or Casting Vote.

(6.) All Orders of the Board for Payment of Money, and all Precepts issued by the Board, shall be signed by the Chairman for the Time being of the Meeting, and Two other Members of the Board, and countersigned by the Clerk.

FORM (A.)

NOTICE is hereby given, That at the Court of *General* or *Quarter* Sessions to be held on the Day of a Proposal will be made *to divide the County of Lincoln into Highway Districts* [or *to divide the Parts of Holland in the County of Lincoln into Highway Districts*, or *to constitute the County of Rutland a Highway District*, or *to constitute the Parishes of Alford, Castle Carey, and Lovington, in the County of Somerset, a Highway District*].

FORM (B.)

WHEREAS at a Court of *General* or *Quarter* Sessions, held on the Day of last, a Provisional Order was made in the Words following; that is to say, [*here set out the Provisional Order*]

Notice is hereby given, that the Confirmation of the said Provisional Order by a Final Order will be taken into consideration by the Justices at the Court of *General* or *Quarter* Sessions to be held on the Day of next.

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