ANNO PRIMO & SECUNDO

GEORGII IV. REGIS.

Cap. lxxix.

An Act to enlarge the Term and Powers of several Acts of His late Majesty, for repairing the Roads from *Keyberry Bridge* to *Shalldon*, and from the said Bridge to *Torquay*, in the County of *Devon*; and to alter the Line of certain Parts of the said Roads. [28th *May* 1821.]

WHEREAS an Act was passed in the Fifth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for repairing and widening the Roads from* Keyberry Bridge *to the Passage at* Shalldon, *and from the said Bridge to the Pier or Harbour of* Torkey, *in the County of* Devon: And whereas an Act was passed in the Twenty-seventh Year of the Reign of His said late Majesty, intituled *An Act to enlarge the Term and Powers of an Act passed in the Fifth Year of the Reign of His present Majesty, for repairing and widening the Roads from* Keyberry Bridge *to the Passage at* Shalldon, *and from the said Bridge to the Pier or Harbour of* Torkey, *in the County of* Devon: And whereas an Act was passed in the Forty-eighth Year of the Reign of His said late Majesty, intituled *An Act for continuing the Term and altering and enlarging the Powers of Two Acts of His present Majesty, for repairing the Roads from* Keyberry Bridge *to the Passage at* Shalldon, *and from the said Bridge to the Pier or Harbour of* Torquay, *in the County of* Devon; and by the said last recited Act some Alterations were made as to the Boundary and Extent of the said Roads: And whereas the Line of the present Road from *Keyberry Bridge* aforesaid to *Torquay* aforesaid, as limited by the said last-mentioned Act, is much frequented and used; but the same is very hilly and

5 G. 3. c. 70.

27 G. 3. c. 74.

48 G. 3. c. 66

mountainous, as well as narrow and incapable of being widened without considerable Expence; and it would be a great public Accommodation to have a new Line of Turnpike Road from *Keyberry Bridge* to *Torquay* aforesaid, through the several Parishes of *Coombeintinhead*, *Abbotscarswell*, *Coffinswell*, *Kingscarswell*, *Saint Mary Church*, and *Tormoham*, in the said County, and through a more populous Part of the Country, free from Hills and at a shorter Distance than the present Turnpike Road; but as the same cannot be effected under the Provisions of the said recited Acts without the Aid and Authority of Parliament: 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 the said Acts, and all and every the Powers and Authorities, Provisions, Regulations, Penalties, Forfeitures, Clauses, Matters and Things whatsoever therein respectively contained (except such as are altered, varied, or repealed), shall be and continue in full Force and Effect for and during the Term herein-after mentioned; and that all the Clauses, Powers, Provisions, Matters and Things therein (except as aforesaid) respectively, together with the Clauses in this Act contained, shall extend to and be executed, as well for the Intents and Purposes of the said recited Acts, as for altering, diverting, turning, making, amending, improving and keeping in Repair the said new Line of Road from *Keyberry Bridge* aforesaid to or near to *Torquay* aforesaid, and for other the Purposes of this Act, as fully and effectually, to all Intents and Purposes, as if the said new Line of Road had been originally included in and made Part of the Roads comprised in the said recited Acts, and as if the same Clauses, Powers, Provisions, Matters and Things were repeated and re-enacted in the Body of this Act; and that all the Tolls granted by the said recited Act of the Forty-eighth Year of His said late Majesty shall, after defraying the Expences of collecting the same, and repairing the Toll Houses and Gates on the said Road, be and are hereby declared to be subject and liable to the Payment of all Sums of Money, and the Interest thereof now due and owing, and which shall hereafter be borrowed by virtue and on the Credit of the said recited Acts and this Act, or either of them, or of the Tolls thereby granted, and after the discharging and satisfying the same, for defraying the Expences of making the said new Line of Road, and purchasing the Lands and Grounds which may be necessary for the making and widening of the said intended Road, as well as the Expences of Fences and other attendant Expences thereof; but that it shall not be lawful under the Authority of this Act to raise and levy any new or higher Tolls than are specified in and authorized to be raised and collected by the said recited Act of the Forty-eighth Year aforesaid; and that the Trustees shall be at full Liberty to continue the present Toll House and Turnpike Gate at or near *Keyberry Bridge* aforesaid where the same now are or to erect a new Toll House and Gate, on either Side of the present Gate and House, in such other Situation as they shall think more convenient, and to demand and receive such Tolls thereat as aforesaid, during the Term herein-after mentioned.

Recited Acts continued.

Powers of former Acts extended to this.

Tolls by 48 G. 3. c. 66. applicable to this Act.

No new Tolls to be raised.

Additional Trustees.

II. And be it further enacted, That all His Majesty's Justices of the Peace acting in and for the said County of *Devon*, together with *Thomas Abraham*, the Very Reverend *Henry Beeke* Dean of *Bristol*, *Edward Bidlake*, *Thomas Bennett*, *Foster Barham*, *Robert Boden*, *William Blackaller*, *Elias*

Elias Blackaller, *Finney Belfield* Clerk, *Finney Belfield* the younger, Clerk, *William Bartlett* the younger, *James Buller*, *James Wentworth Buller*, *William Barter*, *John Bickford*, *Robert Butland*, *Robert Butland* the younger, *Gilbert Butland*, *Henry Langford Brown*, *Francis George Coleridge*, *Gilbert Clapp*, *William Codnor*, *Henry Carew*, *Thomas Carew*, *Henry Cary*, *William Creed*, *William Creed* the younger, the Honourable *Hugh Clifford*, the Honourable *Charles Clifford*, the Honourable *Edward Clifford*, *Samuel Crockwell*, *Samuel Crockwell* the younger, *John Cowell* the younger, *William Cholwich*, *Richard Codner*, *Stanley Cary*, *George Drake*, *George Drake* the younger, *John Drake*, *Henry Dashper*, *John Wilson France*, *Richard Ford*, *George Ford*, *Joseph Garrow*, *Francis Garratt*, *William Gotbed*, *Thomas Hensley*, *Thomas Hunt*, *Thomas Hunt* the younger, *Nicholas Hunt*, *Nicholas Hunt* the younger, *Richard Hunt*, *William Hole*, *Jacob Harvey*, *William Hill*, *Henry Hearder*, *Edward Kitson*, *Thomas Kitson*, *William Kitson* the younger, *Robert Abraham Kitson*, *Charles Abraham Kitson*, *James King*, *Stephen Lang*, *Thomas Louis*, *Jeffery Lang*, *John Mallock*, *Rawlin Mallock*, *Thomas Mudge*, *Henry Michelmore*, *William Mudge*, *William Neyle*, *Charles Wynn Ottley*, *Lawrence Palk*, *Robert John Palk*, *Wilmot Henry Palk* Clerk, *William Pollard*, *James Perriman*, *Samuel Prowse*, *Samuel Prowse* the younger, *Nicholas Prowse*, *John Prowse*, *John Prowse* the younger, *William Prowse*, *John Ridsley*, *Samuel Rendle*, *Samuel Rowe*, *Henry Rendle*, *William Luckem Rowe*, *Leonard Rowe*, *Thomas Rendle*, *William Rendell*, *William Rendell* the younger, *William Rendell*, *John Sheepshanks* Clerk, *James Shaply*, *Ewen Stabb*, *Thomas Stabb* the younger, *William Stabb*, *John Stabb*, *William Sparke*, *William Stracey* Clerk, *Richard Savery*, *Gilbert Stephens*, *Gilbert Stephens* the younger, *Thomas William Taylor*, *Henry Taylor* Clerk, *George Templer*, *James Woodley*, *Thomas Westcott* Clerk, *William Wilking*, and *Joseph Whiteway*, shall be and they are hereby added to and joined with the Trustees appointed in or by virtue of the said recited Acts or either of them; and the Trustees herein nominated, and the said Trustees heretofore appointed as aforesaid, and their Successors, being qualified as herein-after mentioned, are hereby authorized and empowered to act in the Execution of the said recited Acts and of this Act, as fully and effectually, to all Intents and Purposes, as if they had been appointed by the said recited Acts or either of them.

All Acts may be done by the Majority of Trustees, unless otherwise directed.

III. And be it further enacted, That all Acts, Proceedings, Matters, and Things relative to the Execution of the said recited Acts and this Act, may be done and executed by the Majority of the Trustees hereby nominated and appointed, or who shall hereafter be elected and appointed as aforesaid, present at their respective Meetings, the whole Number present not being less than Three; and all Acts, Matters and Things so done by any such Three or more Trustees, shall be as good, valid, and effectual as if the same had been done by all the Trustees herein named or to be appointed, (except only in Cases herein or by the said recited Acts particularly directed to be done and executed by any greater or less Number).

Qualification of Trustees.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as a Trustee in the Execution of the said recited Acts and this Act, whilst he holds any Place of Profit, or is concerned or interested in any Contract or Contracts under the said recited Acts and this Act, or any or either of them, nor in any Case wherein he shall be personally interested otherwise than as a Creditor; nor shall any Person be qualified

qualified to act as a Trustee, unless at the Time of his acting he shall be in his own Right, or in the Right of his Wife, in the actual Possession of and Enjoyment or Receipt of the Rents and Profits issuing out of Freehold or Copyhold Lands, Tenements, or Hereditaments of the clear yearly Value of One hundred Pounds above Reprizes, or shall be Heir Apparent to some Person having such Estate of the clear yearly Value of Two hundred Pounds, or be possessed of a Personal Estate alone, or Real and Personal Estate together, to the Amount of Four thousand Pounds; nor [*except in administering the Oath or Affirmation herein-after mentioned*] until he shall have taken and subscribed before the said Trustees an Oath [*or* being One of the People called *Quakers* an Affirmation], in the Words or to the Effect following; (that is to say),

Oath.

'I *A. B.* do swear, [*or*, being one of the People called *Quakers*, do solemnly affirm], That I truly and *bonâ fide* am in my own Right [*or*, 'in the Right of my Wife] in the actual Possession and Enjoyment or 'Receipt of Rents and Profits issuing out of Freehold or Copyhold 'Lands, Tenements or Hereditaments of the clear yearly Value of One 'hundred Pounds above Reprizes [*or*, am possessed of a Personal Estate 'alone, or Real and Personal Estate together, to the Amount of Four 'thousand Pounds], or am Heir Apparent of *A. B.* who to the best of 'my Knowledge is possessed of a Real Estate in Lands Tenements or 'Hereditaments of the clear yearly Value of Two hundred Pounds.

'So help me GOD.'

And if any Person unqualified by any of the Causes aforesaid, or not being qualified as herein-before mentioned, or not having taken and subscribed the said Oath, or being a Quaker not having made and subscribed such Affirmation as aforesaid, shall nevertheless presume to act contrary to the true Intent and Meaning hereof, every such Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person who shall inform or sue for the same, to be recovered, together with full Costs of Suit, in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Plaint, Suit or Information, wherein no Essoign, Protection or Wager of Law, nor more than one Imparlance, shall be allowed; and the Person so prosecuted shall prove that he is so qualified or otherwise shall pay the same Penalty without any other Proof or Evidence on the Part of the Prosecutor than that such Person hath acted as a Trustee in the Execution of the said recited Acts and this Act, or any or either of them; any thing in the said recited Acts to the contrary hereof notwithstanding: Provided nevertheless, that all Acts and Proceedings of any Person or Persons acting as a Trustee or Trustees in the Execution of the said recited Acts and this Act, or any or either of them (although not duly qualified), previously to his or their being convicted of the said Offence, shall notwithstanding such Conviction be as good, valid, and effectual as if such Person or Persons had been qualified according to the Directions of this Act.

Trustees to pay their own Expences at Meetings; and for appointing a Chairman at such Meetings.

V. And be it further enacted, That the Trustees for executing the said recited Acts and this Act shall at all their Meetings to be held under or by virtue thereof, respectively pay and defray their own Charges and Expences; and at every Meeting of the said Trustees a Chairman shall and may be appointed; and when and as often as it shall so happen that there shall be an Equality of Votes at any such Meeting upon any Question

tion (including the Vote of the Chairman), then and in every such Case the Chairman shall have and he is hereby empowered to give the decisive or casting Vote.

Clerk restrained from acting as Treasurer, and vice versâ.

VI. And be it further enacted, That it shall not be lawful for the said Trustees to continue or appoint the Person who has been or may be appointed to act as their Clerk in the Execution of the said recited Acts and this Act, or any or either of them, or the Partner of any such Clerk, the Treasurer for the Purposes of the said Acts and this Act, or any or either of them, or to continue or appoint the Person who has been or may be appointed Treasurer, or the Partner of any such Treasurer, the Clerk to the said Trustees for executing the said Acts and this Act, or any or either of them; and if any Person shall act in both the Capacities of Clerk and Treasurer for the Purposes of the said Acts and this Act, or any or either of them, 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 the said recited Acts and this Act, or any or either of them, every Person so offending shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person of Persons who shall sue for the same, to be recovered together with full Costs of Suit 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 Imparlance, shall be allowed.

Accounts to be entered in a Book.

VII. 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 the Clerk for the Time being to the said Trustees, in which Book or Books such Clerk 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 such Sums of Money shall have been received, paid, laid out, and expended; which Books, and also the Book or Books to be kept for the Purpose of entering Mortgages and Assignments herein-after mentioned, shall at all seasonable Times be open to the Inspection of the said Trustees, or any or either of them, or any Creditor or Creditors of the Tolls hereby granted, without Fee or Reward; and the said Trustees and Creditors, or any or either of them, shall and 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 Clerk shall refuse to permit, or shall not permit at all seasonable Times, the said Trustees or such Creditors, or any of them, to inspect such Book or Books, or to take such Copies or Extracts as aforesaid, such Clerk shall forfeit and pay any Sum of Money not exceeding Five Pounds, to be levied and recovered, apportioned and applied in Manner herein-after provided.

Map of Road and Book of Reference.

VIII. And be it further enacted, That the Map or Plan describing the said intended new Line of Road, and the Lands through which the same is to be carried, together with the Book of Reference, containing a List of the Names of the Owners and Occupiers of such Lands, which hath been deposited with the Clerk of the Peace for the said County of *Devon*, shall remain in his Custody to the End that all Persons may at all season-

Copies may be taken.

able Times peruse and inspect the same, and take Copies or Extracts, therefrom, paying to him One Shilling for every such Inspection, and at the Rate of Sixpence for every Seventy-two Words of such Copies or Extracts.

In altering the Course of the Road Trustees not to deviate more than 100 Yards without Consent.

IX. And be it further enacted, That the said Trustees in making the said new Line of Road shall not deviate more than One hundred Yards, of Three Feet each, from either Side of any Part thereof, as described in the said Map or Plan, nor deviate in any other Part of the said Road (except as aforesaid) more than One hundred Yards from the present Line thereof, without the Consent or Approbation in Writing of the Person or Persons through whose Lands or Grounds such Deviations shall be made, first had and obtained; and that the present Roads, where the said Turnpike Road is intended to be made, shall be widened and put in Repair under and by virtue of the Powers and Authorities already contained in the several Acts of Parliament passed for the Repair and Preservation of the public Highways of this Kingdom.

Roads may be made according to the Map although Owner or Occupier is misnamed,

if certified by Two Magistrates.

X. And be it further enacted, That it shall be lawful for the said Trustees to make the said intended Road into, through, across, or over the Lands and Premises of any Person or Persons who is, or are, or may be Owner or Owners of Lands or Grounds over which the same is or are set out and described in the said Map or Plan as aforesaid, although such Lands or Premises, or the Name or Names of any such Person or Persons may be erroneously described, omitted, or mistated in the said Book of Reference, if it shall appear to any Two or more Justices of the Peace for the said County of *Devon*, and be certified in Writing under their Hands, that such Error or Omission was occasioned by Mistake and not wilfully; and such Certificate shall be deposited with the said Clerk of the Peace.

Trustees, &c. to enter Lands for marking, setting out, and making new Roads;

making Satisfaction for Lands, Trees, &c.

Stakes, Marks, &c. not to be destroyed.

XI. And be it further enacted, That it shall be lawful for the said Trustees, and for their Surveyor or Surveyors and Workmen, with or without Carriages and Cattle, from Time to Time to enter upon the Lands and Grounds through or adjoining to which the said new Line of Road hereby authorized to be made is intended to pass, and to stake out such Line of Road; and after Payment of such Satisfaction as herein-after mentioned, to make the same of such Width (not exceeding Thirty Feet), in such Manner as the said Trustees shall think proper, without being deemed Trespassers, or without being liable to any Fine, Penalties, or Punishments therefore, making nevertheless Satisfaction to the Owners and Occupiers of such Lands and Grounds for the Damage that shall be done to the Lands or Grounds, Trees, Plants, and other Growth therein, or on the Sides of the said Road, whilst the same is making; and if any Person shall wilfully remove or destroy any of the Stakes or other Marks used in laying out or making any Part of such Road, every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Height of Fences, &c.

XII. And be it further enacted, That where any Part of the said new Line of Road shall be made through or adjoining to the uninclosed Land called *Aller Ball*, in the said Parish of *Abbotscarswell*, or through or adjoining to any other open or uninclosed Lands, or through any private Lands or Grounds, sufficient and proper Fences shall be erected and made,

made, as soon as the said Road shall be begun, through the same Lands, for inclosing and fencing the same, by and at the Expence of the said Trustees, but that such new Fences shall not exceed the Height of Six Feet from the Foot thereof, if built of Stone alone, and if such Fences shall be planted, the Banks whereon the Plants shall be set shall not exceed the Height of Five Feet and Six Inches.

Repealing Clauses for getting Materials under 5 G. 3.

XIII. And be it further enacted, That so much of the said first-recited Act as relates to the getting Materials for the Repair of the Road shall be and the same is hereby repealed.

For getting Materials to make and repair the Road.

XIV. And be it further enacted, That it shall be lawful for the Surveyor or Surveyors of the said Roads, and to or for all such Person or Persons as he or they respectively shall appoint, to search for, cut, dig, get, gather, and take away any Furze, Heath, Stones, Gravel, Sand, or other Materials for repairing the said Roads out of or from any Commons or Waste Grounds, common River, Brook or Pit, in any Parish, Township, or Place in which any Part of the said Roads doth lie, or in any adjoining Parish, Township, or Place, without paying any thing for the same, the said Surveyor or Surveyors, or other Person or Persons acting by his or their Appointment, filling up the Pits or Quarries, levelling the Ground, or sloping down the Banks where such Materials shall be taken, or railing or fencing off such Pits or Quarries, so that the same may not be dangerous to Passengers or Cattle; and also that such Surveyor or Surveyors, or other Person or Persons as aforesaid, may, by Order of any Two or more Justices of the Peace for the County, City, or Place in which the said Roads do lie, search for, cut, dig, get, gather and take away any such Materials as aforesaid, in, out of, or from the private Lands, Fields, or Grounds of any Person or Persons where the same may be had or found, in any Township, Parish, or Place in which any Part of the said Roads is situate, or in any adjoining Township, Parish, or Place, (such Lands, Fields, or Grounds not being a Garden or Orchard, Yard, Park, Paddock, Walk or Walks, or Avenue to a House, or any Piece of Ground planted and set apart as a Nursery for Trees), making or tendering such Satisfaction for the same, and for any Damages done thereby, to the Owners or Occupiers of the Ground and Premises where and from whence the same shall be cut, dug, gotten, gathered and taken or carried away, or over which the same or any other Materials for repairing the said Roads shall be carried, according to their respective Rights and Interests in such Ground and Premises, as the said Trustees shall deem reasonable; and in case of any Difference between the said Trustees, Surveyor or Surveyors, or other Persons employed as aforesaid, and the said Owners or Occupiers, or any of them, concerning the Value of such Materials and Damages, it shall be lawful for any Two Justices of the Peace for the County, City, or Place in which the said Roads or any of them do lie, on Ten Days Notice thereof in Writing being given by either Party to the other, or left at their respective Places of Abode, to hear, settle, and determine the Matters of such Payment and Damages.

Notice to be given to Occupiers of inclosed Lands before

XV. Provided always, and be it further enacted, That it shall not be lawful for any Surveyor, or any other Person or Persons under the Authority of the said recited Acts or this Act, to dig, gather, get, take, or carry away any Materials for repairing the said Roads, out of or from any

Materials are taken therefrom.

any inclosed Lands or Grounds, until Ten Days Notice in Writing, signed by such Surveyor, shall have been given to the Owner or Occupier of the Premises from which such Materials are intended to be taken, or left for such Owner or Occupier at his or her usual Place of Residence, to appear before any Two or more Justices of the Peace acting for the County, City, or Place where such Premises shall lie, to show Cause why such Materials shall not be had from such Lands or Grounds; and in case such Owner or Occupier, or his or her Agent, shall attend pursuant to such Notice, but shall not show sufficient Cause to the contrary, then and in such Case it shall be lawful for the said Justices or any other Two Justices of the Peace for the said County, City, or Place by their Order, to authorize such Surveyor or other Person or Persons to dig, get, gather, take, and carry away such Materials, at such Time or Times as to such Justices shall seem proper; and if such Owner or Occupier shall refuse or neglect to appear by himself or herself, or his or her Agent, such Justices shall and may 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 or her Agent had attended; any thing in the said recited Acts contained to the contrary notwithstanding.

Penalty on taking away Materials got by the Surveyor.

XVI. And be it further enacted, That if any Person whomsoever shall take away any Materials which shall have been dug or gathered for the Purpose of repairing or improving the said Roads, or any of them, or shall get or take away any Materials out of any Pit or Quarry, which shall have been made, dug, or opened for the Purpose of getting the said Materials, before the said Surveyor or his Workmen shall have discontinued working therein for the Space of Twenty-one Days (except the Owner or Occupier of any private Ground, and the Person or Persons authorized by such Owner or Occupier to get Materials for his or her own private Use only, and not for Sale) every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings.

Trustees empowered to contract for making Roads, and to erect Mile Stones, Direction Posts, &c.

Contracts to be binding.

XVII. And be it further enacted, That the said Trustees, or such Person or Persons as they shall for that Purpose appoint, shall from Time to Time be and are hereby empowered to agree with any Person for making, amending, diverting, altering, straightening and improving the said new Line of Road, or any Part or Parts thereof, and for erecting Mile or Direction Posts or Stones thereon, and for doing any other Work to be performed in the Execution of this Act, in such Manner and for such Sums of Money as the said Trustees at any Meeting shall think proper; and that all written Contracts or Agreements entered into pursuant to any Order of the said Trustees, by their Clerk, Treasurer, Surveyor or other Officer, with any Workmen or other Person, by virtue of this Act, shall be binding upon all Persons who shall sign the same, his, her, or their Heirs, Executors, and Administrators, and that Actions and Suits shall and may be maintained thereon by the said Trustees, or by their Clerk or Treasurer, and in his, her, or their Name or Names respectively, and that Damages or Costs recovered against the Party or Parties failing to perform such Contracts or Agreements respectively, and such Sums of Money as shall be requisite for making the said new Line of Road, or any other Matter or Thing to be done under or by virtue of

this Act, and which by such Contracts or Agreements respectively the Parties ought to have done, shall be the Measure of the Damage to be recovered in every such Action or Suit against the Party making default in fulfilling his, her, or their Contract or Agreement, any Law or Usage notwithstanding.

When the new Road is made and certified, the Trustses to be discharged from the Repair of the old Road.

XVIII. And be it further enacted, That when the new Line of Road hereby intended to be made shall be completed, and be certified by Two or more Justices of the Peace acting in and for the said County, in Writing under their Hands, to be fit for travelling over, and Notice of such Certificate shall be given to the Clerk of the said Trustees, from thenceforth the said Trustees shall be discharged from the future Repairs of the old Road in lieu of which the said new Road shall be made, and that such old Road shall from thenceforth cease to belong to the said Turnpike; and that at any Time thereafter it shall be lawful for any Two Justices of the Peace for the said County to order the Whole or any Part of such Turnpike Road, and also all such other Roads as shall communicate therewith or lead into the said new Line of Road, as they shall upon View thereof deem and consider to be unnecessary or proper to be discontinued, in consequence of making such new Line of Road, after due Notice given by such Justices pursuant to an Act passed in the Fifty-fifth Year of His said late Majesty, intituled *An Act to amend an Act of the Thirteenth Year of His present Majesty, for the Amendment and Preservation of the Public Highways, in so far as the same relates to Notice of Appeal against turning or diverting Public Highways, and to extend the Provisions of the same Act to the stopping up of unnecesary Roads*, be forthwith stopped up or discontinued as Turnpike or Public Parish Roads; and the Ground and Soil thereof shall be vested in the said Trustees appointed by this Act, and may be disposed of by them for the Benefit of the Owners of the adjoining Lands. 55 G. 3. c. 68.

Trustees authorized to compound for Five Years.

XIX. 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 Five Years at any one Time, with any of the Inhabitants of the several Parishes in which any Part of the said Roads lie, for the passing of all or any Description of their Horses, Cattle or Carriages, through all or any of the Toll Gates erected or to be erected by virtue of this Act; which Composition, and also all Compositions which shall be made with the respective Parishes or their Surveyors for the Repairs of the said Roads, shall be paid yearly in advance, and be enforced and recovered by the said Trustees, or by any One or more Justice or Justices of the Peace acting in and for the said County, in the same Manner and by the same Ways and Means as other Payments are recoverable by virtue of the said recited Acts or of this Act; and in default of Payment thereof, with all Costs and Charges attending the Recovery thereof, the Composition or Agreement with the Person or Persons, Surveyor or Surveyors 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; but no such Composition or Agreement shall be made by less than Three Trustees, nor otherwise than at a Public Meeting.

Trustees may increase the Rate of Interest.

XX. And be it further enacted, That it shall be lawful for the said Trustees, from and after the said new Line of Road shall be made and completed, and be so certified in Manner aforesaid, at any Public Meeting of the said Trustees to be convened in pursuance of Notice to be given for the Purpose, to alter and advance the Rate of Interest of the Debts now due on the said Turnpike to Five Pounds *per Centum per Annum*, instead of Four Pounds *per Centum per Annum*, which is now paid for the same.

Allowing an Action of Ejectment to be supported by One Mortgagee.

XXI. And be it further enacted, That if any Mortgagee or Mortgagees of the Tolls granted by the said Acts or this Act, shall seek to obtain the Possession of the Toll Gates, Toll Houses, and Buildings erected on the said Road, in order to pay himself, herself, or themselves, the Principal Money and Interest, or any Part thereof due to him, her, or them, it shall be competent for him, her, or them, as Lessor or Lessors of the Plaintiff, and upon his, her, or their Demise only, and without uniting in such Demise the other Mortgagees of the said Tolls and Premises, to obtain such Possession; but such Person or Persons who shall obtain the Possession thereof, shall not apply the Tolls which may consequently be received by him, her, or them, to his, her, or their own exclusive Use and Benefit, but to and for the Use and Benefit of all the Mortgagees of the said Tolls, Toll Gates, Buildings and Premises, *pari passu*, and in proportion to the several Sums which may be due to them as such Mortgagees.

Limiting Number of Tolls for passing through all Gates on the Road.

XXII. Provided also, and be it further enacted, That no more than One Toll in the whole shall be payable for or in respect of the same Horses, Cattle, Beasts or Carriages for passing in one Day through all the Gates or Turnpikes erected or to be erected on the said Road.

Tickets to be provided, denoting Payment of Tolls.

XXIII. And be it further enacted, That upon Payment of the Tolls granted by the said last-recited Act, the Collector or Receiver thereof shall and he is hereby required to deliver, *gratis*, to the Person paying such Toll a Note or Ticket denoting such Payment, which Note or Ticket shall be provided by the said Trustees, and there shall be printed and specified thereon the Names of the several and respective Gates freed by such Payment.

Toll Collectors to put up their Names.

XXIV. And be it further enacted, That every Toll Collector appointed either by the said Trustees, or by any Lessee or Lessees under them, to collect the Tolls payable at any Turnpike or Toll Gate to be continued or erected upon the said Road, shall and he is hereby required to place his Christian and Surname painted on a Board in legible Characters in the Front or on some other conspicuous Part of the Toll House or Toll Gate, immediately upon coming on Duty, each of the Letters of such Name to be at least Two Inches in Length, and of a Breadth in proportion, and painted either in White Letters on a Black Ground, or Black Letters on a White Ground, and shall continue the same so placed during the whole Time he shall be upon such Duty; and if any Collector of the said Tolls shall not place such Board as aforesaid, and keep the same during the Time aforesaid, or shall demand or take a greater or less Toll from any Person or Persons than he shall be authorized to do by virtue of the said recited Acts and this Act, or any or either of them, 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 been paid the said Tolls, or any of them, or shall give a false Name or Names on such Demand, or shall refuse or neglect to deliver a Ticket *gratis*, denoting the Payment of the Toll, and naming or specifying the Gate or Gates freed by such Payment, or shall make use of any scurrilous or blasphemous Language to any Person or Persons travelling upon the said Road, or shall, without sufficient Cause detain or delay any Person or Persons travelling thereon, then and in every such Case every such 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 levied, recovered, paid, and applied in such and the same Manner as other Penalties are by the said recited Acts, or any of them, directed to be levied, recovered, paid, and applied.

Disputes concerning Tolls to be settled by a Justice.

XXV. And be it further enacted, That in case any Dispute or Disputes shall happen respecting the demanding or taking, or the Payment of Toll, or about the Amount of Toll due, or the Charges of keeping or selling any Distress, such Dispute or Disputes shall be heard and determined by some Justice of the Peace for the County or Place in which the cause of Dispute shall arise, who, upon Application to him made for that Purpose, shall examine the Matter upon Oath of the Parties or other Witness or Witnesses, (which Oath every such Justice is hereby authorized and empowered to administer) and shall determine the Amount of the Toll due, and other Matters in Dispute between the Parties, and may also award such Costs to be paid by either Party to the other as to such Justice shall seem just and reasonable; all which Costs, in case the same shall not be forthwith paid, shall and may be levied and recovered by Distress and Sale of the Goods and Chattels of the Person or Persons so awarded or directed to pay the same, by Warrant under the Hand and Seal of such Justice (which Warrant every such Justice is hereby empowered to issue), and the Overplus (if any) after Payment of such Costs, and the Costs of such Distress and Sale, shall be returned upon Demand to the Person or Persons whose Goods and Chattels shall have been so distrained.

Exempting Royal Family from Toll.

XXVI. And be it enacted, That this Act shall not extend or be construed to extend to charge with Toll any Horses or Carriages attending His Majesty or any of the Royal Family.

Persons attending Divine Worship not to pay Toll.

XXVII. And be it further enacted, That no Toll shall be demanded or taken from any Person or Persons going to or returning from his, her, or their proper Parochial Church or Chapel, or from any Person or Persons going to or returning from his, her, or their usual Place of religious Worship tolerated by Law on *Sundays*, or any other Day on which Divine Service is ordered by Authority to be celebrated, whether their Place of Worship shall be situated in either of the Parishes through which any Part of the said Roads shall pass, or in any other Parish next adjoining thereto.

For removing Annoyances and Nuisances.

XXVIII. And be it further enacted, That it shall be lawful for the said Surveyor and Surveyors, and such Person or Persons as he or they shall appoint, from Time to Time to remove and prevent all Nuisances and Annoyances

Annoyances made on any Part of the said Road, by Timber, Wood, Stone, Carriages, Sawpits or other Pits, Hovels, Trees, Ashes, Dung, Filth, Rubbish, Straw, or other Matter or Thing, and to turn or divert any Watercourses, Gutters, Sinks, Conduits or Drains running into, along, or out of the said Road, to the Prejudice thereof; and to open, scour or cleanse, widen, deepen and enlarge any Gutter, Ditch, Conduit or Watercourse adjoining or near to the said Road, or any Part thereof, and to make the same as deep and large as such Surveyor or Surveyors shall think necessary; and also to prune, cut, or lop, at proper Seasons of the Year, any Shrubs or Bushes, or Branches of Trees growing on the said Road, or in the Hedges, Fences, or Banks within Fifteen Feet of the Centre thereof, (unless the same be an Ornament or Shelter to any House or other Building, or be in any Garden, Orchard, planted Walk, Avenue to a House or Nursery for Trees), and to take and carry away the Prunings or Loppings, and to cut and reduce all such Hedges to the Height of Four Feet in case the Persons occasioning such Nuisances and Annoyances shall neglect to remove the same within the Space of Ten Days after receiving Notice from the Surveyor so to do, or in case the Owners or Occupiers of the Lands shall neglect to turn, divert, open, scour, cleanse, widen, or deepen such Watercourses or Ditches, or to prune, cut or lop such Shrubs or Bushes, or to remove such Prunings, Cuttings or Loppings, or to reduce such Hedges in such Manner as the Surveyor or Surveyors shall require for the Space of Ten Days next after Notice in Writing given for those respective Purposes under the Hand or Hands of such Surveyor or Surveyors, or so near to such Time as the proper Season will allow for such reducing of Hedges, or cutting or lopping of Branches; the Charges whereof (to be settled by the said Trustees, or by any Justice of the Peace of the County or Place where the same shall occur, by Writing under their or his Hands or Hand) shall from Time to Time be reimbursed to the said Surveyor or Surveyors by such respective Owners or Occupiers neglecting to turn, open, scour or cleanse, or to deepen, widen, and enlarge any such Gutter, Ditch, Conduit, Drain or Watercourse, or to prune, cut, or lop such Shrubs or Bushes or Branches, or to cut or reduce such Hedges, or by the Person or Persons occasioning or neglecting or refusing to remove such Annoyances as aforesaid; which Charges shall be recovered, levied, apportioned, applied and disposed of, in such Manner as the Penalties, Forfeitures, and Fines are by this Act directed to be recovered, applied, and apportioned; and if after the Removal of any such Annoyances any Person or Persons shall offend again in like Manner, every such Person shall for every such second or subsequent Offence forfeit and pay any Sum not exceeding Forty Shillings, over and above the Expences and Charges thereby occasioned.

Gates to open inwards.

XXIX. 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, to be suffered to continue so to open, except the Hanging Post thereof shall be so far removed from the Centre of the said Road so that no Part of such Gate shall when open project over any Part of the said Road, or any Footpath belonging thereto; and the Occupier or Occupiers of every Park, Paddock, Field, or Inclosure having any Gate opening outwards contrary to the Meaning of this Act, shall within Ten 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

hung so 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 the Gate to be hung according to the Intention of this Act; 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 or Place where the Gate shall be situate, and upon Conviction upon the Oath of Two credible Witnesses, 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 Gate, 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; and such Penalties shall be recovered, levied, apportioned, and applied in Manner herein-after provided for the Recovery and Application of Penalties.

Roads to be measured, and Mile Stones to be set up.

XXX. And be it further enacted, That the said Trustees shall cause the said Turnpike Road to be measured, and Mile Stones or Posts to be placed in or near the Sides thereof, and shall also cause Direction Posts to be erected upon such Parts of the said Turnpike Road where the same are crossed or joined by other Roads, denoting the Number of Miles and Distances of Places, as they shall think proper; and if any Person or Persons shall wilfully pull up or damage any Direction or Mile Post or Stone erected or fixed or to be erected or fixed in or near the Side or Sides of the said Turnpike Road, or shall obliterate or deface any of the Letters, Figures, or Marks inscribed thereon; or if any Person or Persons shall slaughter, burn, or dress any Animal on the said Turnpike Road; or or if any Person or Persons shall leave or suffer any Horse, Cattle, Sheep, Pig, or Beast to be and remain loose on the said Turnpike Road, or any Part thereof; or if any Person shall ride upon any Footway or Causeway formed upon or on the Side of or adjoining the said Turnpike Road, or shall drive any Horse, Beast, or Swine, or any Carriage upon, or cause any Damage to be done to any Footway or Causeway; or if any Person shall cause to be haled or drawn upon any Part of the said Turnpike Road, any Timber, Stone, or other Thing (otherwise than upon wheeled Carriages), or suffer any Timber, Stone, or other Thing which shall be carried upon wheeled Carriages to drag upon the said Turnpike Road to the Prejudice thereof; or if any Person shall unload or lay down, or cause to be unloaded or laid down from any Carriage upon any Open or Common Land lying within Twenty Yards of any of the Turnpike Gates or Bars erected or continued by virtue of this Act, or upon the Sides of the said Road, within Eighty Feet of the Centre thereof, any Dung, Ashes, Compost, Manure or other Thing for the Purpose of Manure; or if any Person driving any Pigs or Swine upon the said Turnpike Road shall suffer them to root up or damage the same, or the Fences on either Side thereof; or if any Person driving any Waggon, Cart, or other such like Carriage shall ride on the Shafts or other Parts of such Waggon, Cart, or Carriage, or any of the Horses drawing the same, upon any Part of the said Turnpike Road, without holding the Reins of such Horse or Horses; or if any Person driving any Carriage whatsoever, and meeting any other Carriage, shall not keep his Carriage on the Left or Near Side of the said Turnpike Road, and also keep on the same Side himself or herself; or if any Person shall in any other Manner

Penalty on pulling up or damaging the same, and on Persons injuring the Road or committing Nuisances thereon.

wilfully prevent any other Person or Persons from passing him or her, or any Carriage under his or her Care upon the said Turnpike Road; or if any Person shall make or assist in making any Fire or Fires upon or by the Side of any Part of the said Turnpike Road, or set fire to or let off or throw any Squib, Rocket, Serpent, or Fire-work whatsoever on any Part of the said Road, or within Eighty Feet of the Centre thereof, or play at Football or any other Game or Games on any Part of the said Turnpike Road, to the Annoyance of any Passenger or Passengers; or if any Person shall leave any Carriage (except in Cases of Accident and when such Carriage shall be placed as near the Side of the said Turnpike Road as may be), upon or on the Side of the said Turnpike 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; or if any Person, after having blocked any Carriage whatsoever in going up any Hill or rising Ground shall leave on the said Turnpike Road the Stone or other Thing used in such blocking; or if any Person shall plough, dig, or break up any of the Soil within Fifty Feet from the Centre of the said Turnpike Road, or shall scrape off any Soil or other Thing from the said Turnpike Road, or the Sides thereof, or shall take up and carry away any Scrapings thereof, without leave of the said Trustees or their Surveyor; or if the Owner or Occupier of any Open Lands adjoining to the said Turnpike Road, or any Part thereof, or any other Person or Persons, shall plough up such Lands to the Extremity thereof, adjoining to the said Turnpike Road, in a transverse Direction with the said Turnpike Road, without leaving a sufficient Headland to turn his, her, or their Plough or Ploughs, and the Horses or other Beasts drawing the same thereon, without coming upon the said Turnpike Road or any Part thereof, for that Purpose, and which Headland shall afterwards be ploughed only in a Direction parallel with the said Road; every Person so offending in any of the Cases aforesaid, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, to be recovered and applied in Manner herein-after mentioned.

For impounding Cattle or Swine straying on the Road.

XXXI. And be it further enacted, That if any Cow, Horse, Ass, Swine, or other live Stock or Cattle, shall at any Time be found tied or fastened, or wandering, straying, or lying upon, about, or on the Sides of the said Road, or any Part thereof respectively (except on such Parts of the said Road as lead or pass through or over any Commons or uninclosed Lands), it shall be lawful for the Surveyor of the said Road for the Time being, or other Person or Persons whomsoever, to seize and impound every such Cow, Horse, Ass, Swine, or other live Stock or Cattle, in the common Pound (if any) of the Parish or Place in which the same shall be found tied or fastened, or wandering, straying, or lying about, or on the Sides of the said Road (except as aforesaid) or any Part thereof, or in such other Place or Places as the said Trustees, although not assembled at a Meeting, or the said Surveyor, shall find convenient, and the same there to detain until the Owner or Owners thereof shall, for every and each Cow, Horse, Ass, Swine, or other live Stock or Cattle so impounded, pay the Sum of Five Shillings to the Person impounding the same, together with the reasonable Charges and Expences of impounding and keeping the same; and in case the said Penalty, Charges, and Expences shall not be paid within Three Days after such impounding, it shall be lawful for any One or more Justice or Justices of the Peace of the

the County or Place where the Offence shall have been committed, by an Order or Warrant under his or their Hand or Hands, to sell or cause every such Cow, Horse, Ass, Swine or other live Stock or Cattle to be sold; and the Money arising from such Sale, after deducting the said Penalty, and the Charges and Expences of impounding, keeping, and selling every such Cow, Horse, Ass, Swine or other live Stock or Cattle, and all Expences respecting the same shall (on Demand) be paid to the Person whose Property the same so sold shall appear to have been.

For securing transient Offenders.

XXXII. And whereas Offences may be committed against the said recited Acts and this Act, some or one of them, by Persons unknown to the Collectors, Surveyors or other Officers appointed to put the same Acts into Execution; be it therefore enacted, That it shall be lawful for any of the said Collectors, Surveyors, or other Officers respectively, and such other Person or Persons as he or they shall call to his or their Assistance, without any other Warrant or Authority than this Act, to seize and detain any unknown Person or Persons who shall commit any such Offence or Offences, and take him, her, or them before any Justice of the Peace of the County, City, or Place, or near to the Place where the Offence or Offences shall have been committed, to be dealt with according to Law; and such Justice is hereby empowered and directed to proceed immediately to the Hearing and Determination of the Complaint.

Recoveries of Penalties and Forfeitures,

XXXIII. And be it further enacted, That all Penalties, Forfeitures, and Fines inflicted or authorized to be imposed by the said recited Acts or this Act (the Manner of levying, recovering, and applying whereof is not otherwise directed), shall, upon Proof of the Offences respectively before any Justice of the Peace for the said County, either by the Confession of the Party offending or by the Oath of any credible Witness or Witnesses, (which Oath such Justice is in every such Case hereby fully authorized to administer), be levied by Distress and Sale of the Goods and 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; and the Overplus (if any) after such Penalties, Forfeitures and Fines, and the Charges of such Distress and Sale, are deducted, shall be returned upon Demand unto the Owner or Owners of such Goods and Chattels; and the Monies arising by such Penalties, Forfeitures and Fines respectively, when paid or levied, if not otherwise dtireced to be applied by the said recited Acts or this Act, shall be from Time to Time paid, one Moiety to the Informer, and the other Moiety to the Treasurer or Treasurers to the said Trustees, and applied for the Purposes of the said Road; and in case such Penalties, Forfeitures and Fines respectively shall not be paid forthwith upon Conviction, then it shall and may be lawful for such Justice to order the Offender or Offenders so convicted to be detained in safe Custody until Return can be conveniently made to such Warrant or Warrants of Distress, unless the said Offender or Offenders shall give sufficient Security, to the Satisfaction of such Justice, for his or their Appearance before him, on such Day or Days as shall be appointed for the Return of such Warrant or Warrants of Distress, such Day or Days not being more than Seven Days from the Time of taking any such Security, and which Security the said Justice is hereby empowered to take by way of Recognizance or otherwise; but if upon the Return of such Warrant or Warrants, it shall appear that no sufficient

and Application thereof.

Distress

Distress can be had thereupon, then it shall be lawful for any such Justice of the Peace, 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 the said County, there to remain without Bail or Mainprize for any Time not exceeding Six Calendar Months, unless such Penalties, Forfeitures, and Fines, and all reasonable Charges, shall be sooner paid and satisfied.

For paying the Expences of this Act.

XXXIV. And be it further enacted, That all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, together with lawful Interest from the Time of advancing the same until Payment thereof, shall be paid and discharged by the said Trustees out of the Monies already collected or received, or out of the first Monies to be collected or received by virtue of the said recited Acts or this Act or either of them, in preference to all other Payments whatsoever.

Public Act.

XXXV. 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.

Term and Continuance of Act.

XXXVI. And be it further enacted, That this Act shall commence upon and have Continuance from the Time of the passing thereof for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

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