ANNO SEPTIMO & OCTAVO

GEORGII IV. REGIS.

Cap. xlviii.

An Act for maintaining and repairing the public Drains, Bridges, and Highways, on certain Extra-parochial Lands formerly called *Sinfin Moor*, in the County of *Derby*. [28th May 1827.]

WHEREAS previous to the Date and Execution of the Award or Deed Poll herein-after in part recited, there was a certain Common or Waste Ground called *Sinfin Moor*, containing Seven hundred and ninety-seven Acres One Rood and Thirty-seven Perches, or thereabouts, and certain Common Meadows thereunto adjoining called *Osmaston Moor Meadow* and *Normanton Moor Meadows*, containing together Ninety-six Acres Two Roods and Twenty-six Perches, or thereabouts, all in the County of *Derby*: And whereas *Samuel Wyatt* Gentleman, the Commissioner appointed in and by a certain Act passed in the Forty-second Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for dividing, allotting, and inclosing a certain Common or Waste Ground called* Sinfin Moor, *and certain Common Meadows thereto adjoining, all in the County of* Derby, did, by his Award in Writing under his Hand and Seal, bearing Date the Third Day of *July* One thousand eight hundred and four, set out certain public Bridleways and Footways, and certain private Carriage and Drift Roads, in the Manner therein particularly mentioned; and he did thereby also set out, ascertain, and appoint the several public Drains following; (that is to say), One

42 G. 3. c. 69.

Award, dated 3d July 1804.

public Drain all the Way round the outside Boundary of the said *Sinfin Moor*, except the narrow Part thereof leading to *Swarkeston Moor Gate*, which said public Drain is thereby called *Moor Boundary Drain;* one other public Drain leading from the Liberty of *Sinfin* and *Arleston*, in the said Award mentioned, along the said *Sinfin Moor*, in an Eastwardly and South-eastwardly Direction, to and under the *Derby* Canal, and from thence in a South-eastwardly Direction to the lower End of the said *Sinfin Moor*, and thence extending between the Parishes of *Chellaston* and *Swarkeston* to the South-eastwardly Corner of an ancient Inclosure called *Farthings Close*, belonging to *Thomas Brown Dumelow*, and from thence through the said Parish of *Swarkeston*, to and under the *Trent* and *Mersey* Canal to the River *Trent*, which said Drain is thereby called *Main Drain;* one other public Drain leading from the said *Moor Boundary Drain*, adjoining to an ancient Inclosure in *Barrow* aforesaid, belonging to *Robert Porter* and *John Porter*, in a Northwardly Direction for the Distance of about Sixty-four Yards, and there turning Eastwardly, and extending in that Direction to and into the said *Main Drain*, which said last-described Drain is thereby called *Barrow Drain;* one other public Drain leading from the said *Moor Boundary Drain*, adjoining an ancient Inclosure in *Normanton* aforesaid, belonging to *Thomas Bancroft*, and from thence extending in a South-eastwardly Direction to and into the said *Main Drain*, which said last-described Drain is thereby called *Normanton Drain;* one other public Drain leading from the said *Osmaston Moor Gate*, extending in a Southwardly Direction to the Junction of certain Bridleways in the said Award mentioned, called *The Barrow and Derby and Swarkeston Bridleways*, and there turning South-eastwardly, and extending in that Direction to and into the said *Main Drain*, which said last-described Drain is thereby called *Osmaston Drain;* one other public Drain leading from the said *Moor Boundary Drain*, adjoining to *Osmaston Moor Meadow*, and extending in an Eastwardly and South-eastwardly Direction to and into the said *Osmaston Drain*, which said last-described Drain is thereby called *Meadow Drain;* one other public Drain leading from the said *Moor Boundary Drain*, adjoining to old Inclosures in *Osmaston* aforesaid, belonging to *Samuel Pearson*, as Curate of *Osmaston* aforesaid, in a Westwardly Direction to and into the said *Osmaston Drain*, which said last described Drain is thereby called *Lower Rushes Drain;* one other public Drain leading from the said *Moor Boundary Drain*, at the North-westwardly Corner of an ancient Inclosure lying in the Parish of *Alvaston*, belonging to *Daniel Tatam*, and extending Southwardly to and into the said *Osmaston Drain*, which said last-described Drain is thereby called *Dale Pan Drain;* one other public Drain leading from the said *Moor Boundary Drain*, adjoining to a Piece of Land lying in the said Parish of *Chellaston*, called *Moor Close Common*, and extending in a Southwardly Direction to and into the said *Main Drain*, which said last-described Drain is thereby called *Leach Drain;* and the said Commissioner did further direct, that the Costs, Charges, and Expences of making, maintaining, and keeping in repair all such public Roads and Ways, and the public Drains and Bridges over the same, should be defrayed and paid by the Occupiers of the said Lands, (excepting the Residue of the said Common Meadows therein also set out to Sir

Robert Wilmot Baronet, *Eleanor Frances Pochin*, and *George Ward*, as herein-after mentioned,) by a Pound Rate, according to the Value of their respective Lands, which should be from Time to Time raised by an Assessment to be made by the said Surveyors for the Time being, in the Sums or Proportions therein specifically assessed; and in the said Award Provisions were contained for a new Valuation and Assessment, in case of any Alteration of the Value of the said Lands; and the said Commissioner, after setting out to the Lord of the Manor and Owner of the Soil, in and upon the said Common called *Sinfin Moor*, an Allotment containing Fifty-five Acres One Rood and Eight Perches, in lieu of his Claim for the Soil of the said Common called *Sinfin Moor*, did set and mark out certain Parts of the said Common Meadows, containing Twenty-nine Acres and Two Perches, or thereabouts; and he afterwards divided the said Twenty-nine Acres and Two Perches, and also the Residue of the said Common called *Sinfin Moor*, into Eight equal Parts; and did set out One of the said Eight Parts to each of the Eight Parishes or Townships of *Chellaston*, *Swarkeston*, *Barrow-upon-Trent*, *Sinfin* and *Arleston*, *Normanton* next *Derby*, *Osmaston* next *Derby*, and *Alvaston* and *Boulton*, all in the County of *Derby*; and the said Commissioner did also divide and allot all the Residue of the said Common Meadows, containing Sixty-seven Acres Two Roods and Twenty-four Perches, unto the said Sir *Robert Wilmot* Baronet, *Eleanor Frances Pochin* Widow, and *George Ward*: And whereas ever since the Date and Execution of the said Award, to the Month of *October* in the Year of our Lord One thousand eight hundred and twenty-four, the said Directions for the Maintenance of the several public Drains, Bridges, and Roads, have been carried into effect by the annual Nomination and Appointment of Two Surveyors, and by the making and collecting of Rates from Time to Time upon the Occupiers of the said Lands in the said Award allotted as aforesaid; whereby the said public Drains and Roads have been from Time to Time maintained, opened, scoured and cleansed, and the Bridges over the same repaired and rebuilt, to the great Benefit of the Occupiers of the said Lands, and Convenience of the Public: And whereas the Power and Authority of the said *Samuel Wyatt* to order and make any Provision for Maintenance of the said public Drains, Roads, Ways, and Bridges, by the Nomination of Surveyors and Establishment of Rates, as contained in his said Award, have been lately disputed, and in consequence the Appointment of Surveyors have been opposed, and great Expences have been incurred by the Proprietors and Occupiers of the said Lands and Grounds in defraying legal Proceedings arising from such Objections; and no Surveyors have been appointed since the Year One thousand eight hundred and twenty-five, nor have any Rates been made or collected for the necessary Maintenance and Preservation of the said public Drains, Highways and Bridges, and which for Want thereof will fall into Ruin and Decay: And whereas the said Lands and Grounds are near to the River *Trent*, and by reason of their low and flat Situation are of a marshy Nature, and frequently subject to Flood Waters, and without some secure Provisions for the Maintenance and Preservation of the several public Drains thereupon, and the public Bridges over the same, the said Lands will be greatly injured, and thereby rendered to a great Degree unprofitable to the Owners and Occupiers thereof; and the public Highways will also in Times of Flood be rendered impassable

passable during the Continuance thereon of the said Flood Waters; and it would therefore be of Advantage to the Public, as well as to the Owners and Occupiers of the said Lands, and be the Means of preventing future Doubt and Litigation, if Powers and Provisions were granted for maintaining, repairing, and supporting the said several public Drains, Bridges, and Highways, in, over, and upon the said inclosed Lands; but the same cannot be effected 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 the present Parliament assembled, and by the Authority of the same, That all and every the Drains, Roads, and Ways which are described and set out to be public Drains, Roads, and Ways in and by the said recited Award of the said *Samuel Wyatt;* and also a certain Drain commencing from the Drain set out by the said recited Award called *The Boundary Drain*, at the South-eastwardly Corner of a certain Meadow in *Sinfin* and *Arleston* aforesaid, in the Occupation of *William Bancroft*, and from thence proceeding in an Eastwardly Direction to the Drain also set out by the said recited Award, called *The Barrow Drain*, and which said Drain hereby described has been cut and maintained as a public Drain since the Execution of the said recited Award; and also a certain ancient Drain called *The Black Dyke Drain*, commencing from the said *Boundary Drain*, at or near the South-westwardly Corner of a Meadow in *Normanton* aforesaid, in the Occupation of *Joseph Barnes*, and proceeding in a Southwardly Direction through certain other Lands in the Occupation of *William Peach*, and other Lands in the Occupation of *Joseph* and *Joshua Bowmer*, to and into the said *Normanton Drain*, shall be and the same are hereby declared to be public Drains, Roads, and Ways; and the same, together with all Bridges, Floodgates, Culverts, Dams, Locks, and Banks, and any other Works which now are or shall or may be over, in, or upon the said public Drains, Roads, and Ways, and all other Cuts, Channels, Ditches, and Trenches which now are or shall or may be upon any of the said Lands comprised in and allotted by the said recited Award (except as herein-after mentioned); and also, all such Cuts and Channels as now do or at any Time hereafter shall communicate with any of the said public Drains, and pass through the said several Parishes of *Chellaston* and *Swarkeston* to the River *Trent*, and all other Works which have been or shall by virtue of this Act be made upon the same, shall be and become subject and liable to the several Powers, Provisoes, and Directions herein-after contained.

The Drains, Roads, &c. set out by the Award under the recited Act, and certain other Drains herein named, made liable to the Provisions of this Act.

II. And be it further enacted, That the Owners and Occupiers at large of the several Lands set out, allotted, and comprised in the said recited Award of the said *Samuel Wyatt*, (save and except such as are herein-after excepted,) shall and are hereby declared to be liable to maintain, repair, and amend the said several public Drains, Roads, Ways, Bridges, Floodgates, Locks, Banks, and other Works hereby made subject to the Provisions of this Act, and shall accordingly maintain, repair, and amend the same fully and completely to all Intents and Purposes; and in any Indictment, Presentment, or other Proceedings, for not repairing any of the said public Drains, Roads, Ways, Bridges, Floodgates, Locks, Banks, or other Works required to

Owners and Occupiers of allotted Lands to be liable to repair Drains, &c.

to be maintained or supported by this Act, it shall be sufficient to allege generally that the Occupiers of the Liberty of *Sinfin Moor* ought to repair and amend the same, by the Authority of this Act; and the Occupiers at large of the several Lands comprised in the said recited Award (save and except as herein-after excepted) shall be amenable in all respects to such Indictment, Presentment, or other Proceeding: Provided nevertheless, that nothing in this Act contained shall be construed to affect or render liable to the Provisions thereof the Owners or Occupiers of the Residue of the said Common Meadows so allotted and apportioned by the said Award unto the said Sir *Robert Wilmot* Baronet, *Eleanor Frances Pochin*, and *George Ward*, and containing Sixty-seven Acres Two Roods and Twenty-four Perches, as herein-before recited.

Exemption.

III. Provided always, and be it further enacted, That nothing in this Act contained shall discharge and exonerate, or be construed to discharge and exonerate, any Person or Persons, Bodies Politic or Corporate, Lands, Tenements, or Hereditaments, from the repairing, maintaining, supporting, and cleansing any Roads or Ways, or any old Channel, Brook, or Watercourse, and the Banks thereof, or any Ditches, Drains, Cuts, Bridges, or Culverts whatsoever in or upon the said Lands comprised in and allotted by the said Award, or such Bridges and Culverts as are over or upon any Cut and Channel which carry off the said Waters therefrom, through the said Parishes of *Chellaston* and *Swarkeston*, to the River *Trent*, in such Shares and Proportions, Manner and Form, as such Person or Persons, Bodies Politic or Corporate, Lands, Tenements, or Hereditaments, have been hitherto respectively bound to do by Tenure, Prescription, or otherwise howsoever, notwithstanding the same, or any or either of them, shall be rebuilt, altered, scoured, cleansed, or improved by and under the Provisions of this Act.

Not to exempt from Liability Persons liable before this Act.

IV. And be it further enacted, That the Owners and Occupiers of the several Lands and Grounds by this Act made chargeable and answerable with and for the Maintenance of the said public Drains, Roads, Ways, Bridges, and Works as aforesaid, shall meet together at some convenient Place within the Parish of *Swarkeston* aforesaid, on the Third *Monday* next after the passing of this Act, between the Hours of Eleven o'Clock in the Forenoon and One of the Clock in the Afternoon, and shall then and there proceed in the Execution of this Act, and shall and may then and from Time to Time adjourn such Meeting, either to the same Place or such other convenient Place within the Parish of *Swarkeston* aforesaid, as the several Persons so assembled shall think proper; and from and after the said First General Meeting, there shall be held One General Annual Meeting of the said Owners and Occupiers in some convenient Place in *Swarkeston* aforesaid, on the Twenty-second Day of *September*, unless that Day shall happen to be on a *Sunday*, and then on the Day following, or on such other Day as shall or may by any Act relating to the Management of Highways in *Great Britain* be fixed and appointed, for the Purpose of nominating Persons to act as Surveyors of Highways; and also there shall be held such and so many Special General Meetings of the said Owners and Occupiers

Meetings of Owners, &c. to be held.

First Meeting.

Annual Meeting.

Special Meetings.

Occupiers as shall be called as herein-after provided; and the First Annual General Meeting to be holden by virtue of this Act shall be holden at some convenient Place in *Swarkeston* aforesaid, on the Twenty-second Day of *September* next; and all such Special General Meetings shall be holden in the said Parish of *Swarkeston*, and shall and may be adjourned from Time to Time and from Place to Place in the said Parish, as shall be found expedient, and at all Meetings the Persons there present shall defray their own Expences; and at all such Meetings to be holden as aforesaid, the Persons present not having less than Ten Votes in the whole, to be ascertained in manner herein-after directed, shall and may proceed to Business, and act in the Execution of the several Powers hereby given to them, and the same shall be of as full Force and Effect as if executed or done by or before all the said Owners and Occupiers; and if it shall so happen that there shall not at any of the aforesaid Meetings be a sufficient Number of Votes present to act or adjourn (any Two Votes being hereby declared sufficient for the Purpose of Adjournment only) then and so often as the Case may happen, such Meeting shall stand over and be deemed to be adjourned to the next Day, if not *Sunday*, *Good Friday*, or *Christmas Day*, and in such Case to the Day but one following, and at the same Place and Hour at which the same Meeting ought to have been held as aforesaid.

For calling Special General Meetings.

V. And be it further enacted, That it shall be lawful for any Five or more of the Persons authorized to vote at any Meeting appointed to be held by virtue of this Act, or for the Surveyors for the Time being, or a Majority of such Surveyors, to convene, by Notice in Writing, any of the Special Meetings herein-before authorized to be held, in which Notice shall be expressed the Time, Place, and Purpose of such Special General Meeting (such Time not being less than Fourteen Days after the Publication of the said Notice), by affixing the same, fairly written or printed, upon the principal outer Doors of the several Churches of *Chellaston*, *Swarkeston*, and *Barrow-upon-Trent*, *Osmaston*, and *Normanton*; and all Orders and Determinations at such Meetings shall be as valid as if the same had been done at a General Meeting held by virtue of this Act: Provided always, that no other Business than what shall be specified in such Notice shall be transacted at any such Meeting.

Chairman of Meeting to be appointed.

VI. And be it further enacted, That the Persons so assembled at such Meetings shall forthwith nominate and appoint, by Plurality of Votes (to be ascertained as herein-after is directed), One of such Persons entitled to attend such Meetings to be the Chairman of and to preside at every such Meeting; and in all Cases of Equality of Votes upon any Question arising thereon, the Chairman shall, in addition to such Vote or Votes as he may by virtue of this Act be entitled to give, have the casting Vote; and Minutes of the Proceedings and Resolutions of every Meeting shall be fairly and distinctly entered in a Book to be provided for that Purpose, and shall be signed by the Chairman, and such other Persons present and entitled to a Vote as shall think proper to sign the same, and when so signed by the Chairman, shall be deemed and taken to be original Orders and Proceedings, and allowed to be read in Evidence in all

Minutes of Proceedings to be entered and signed, and allowed in Evidence.

 Courts

Courts and Places whatsoever; and no Order, Direction, or Resolution, made, given, or entered into at any Meeting to be held by virtue of this Act, shall be revoked or altered, unless by a greater Number of Votes than were present when such Order, Direction, or Regulation was made, given, or entered into, and unless the Majority of Votes be greater than at such Meeting. Revocation of Orders, &c.

VII. And be it further enacted, That at the First Meeting appointed to be held on the Third *Monday* after the passing of this Act, and at any subsequent Meeting before an Assessment shall have been made and allowed, as herein-after authorized, all Orders, Directions, and Resolutions at such Meeting or Meetings, shall be made, done, and carried by the Majority of the Persons present; but after any Rate herein-after authorized to be made shall have been made and allowed, every Person present at any Meeting who, or whose Lands, Tenements, or Hereditaments, shall by the Rate last made and allowed before such Meeting have been assessed and charged upon or in respect of any annual Rent, Profit, or Value, not amounting to Twenty Pounds, shall have and be entitled to One Vote and no more; and every Person there present who, or whose Lands, Tenements, or Hereditaments, shall in such Rate have been assessed or charged upon or in respect of any annual Rent, Profit, or Value, amounting to Twenty Pounds and upwards, (whether in one or more than one Sum or Charge,) shall have or be entitled to give One Vote for every Twenty Pounds of annual Rent, Profit and Value, upon or in respect of which he, she, or they, his, her, or their Lands, Tenements, or Hereditaments, shall have been assessed or charged in such last Rate, (provided that no Person shall be entitled to give more than Ten Votes); and in all Cases where the Owner and also the Occupier of any rated Land, Tenement, or Hereditament, shall both be present, such Owner alone, and not the Occupier thereof, shall be entitled to vote according to and in respect of the whole of the Charge on the Property of which he or she shall be Owner or Owners; and in case where Two or more Persons present shall be jointly rated as Owners, or jointly rated as Occupiers, each of them shall be entitled to vote according to the Proportion and Amount which will be borne by him or her of the joint Charge; and when One only of such Persons jointly rated shall attend, he or she shall be entitled to vote according to and in respect of the whole of the joint Charge: Provided nevertheless, that no Person who shall have refused or neglected to pay any Rate made in pursuance of this Act, which shall be due from and shall have been demanded of him or her, shall be entitled to vote or be present at any Meeting until he or she shall have paid the same. Scale of voting at such Meetings. No Person to attend Meetings whose Rate is in arrear.

VIII. Provided always, and be it further enacted, That at any Meeting or Meetings authorized to be held by virtue of this Act, it shall be lawful for any of the said Owners, and for any of the said Occupiers (such Occupiers being Females), to give his, her, or their Vote or Votes by his or her or their Proxy or Proxies duly authorized under his, her, or their Hand or Hands, or under the Seal or Seals of any Bodies Politic or Corporate, which Vote or Votes by Proxy shall be as good and sufficient to all Intents and Purposes as if such Principal or Females, Infants, and Lunatics, to vote by their Proxies, Guardians, and Committees.

or Principals had voted in Person; and in case any of the Owners or Occupiers by this Act authorized to vote as aforesaid shall be Infants or Lunatics, it shall be lawful for their, his, or her legal Guardians or Guardian, Committees or Committee, to vote for him, her, or them, either in Person or by Proxy, in like Manner as such Infants or Lunatics might or could have voted in case he, she, or they had been of full Age and of competent Understanding.

Owners, &c. to levy a Rate yearly, not exceeding 2*s.* in the Pound, for defraying Expences of the Act.

IX. And for raising Money for defraying the Expences of executing this Act, be it further enacted, That the said Owners and Occupiers shall and they are hereby authorized and required from Time to Time, at any Meeting or Meetings authorized to be held by this Act, to make, order, and direct one or more Rate or Rates, Assessment or Assessments, in every Year, upon the Tenants or Occupiers of all Lands or Grounds so as aforesaid divided and allotted by the said in part recited Award, and all Buildings and Erections thereon, (save and except the Parts of the said Common Meadows containing Sixty-seven Acres Two Roods and Twenty-four Perches, or thereabouts, thereby awarded and allotted to the said Sir *Robert Wilmot* Baronet, *Eleanor Frances Pochin*, and *George Ward*, as herein-before mentioned, and also save and except upon the Tenants or Occupiers of an Allotment of Sixteen Acres and Two Roods, made and set out to *William Soar* the younger, under an Award made upon the Inclosure of *Chellaston*, so far as such Rate or Rates, Assessment or Assessments, may relate to the future deepening or widening of the said Drains, called *Osmaston Drain*, and the *Main Drain*, exceeding the Dimensions prescribed by this Act,) each such Rate or Assessment not to exceed the Sum of Two Shillings in the Pound, according to the annual Value of such Lands and Grounds, in proportion to the Benefit and Advantage the same shall or may respectively receive; and such annual Rent or Value of the Hereditaments herein-before mentioned made rateable, shall be ascertained and fixed by the Assessor herein-after directed to be appointed, in such Manner as herein-after provided; and so often as any Rate or Assessment shall be made, the same shall be allowed and signed by any One or more Justice or Justices of the Peace acting for the said County of *Derby*; and when so made and signed, shall and may be had, raised, levied, and collected by the Surveyors herein-after directed to be appointed, to be applied in manner as herein-after directed: Provided always, that when and so often as the said Rate shall be made, and before the same shall be collected, the same shall be allowed and signed by any Justice or Justices of the Peace of the County of *Derby*, such Justice or Justices being first satisfied that such Rate so applied for was made by an Order or Resolution made at any Meeting of the said Owners and Occupiers authorized to be held as aforesaid: Provided also, that the Surveyors herein-after directed to be appointed for making or assessing any Rate or Rates, shall and they are hereby required to declare upon the Face of such Rate or Rates what Proportion thereof (if any) is intended to be applicable to the Discharge of the Costs, Charges, and Expences preparatory to and attending the passing of this Act, in manner herein-after mentioned; and all and every the Tenants of the several Lands, Hereditaments, and Premises made rateable by this Act, shall and may, and they are hereby empowered to

Rates to be allowed and signed by One Justice.

to deduct a like Proportion of their respective Share or Shares in such Rate or Assessment, from the first Rent which shall become due from them to such Owners respectively, next after Payment of such Rate or Assessment.

Meetings authorized to amend and apportion Valuations and Rates.

X. And be it further enacted, That if it shall appear to the said Owners and Occupiers assembled at any Meeting to be held as aforesaid, at any Time after a Valuation, Rate, or Assessment shall have been made by virtue of this Act, that the Name or Names of any Person or Persons who ought to be included therein hath or have been omitted, or have been inserted in such Valuation, Rate, or Assessment, instead of some other Person or Persons who ought to have been rated or assessed, or that the Person or Persons rated were overrated or underrated therein, or that any Alteration or Amendment of such Valuation, Rate, or Assessment may be necessary; in any and every such Case it shall be lawful, by an Order at such Meeting, to add or insert, or cause to be added or inserted, to or in such Valuation, Rate, or Assessment, the Name or Names of such Person so omitted, with the Sum or Sums for which he, she, or they ought to be so rated or assessed, and the Amount of such Assessment in respect thereof; and also to insert and substitute the Name or Names of such Person or Persons as may be the Tenants or Occupiers of any Hereditaments, instead of the Name or Names of the Person or Persons incorrectly inserted in such Valuation, Rate, or Assessment of such Hereditaments; and to lessen or raise the Valuation, Assessment, or Rate of the Person or Persons so overrated or underrated, and otherwise from Time to Time to alter and amend the said Valuation, Rate, or Assessment, as often as Occasion shall require; and the Monies charged to any Person or Persons in consequence thereof shall and may be demanded, received, and recovered in the same Manner as if the Name or Names of such Person or Persons, or other Alteration or Amendment, had been inserted and made in such Valuation, Rate, or Assessment at the Time of or previous to the original making or signing thereof; and all such Additions to and Alterations in the said Valuation, Rate, or Assessment shall be valid and effectual.

Appointment of Assessor.

XI. And be it further enacted, That it shall be lawful at any of the said Meetings hereby authorized to be held, for the Persons then and there assembled, by a Majority of Votes (to be ascertained in manner herein-before directed), by Warrant under the Hands and Seals of any Three or more of the Persons present and authorized to vote at such Meetings, to appoint from Time to Time, as and when a Valuation shall be necessary for the Purpose of a Rate or Assessment authorized to be made as aforesaid, One fit and proper Person (not interested in the said Lands and Grounds) to act as Assessor under this Act, and by a like Majority of Votes at any of the said Meetings to revoke such Appointment, and to appoint any other Person in the Room of any Person before appointed; and every Person so appointed before his acting shall take and subscribe the Oath or Affirmation following, before any Justice of the Peace acting for the County of *Derby*; and such Justice is hereby empowered to administer the same; and such Person so appointed, after taking and

subscribing such Oath or Affirmation, and until his Appointment be revoked at any Meeting as aforesaid, shall be and is hereby invested with all and every the Powers and Authorities by this Act imposed upon him, in like Manner as if he had been originally appointed by Name in this Act:

Oath.

'I *A.B.* do swear [*or* affirm, *as the Case may be*,] That I will truly, impartially, and honestly execute the Trust in me reposed as Assessor under and by virtue of an Act passed in the Seventh and Eighth Years of the Reign of His Majesty King *George* the Fourth, intituled [*here set forth the Title of this Act*].

'So help me GOD.'

Penalty on Assessor not being sworn.

And if any Person so to be appointed Assessor shall act as such Assessor before he shall have taken and subscribed such Oath or Affirmation, or shall otherwise misbehave himself or themselves in his or their respective Office or Offices, he or they shall for every such Offence forfeit and pay any Sum not exceeding Ten Pounds.

Assessor's Duty.

XII. And be it further enacted, That such Assessor, when so appointed as aforesaid, shall, as soon as conveniently may be, estimate the yearly Value of the several and respective Lands and Grounds by this Act made rateable as aforesaid, and all Buildings and Erections thereon, for the Purpose of enabling the Surveyors under this Act to make a Rate or Assessment in manner herein-after mentioned and required, in which Valuation the said Assessor shall and is hereby required to take into consideration the Benefit and Advantage which the said Lands and Grounds shall or may respectively receive in his Judgment, by the making, supporting, and maintaining the said several public Drains, Roads, Ways, Bridges, and Works by this Act authorized to be made, maintained, or supported; and the said Assessor shall deliver or cause to be delivered to the Surveyors for the Time being, or to some One of them, a fair Copy or Copies of such Valuation signed by the said Assessor; and when such Valuation shall have been so made, and subject to such Alterations and Variations as may be made therein by Order of any Meeting of Owners and Occupiers, as herein-after mentioned, and to the Relief hereby directed to be given by the Court of Quarter Sessions, as herein-after provided, to any Parties or Persons who may be over or wrongfully valued or charged, all Rates and Assessments which shall be thereafter made shall be rated and assessed according to such Valuation, until a new Valuation shall have been made by Order of any Meeting or Meetings authorized to be held as aforesaid, or by any Order of Sessions.

Nomination of Surveyors.

XIII. And be it further enacted, That at the First Meeting herein-before appointed, and from thenceforth at the General Annual Meetings herein-before directed to be held, it shall be lawful for the Persons then and there assembled, and they are hereby required, by a Majority of Votes, to be ascertained in manner herein-before directed, to make out a List of the Names of at least Six Persons, being Occupiers of the said Lands, Hereditaments, and Premises authorized to be rated by this Act, to serve the Office of Surveyor under this Act, as also under the several Acts of Parliament made or to be made concerning the

the Highways in that Part of *Great Britain* called *England*; and in case of the Death of a Surveyor during his Office, then it shall be lawful for the Persons assembled at any Special General Meeting to make out another List of Persons hereby made liable to serve the Office of Surveyor; and such Lists shall be returned, and Notice thereof given to the Persons nominated therein, by the Chairman of such First Meeting, and afterwards by the Surveyors for the Time being, or by the Chairman of such Special General Meeting, to the Justices of the Peace acting for the said County of *Derby*, in the like Manner as is required by the several Acts of Parliament made or to be made regulating Highways in that Part of *Great Britain* called *England*.

Appointment of Surveyors.

XIV. And be it further enacted, That it shall be lawful for the Justices of the Peace for the said County of *Derby* to whom the said Lists shall be returned, or in case no such Lists shall be returned, then for the said Justices assembled at any Petty Sessions, to appoint not fewer than Two Persons, being Occupiers as aforesaid, to be Surveyors under this Act; and such Surveyors, when so appointed, shall be subject to the several Rules, Orders, Regulations, and Penalties to which the Person or Persons nominated or acting as Surveyor or Surveyors of the Highways in that Part of *Great Britain* called *England*, is or are, or shall or may be hereafter subject or liable, according to the General Laws and Statutes of this Realm; and any such Justice or Justices is and are hereby authorized and directed to enforce the same, (excepting so far as the same Rules, Orders, and Regulations are altered or varied by this Act.)

Surveyors Duty.

XV. And be it further enacted, That the Surveyors to be appointed by this Act, shall and they are hereby authorized and required, from Time to Time and at all Times hereafter, but subject to any Orders, Directions, and Regulations that shall at any Time be made at any Meeting or Meetings of the said Owners and Occupiers, to support, repair, open, scour, cleanse, widen, deepen, straighten, and effectually maintain and support, with proper and sufficient Slopes or Batters, all and every the said several Drains by this Act declared to be public Drains, and also the Drain or Drains for conveying the Water from the said Lands through the said Parishes of *Chellaston* and *Swarkeston*, or one of them, to the said River *Trent*, for the Purpose of draining and carrying off the Flood Waters from the said Lands in the most effectual Manner, according to his or their Skill and Judgment; and also to alter, remove, rebuild, and repair any Bridges, Banks, Sluices, Culverts, Floodgates, Dams, Locks, and all other Works connected with the said public Drains or any of them, and to take all such other lawful Ways and Means, as to the best of their Skill and Judgment shall seem meet, the more effectually to carry the Waters from and to drain the said Lands; and the said Surveyors shall also and are hereby authorized and required well and effectually to repair such of the several public Roads and Ways, in, over, and across the said Lands, as have been heretofore repaired by the Public, and to require and enforce the Repairs of all such Highways as shall be liable to be repaired by any other Person or Persons; and to remove all Nuisances, Incroachments, Obstructions, and Annoyances, to be made, committed, or permitted, in, upon, or to the Prejudice

dice of the said public Roads, Ways, Drains and Bridges, and any Works appertaining thereto; and to search for, dig, and get any Gravel, Sand, Stone, or other Materials for any of the several Purposes aforesaid, in like Manner as Surveyors of Highways are or shall for the Time being be authorized or empowered under or by virtue of the General Laws and Statutes of this Realm; and for any of the Purposes aforesaid, it shall be lawful for the said Surveyors, or any of them, and all other Persons by them or any of them employed, and they are hereby authorized, at all Times hereafter, to enter into and upon any Lands or Grounds whatsoever of or belonging to any Person or Persons, Bodies Politic, Corporate, or Collegiate, which shall be leading or adjoining to any of the said Drains, and to deposit thereon (for such Time as shall be necessary, and doing no wilful or unnecessary Damage,) any Soil, Stone, or other Materials whatsoever, and to lead, take, and carry away the same, as shall be requisite for or arise from the carrying into Effect any of the Duties hereby imposed upon the said Surveyors; and do and shall observe, fulfil, and execute all and every the Orders, Directions, and Regulations which from Time to Time shall be made upon them, at any Meeting or Meetings of the said Owners and Occupiers authorized to be held as aforesaid; and also they the said Surveyors, when so appointed as aforesaid, shall and they are hereby empowered and directed, at such Time or Times after the passing of this Act as they shall be required so to do, by the Order or Resolution of any Meeting of the said Owners and Occupiers to be held by virtue of this Act, make and assess on all and every the Lands and Grounds, and the Buildings and Erections thereon, which are by this Act made liable to the Maintenance and Support of the said public Drains, Roads, Bridges, Banks, Sluices, Culverts, Floodgates, Dams, Locks and Works, all such Rates and Assessments as shall be ordered and directed at such Meetings as aforesaid, according to the Valuation which shall have been last made by the Assessor appointed for that Purpose, and shall get the same allowed in manner required by this Act, and after the Allowance thereof shall be and they are hereby appointed Collectors of the several Rates authorized to be raised by this Act, and shall forthwith proceed to collect the same from all and every the Persons and Person charged in such Rate or Assessment; and shall and do keep all Accounts of Receipts and Payments, and pass and get the same allowed, and generally execute all such other Regulations and Directions as Surveyors of Highways are or shall from Time to Time be liable to by the Laws and Statutes of this Realm (except as the same are altered or varied by this Act, and subject thereto): Provided always, that the said several public Drains shall not be made to exceed at the Bottom thereof respectively the several Widths following; (that is to say,) the said *Main Drain* and *Osmaston Drain*, each of the Width of Nine Feet; the said *Meadow Drain* and *Moor Boundary Drain*, each of the Width of Seven Feet; and all the said other Drains by this Act declared to be public Drains, each of the Width of Four Feet: Provided always, that nothing herein contained shall extend or be construed to extend to authorize or empower the cutting from, or taking any Part of the said Allotment of Sixteen Acres and Two Roods, allotted to the said *William Soar* the younger, as herein-before mentioned, for the Purpose of widening the said

Dimensions of Drains.

Main

Main Drain and *Osmaston Drain*: Provided also, that no Bridges, Culverts, Floodgates, Dams or Locks, nor any additional Buildings whatever, shall be erected without an Order for that Purpose being first made at some General Meeting of the said Owners and Occupiers.

For Recovery of Rates.

XVI. And be it further enacted, That in case any Person who shall be rated or liable to pay any Rate by virtue of this Act, shall refuse or neglect to pay such Rate, and all Arrears thereof, for the Space of Twenty-one Days next after personal Demand thereof made in Writing left at the usual or last Place of Abode of such Person, by any Surveyor or Collector, it shall be lawful for any Justice of the Peace acting for the said County of *Derby*, upon Proof made upon Oath of such Demand and Nonpayment (which Oath such Justice is hereby empowered and required to administer *gratis*), by Warrant under his Hand and Seal, to authorize and direct such Surveyor or Collector to levy such Rate or Money so in arrear, together with the Costs and Charges attending the same, by Distress and Sale of the Goods and Chattels of the Person so refusing or neglecting to pay as aforesaid, rendering the Overplus, if any, to the Owner of such Goods and Chattels, on Demand; and in case the same or any Part thereof cannot be levied by Distress and Sale as aforesaid, by any Want of a Tenant or Insufficiency of Stock, or otherwise, then the said Surveyors or Collectors shall and may, and they are hereby authorized and empowered, by Warrant under their Hands and Seals, to authorize any Person or Persons whom they shall think proper for that Purpose to appoint, to enter into and upon and take Possession of the Lands on which the said Tax and Assessment shall be so laid, and which the Occupier or Occupiers thereof hath or have so neglected or refused to pay as aforesaid, and to let the same, and to receive the Rents and Profits thereof respectively, until thereby or therewith such Rate so neglected or refused to be paid as aforesaid, and all Costs, Charges, and Expences occasioned by such Entry, and the Receipts of the Rents and Profits of the said Premises, shall be respectively fully paid and satisfied.

Method of recovering the Assessments for Lands untenanted.

XVII. Provided always, and be it further enacted, That in case any of the said Lands and Grounds so to be rated and assessed as aforesaid, shall at any Time be untenanted or unoccupied, so that sufficient Distress cannot be found whereon to lay the said Taxes or Assessments, and the said Surveyors or Collectors shall not think proper to enter upon and let the same as aforesaid, then the Lands and Grounds to be charged with such Taxes and Assessments shall remain a Security for Payment thereof; and all Corn, Hay, and other Goods and Chattels and Stock, which shall at any Time thereafter be found thereon, shall and may be distrained, appraised, and sold in manner aforesaid, until all Arrears of such Taxes and Assessments, and the Charges of such Distress, and detaining, keeping, and settling the same, shall be fully paid and satisfied.

Application of the Rates.

XVIII. And be it further enacted, That all Monies which shall at any Time or Times be raised by virtue of this Act, shall be applied in manner following; that is to say, in the first Place in the Payment of

of all Costs, Charges, and Expences preparatory to and attending the obtaining and passing of this Act; then in the Payment of such Costs, Charges, and Expences, as shall have been incurred for the necessary Maintenance and Repair of the several public Drains and Roads, and rebuilding of Bridges, Banks, Sluices, Culverts, Floodgates, Dams, and Locks by the last appointed Surveyors, and who have not been reimbursed the same, the Amount thereof being first ascertained and approved by any Two Justices of the Peace acting for the said County of *Derby;* and after a Certificate of such Approval, signed by such Two Justices, shall have been obtained, then in the Payment of the reasonable Costs and Charges of the said Assessor; then in carrying into Execution the several Works by this Act authorized to be made and done; then in the Discharge of any Costs incurred by the Surveyors in defending any Appeal against any Assessment or Rate, and (provided the same shall be authorized and directed by a Meeting of the said Owners and Occupiers, but not otherwise,) in defraying any Charges and Expences which shall be incurred in carrying on and defending any Suit or Suits at Law or in Equity, or any Prosecution which shall or may be incurred by or against any Person or Persons, for any thing done in pursuance of this Act, or for any Act relating to Highways in that Part of *Great Britain* called *England*, or for any thing which shall at any such Meeting be considered to have been done in pursuance of or contrary to the same.

Surveyors to lay Accounts before Meetings.

XIX. And be it further enacted, That at the Expiration of the Term for which Surveyors shall be appointed under and by virtue of this Act, such Surveyors shall and they are hereby required to make a just and true Statement or Account of all Sums of Money by them or any of them received and expended in the Execution of this Act; and such Statement or Account, when so made, together with the Vouchers relating thereto, shall be by such Surveyors laid before the next General Annual Meeting which shall be held for the Nomination of the next succeeding Surveyors, to be then and there examined and balanced, and the Balance shall be stated in the Books of Surveyors Accounts, and signed by the Chairman of such Meeting; and such Balance, when so ascertained and allowed, such Surveyors shall forthwith pay over or account for to the succeeding Surveyors when they shall have been duly appointed, or to any Person or Persons who shall at any Meeting as aforesaid be appointed to receive the same.

Officers to account.

XX. And be it further enacted, That if such Surveyors, or any Person or Persons acting for them, shall refuse or wilfully neglect to make and render any such Accounts, or to produce or deliver up the Vouchers relating to the same, or to make Payment to the succeeding Serveyors, or other Person or Persons as aforesaid, or shall refuse or neglect to deliver to such succeeding Surveyors, or to such other Person or Persons as the said Meeting shall appoint, within Ten Days after being thereunto required by such succeeding Surveyors or other Person or Persons as aforesaid (by Notice in Writing to be given to or left at the last or usual Place of Abode of such Officer or Person so refusing or neglecting), all Books, Papers, and Writings

in his Custody or Power relating to the said Accounts, and to the Execution of this Act, and to give Information and Satisfaction respecting the same, then and in every such Case, upon Complaint made by the Surveyors for the Time being, or by the Chairman of any Meeting of the Owners and Occupiers authorized to be held by this Act, to any Justice of the Peace for the County, District, or Place where such Officer or Person shall have last resided, or shall then reside, such Justice may and he is hereby authorized and required to summon the Officer or Person so refusing or neglecting before him, and upon his appearing, or having been summoned and not appearing, or not being to be found, to hear and determine the Matter in a summary Way; and if upon Confession of the Party, or by the Testimony of any credible Witness or Witnesses upon Oath or Affirmation (which Oath or Affirmation such Justice is empowered to administer), it shall appear to such Justice that any of the Money which shall have been collected or raised by virtue of this Act shall be in the Hands of such Officer or Person, such Justice may and he is hereby authorized and required, upon Nonpayment thereof, by Warrant under his Hand and Seal to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer and Person; and if no Goods or Chattels of such Officer or Person can be found, sufficient to answer and satisfy the said Money, and the Charges of distraining and selling the same, or if it shall appear to such Justice that such Person or Officer shall have refused or wilfully neglected to render or give such Account, or to produce the Vouchers relating thereto, or that any Books, Papers, or Writings relative to the Execution of this Act shall be in the Custody or Power of such Officer or Person, and he shall have refused or wilfully neglected to deliver up or give Satisfaction respecting the same as aforesaid, then and in any of the Cases aforesaid such Justice shall commit such Offender to the Common Gaol or House of Correction for the County, City, or Town Corporate wherein such Person shall be or reside, there to remain, without Bail or Mainprize, until he shall have made and given a true and perfect Account and Payment as aforesaid, or until he shall compound with the Surveyors for the Time being, or with the Chairman of the Meeting at which the Accounts of such Officer or other Person ought to have been passed, for such Money, and shall have paid such Composition in such Manner as they shall appoint, which Composition they and he are and is hereby authorized to make and receive, and until he shall have delivered up such Books, Papers, and Writings as aforesaid, or have given Satisfaction in respect thereof to the said Surveyors, or to the Chairman of the said Meeting: Provided always, that no Person who shall be committed by virtue of this Act, on account of his not having sufficient Goods or Chattels, shall be detained in Prison for any longer Term than Six Calendar Months: Provided also, that if any Money shall remain due from such Officer or Person, or Officers or Persons, the Commitment of him or them to Prison shall not be deemed a Discharge for the same, nor exonerate his or their Surety or Sureties, but such Officer or Person, Officers or Persons, and his and their Surety and Sureties, shall remain liable to the Payment thereof in the same Manner as if such Officer or Person had not been committed to Prison.

XXI. And

Accounts to be kept open for Inspection.

XXI. And be it further enacted, That the said Surveyors shall and they are hereby required, from Time to Time and at all Times, to cause to be entered in a Book true and regular Accounts of all Sums of Money received, paid, and expended for or on account of this Act, and of the several Articles, Matters, and Things for which such Sums of Money shall have been disbursed, laid out, and paid; and such Book or Books, and all existing Valuations and Rates in the Care of the said Surveyors, shall at all seasonable Times be open to the Inspection of any Person assessed by this Act, without Fee or Reward, who shall or may take Copies of or Extracts from the said Book or Books, Valuation or Rate, or any Part or Parts thereof, without paying any thing for the same; and in case he shall refuse to permit, or shall not permit Inspection of the same, or take such Copies or Extracts as aforesaid, the Person so refusing shall forfeit and pay any Sum not exceeding Five Pounds, to be levied and recovered in manner herein-after described.

Penalty on damaging Works, &c.

XXII. And, for preventing the breaking down or damaging any of the Works which shall be made or altered in pursuance of this Act, or otherwise obstructing the Execution of the same, be it further enacted, That if any Person or Persons shall at any Time or Times hereafter wilfully or designedly damage, injure, or destroy any Cut, Drain, or Watercourse, Floodgate, Outlet, Sluice, Bridge, or other Work or Works already made or erected, or which shall at any Time or Times hereafter be made or erected, for answering any of the Purposes of this Act, all and every Person or Persons so offending, and being thereof lawfully convicted, shall be subject and liable to the like Pains and Penalties as in Cases of Felony, and the Court by and before whom such Person shall be tried and convicted shall have Power and Authority to cause such Person to be punished in such Manner as Felons are directed to be punished by the Laws and Statutes of this Realm; or the Court may, if they should think fit, in mitigation of such Punishment, award such Sentence as the Law directs in Cases of Petit Larceny; and if any Person shall obstruct, hinder, or molest the said Surveyors appointed under or by virtue of this Act, or any of them, or any Surveyor, Workman, or other Person who shall be employed by or under them or any of them respectively, in the Execution of this Act, or do any wilful Hurt or Mischief to prevent the carrying on, completing, and finishing the several Works intended to be done, performed, and executed by virtue of this Act, every such Person so offending, and being thereof convicted, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Persons aggrieved by Irregularity of Distress to recover special Damages only.

XXIII. And be it further enacted, That where any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto; nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio*, on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining; but the Person or Persons aggrieved

aggrieved by such Irregularity, shall and may recover full Satisfaction for the special Damages in an Action upon the Case.

Form of Conviction.

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

'
' to wit. } BE it remembered, That on the Day of in the Year of our Lord
' *A. B.* is convicted before me *C. D.* [*or C. D.* and *E. F.*] His Majesty's
' Justices of the Peace for the *as the Case may be*,
' of [*specifying the Offence, and the Time and Place when*
' *and where the same was committed, as the Case shall be*]. Given under
' my Hand and Seal [*or* our Hands and Seals], the Day and Year
' first above written.'

Justices may administer Oaths.

XXV. And be it further enacted, That in all Cases wherein Cognizance is given to any Justice or Justices of the Peace by this Act, it shall be lawful for such Justice or Justices to administer an Oath to any Person or Persons, for his or their certain Information in the Matters then depending.

Persons giving false Evidence guilty of Perjury.

XXVI. And be it further enacted, That all and every Persons and Person who in any Examination to be taken by virtue of this Act before any Justice or Justices of the Peace shall wilfully and corruptly give false Evidence before any Justice or Justices of the Peace, shall and may be prosecuted for the same, and upon Conviction thereof shall be subject to such Punishment and Disqualifications as any Person or Persons is or are or may be subject to for wilful and corrupt Perjury by any of the Laws and Statutes of this Realm.

Penalty on Persons not appearing or refusing to be examined as Witnesses.

XXVII. And be it further enacted, That if any Person shall be summoned as a Witness to give Evidence before any Justice or Justices of the Peace, touching any Matter contained in any Information or Complaint for any Offence against this Act, either on behalf of the Prosecution, or on behalf of the Person or Persons accused, and shall refuse or neglect to appear at the Time and Place to be for that Purpose appointed, after having been paid or had tendered a reasonable Sum of Money for his or her Costs and Expences, without a satisfactory Excuse being given for such Nonperformance, or when appearing shall refuse to be examined upon Oath or Affirmation, or to give Evidence touching the Matter in question, before such Justice or Justices, then and in every such Case every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Ten Pounds.

Justices may proceed by Summons in the Conviction of Offenders.

XXVIII. And be it further enacted, That in all Cases in which by this Act any Penalty or Forfeiture is made recoverable by Information before a Justice of the Peace, it shall be lawful for any Justice of the Peace to whom Complaint shall be made of any Offence against this Act to summon the Party complained against before him, and on such

such Summons to hear and determine the Matter of such Complaint, and on Proof of the Offence to convict the Offender, and to adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information in Writing shall have been exhibited or taken by or before such Justice; and all such Proceedings by Summons, without Information, shall be as good, valid, and effectual, to all Intents and Purposes, as if Information in Writing was exhibited.

Recovery and Application of Penalties.

XXIX. And be it further enacted, That all Penalties or Forfeitures for Offences against this Act shall, upon Conviction of the Offences respectively, by any Justice or Justices of the Peace, either by the Confession of the Party or Parties offending, or by the Oath of any credible Witness or Witnesses, be levied and recovered 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 or Justices (which Warrant such Justice or Justices is and are hereby empowered and required to grant), and the Overplus, after any such Penalties or Forfeitures, and the Charges of such Distress and Sale, are recovered and deducted, shall be returned, upon Demand, to the Owner or Owners of such Goods and Chattels; and in case sufficient Distress cannot be found, or such Penalties or Forfeitures shall not be forthwith paid, it shall be lawful for such Justice or Justices 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 or Justices, for his, her, or their Appearance before them 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 Ten Days from the Time of taking any such Security,) and which Security the said Justice or Justices is and are 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 such sufficient Distress can be had thereupon, or in case it shall appear to the Satisfaction of such Justice or Justices, either by the Confession of the Offender or Offenders, or otherwise, that he, she, or they hath or have not sufficient Goods and Chattels whereon such Penalties, Forfeitures, Fines, and Charges can be levied if a Warrant of Distress were issued, such Justice shall not be required to issue such Warrant of Distress, and thereupon it shall be lawful for such Justice or Justices, by Warrant under his or their Hand and Seal or Hands and Seals, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction for the County or Place wherein the Offence shall be committed, there to remain, without Bail or Mainprize, for such Time as the said Justice or Justices shall direct, not exceeding Two Calendar Months, unless such Penalties or Forfeitures, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied; and such Penalties and Forfeitures shall be paid to the said Surveyors, and be applied for the Purposes of this Act.

Appeal.

XXX. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Valuation,

Rate, or Assessment made by virtue of this Act, or by any Order or Determination of any Justice or Justices of the Peace for any thing done in pursuance of this Act, he, she, or they (having first paid such Rate or Assessment) may appeal to any General or Quarter Sessions of the Peace which shall be holden for the County of *Derby* within Four Calendar Months next after the Cause of Complaint shall have arisen, first giving Ten Days Notice in Writing of such Intention to appeal to the Party or Parties against whom, or whose Valuation, Rate, Assessment, Order, or Determination, such Appeal shall be made, or whose Interest may be affected thereby, and also to the Surveyors for the Time being, some or one of them, specifying the Matter of such Appeal; and the Justices in the said General or Quarter Sessions respectively are hereby required to hear and determine the Matter of such Appeal, and to give such Relief, and make such Order, and award such Costs therein, as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy the Costs which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, wherever they shall be found, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster*.

Rates appealed against may be amended.

XXXI. Provided always, and be it further enacted, That on any Appeal from or against any Valuation, Rate, or Assessment to be made for the Purposes of this Act, the said Court of General or Quarter Sessions of the Peace shall, and such Court is hereby authorized and required (in all Cases when they shall see just Cause to give Relief) to amend such Valuation, Rate, or Assessment, either by inserting therein or striking out the Name or Names of any Person or Persons, or by altering the Sum or Sums therein charged on any Person or Persons, or in any other Manner which the said Court shall think necessary for giving such Relief, and without quashing or wholly setting aside such Valuation, Rate, or Assessment: Provided always, that if the said Court shall be of Opinion that it is necessary for the Purpose of giving Relief to the Person or Persons appealing, that the Valuation, Rate, or Assessment should be wholly quashed, then the said Court may quash the same, and order a new one to be made.

Limitation of Actions.

XXXII. And be it further enacted, That no Action, Suit, or Information shall be brought, commenced, or prosecuted against any Person or Persons, for any thing done in pursuance of this Act, unless Twenty-one Days Notice in Writing, signed by the intended Plaintiff or Plaintiffs, shall have been first given to the Defendant or Defendants, Avowant or Avowants, of the Cause and Intention of commencing such Action or Suit; nor shall the Plaintiff or Plaintiffs recover in such Action, if Tender of sufficient Amends shall have been made to him, her, or them, or his, her, or their Attorney, by or on behalf of the Defendant or Defendants, before such Action brought, nor unless such Action or Suit shall be brought or commenced within Four Calendar Months next after the Fact committed for which such

Action

Action shall be brought; and all such Actions and Suits shall be laid or brought in the County where the Cause of Action shall have arisen, and not elsewhere; and the Defendant or Defendants in such Action or Suit shall and may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and in case no Tender of Amends shall have been made, it shall be lawful to and for the Defendant or Defendants in any such Action, by Leave of the Court where such Action shall be brought, at any Time before Issue joined to pay into Court such Sum of Money as such Defendant may be advised; and if it shall appear that the special Matter in Evidence was done in pursuance and by Authority of this Act, or if it shall appear that such Action, Suit, or Information was brought or commenced before or after the respective Times so limited for bringing or commencing the same, or that sufficient Satisfaction was made or tendered as aforesaid, or that such Action or Suit was brought in any other County or Place than as aforesaid, then and in every such Case the Jury shall find for the Defendant or Defendants; and upon such Verdict, or if the Plaintiff or Plaintiffs shall become nonsuited, or suffer a Discontinuance of his, her, or their Action, Suit, or Information, after the Defendant or Defendants shall have appeared, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if, on Demurrer or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs, then and in any of the Cases aforesaid the Defendant or Defendants shall have Treble Costs, and shall have such Remedy for the same as any Defendant hath for Costs of Suit in any other Case by Law.

Provisions of Highway Acts to remain in force, except varied by this Act.

XXXIII. And be it further enacted, That all the Regulations and Provisions mentioned and contained in the said Act passed in the Thirteenth Year of His late Majesty's Reign, or in any other Act or Acts touching or relating to the Repair and Amendment of the Highways (not being Turnpike) within that Part of *Great Britain* called *England*, shall be or continue to be in full force and virtue with respect to all Highways comprised in the Provisions of this Act, and shall be applied and executed accordingly, except so far as the same are varied and altered by the Regulations and Provisions herein mentioned and contained.

Public Act.

XXXIV. 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.

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