

CAP. XXXII.

An Act to enable the Justices of the Peace for the County of Kent to raise Money by Assessment on the Inhabitants of the said County, to discharge the Debt due for erecting the Court House and Gaol.

Passed 31st March 1831.

Preamble.

‘ **W**HEREAS the Justices of the General Sessions of the Peace for the County of Kent have levied the whole Sum they were empowered to raise by Assessment for the Purpose of erecting and finishing a Court House and Gaol : And Whereas the same has been found insufficient to discharge the Amount of the Contract for completing the same :’

Justices in General Session may make a further Assessment, not exceeding Three hundred and fifty Pounds.

Be it therefore enacted by the President, Council, and Assembly, That the Justices of the Peace for the said County, at any General Sessions of the Peace hereafter to be holden, be and they are hereby authorized and empowered to make such further Rate and Assessment, not exceeding Three hundred and fifty Pounds, as they in their Discretion may think necessary, for the Purpose of paying off the Debt due for the erecting and completing of the said Court House and Gaol; the said Sum or Sums to be assessed, levied, collected and paid under and by virtue of any Act or Acts which are now or hereafter may be in Force in this Province for assessing, levying and collecting of Rates for public Charges.

CAP. XXXIII.

An Act to repeal all the Acts now in Force for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways in the several Towns and Parishes in this Province; and to make more effectual Provision for the same.

Passed 31st March 1831.

I. BE it enacted by the President, Council, and Assembly, That an Act made and passed in the
Twenty

Twenty sixth Year of the Reign of His Majesty King George the Third, intituled *An Act for laying out, repairing and amending Highways, Roads and Streets, and for appointing Commissioners and Surveyors of Highways within the several Towns and Parishes in this Province*; also so much of an Act made and passed in the same Year of His said Majesty's Reign, intituled *An Act to oblige absent Proprietors to pay a Proportion of any public Charge, and to repair Highways*, as relates to the Reparation of Highways; also an Act made and passed in the Thirty first Year of the Reign of His said Majesty, intituled *An Act in Addition to and Amendment of an Act, intituled An Act for laying out, repairing and amending Highways, Roads and Streets, and for appointing Commissioners and Surveyors of Highways within the several Towns and Parishes in this Province*; also an Act made and passed in the Fiftieth Year of the Reign of His said Majesty, intituled *An Act for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways within the several Towns and Parishes in this Province*; and also a certain other Act made and passed in the Fifty eighth Year of the Reign of His said Majesty, intituled *An Act further to continue and amend an Act, intituled An Act for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways within the several Towns and Parishes in this Province*; and also a certain other Act made and passed in the Seventh Year of the Reign of His late Majesty King George the Fourth, intituled *An Act in Amendment of an Act for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways within the several Towns and Parishes within this Province*; and also a certain

26 Geo. 3. c. 33.

26 Geo. 3. c. 40.
in part.

31 Geo. 3. c. 3.

50 Geo. 3. c. 6.

58 Geo. 3. c. 3.

7 Geo. 4. c. 23.

9 Geo. 4. c. 13. certain other Act made and passed in the Ninth Year of the Reign of His said Majesty King George the Fourth, intituled *An Act to continue and render more effectual certain Acts relative to Highways and Roads within this Province;* and also a certain other Act made and passed in the Tenth and Eleventh Years of the Reign of His said Majesty King George the Fourth, intituled *An Act to continue the several Acts now in Force, relating to Roads and Highways,* so far as the said several Acts are now in Force, be and the same are hereby repealed.

10 and 11 Geo.
4. c. 31.

repealed.

Appointment of
Commissioners
and Surveyors.

II. And be it further enacted, That the Commissioners and Surveyors already appointed by virtue of any Act now in Force for laying out Highways, Roads and Streets, shall continue in their respective Offices until others shall be appointed and sworn as is herein after directed; and that the Justices at their General Sessions to be held for the several Counties shall appoint Three fit Persons to be Commissioners to lay out and regulate Highways, Roads and Streets in the Town or Parish for which they shall be so appointed, and the said Justices at the same time shall appoint a competent Number of fit Persons to be Surveyors of the said Highways, Roads, Streets and Bridges in each Town or Parish, who are to oversee and repair, in the Manner herein after directed, the several Highways, public Roads, Streets and Bridges within the respective Towns or Parishes for which they shall be so appointed; which said Commissioners and Surveyors shall be sworn to the faithful Discharge of their respective Offices for the Year ensuing, before the said Sessions, or before any One of the Justices of the Peace for said County; and any Person being so nominated and appointed who shall refuse to accept of such Office to which he shall be so nominated and appointed, or shall neglect to be sworn as aforesaid within Fourteen Days

Penalty for Refusal to act or Neglect of Duty.

Days next after being duly notified of such Nomination, or, having accepted, shall neglect his duty, shall forfeit for every Refusal or Neglect Five Pounds, to be recovered, with Costs of Suit, before any One of His Majesty's Justices of the Peace, and the Forfeiture shall be applied to the repairing of the Highways: Provided always, that in case of the Death, or Removal, or other Incapacity of any Person so appointed and sworn, or of the Neglect or Refusal of any Person so appointed to accept of the said Office, it shall be lawful for any Three Justices of the said County, or for the Justices at the General or any Special Sessions of the Peace, to appoint another in his Stead, and that such Person so appointed shall be liable to the same Penalty for refusing to qualify himself within Fourteen Days after being notified of such Appointment, or for Neglect or Refusal to do the duty after being qualified, as is herein before provided for the Persons to be first appointed, and so *toties quoties*.

III. And be it further enacted, That the Commissioners, or the Major Part of them, in the respective Towns or Parishes for which they shall be appointed, are hereby empowered and authorized to lay out such public Highways and Roads as they, or the Major Part of them, shall think most convenient as well for Travellers as for the Inhabitants of each Town or Parish, and the next adjacent Towns, Villages and Neighbourhoods; and also to regulate the Highways, Roads and Streets already laid out, and if any of them shall appear inconvenient, and an alteration absolutely necessary, and the same be found, laid out and certified, upon Oath, by Twelve disinterested Freeholders of the County in which such Highways, Roads and Streets lie, to be summoned by the High Sheriff, his Deputy or any Constable in the County, by virtue of a Warrant, to be issued by Two Justices of the Peace,

Recovery and Application.

Appointments in Cases of Vacancy.

Commissioners to lay out Highways, and to regulate those already laid out.

Roads may be altered if upon Oath of Twelve Freeholders it shall appear necessary.

for

for that Purpose, on the Application of Five or more Freeholders residing within the Parish where the said Highways, Roads and Streets lie, then the said Commissioners shall alter the same in the Manner found, laid out and certified by the said Jury ; which Highways and Roads so laid out shall be common Highways ; and the Charges arising from summoning and the Attendance of such Jury, shall be paid by the Person or Persons applying to said Justices ; and in case the said Road so altered shall pass through any improved Lands, or shall occasion the Removal of any Buildings, then and in such Cases the Damage to the Owner or Owners of such Land shall be ascertained and assessed by such Jury, at the Time of laying out the same as aforesaid : Provided always, that nothing in this Clause shall extend to prevent the Commissioners from altering any Highways or Roads with the Consent of the Majority of the Inhabitants of such Parish (being Freeholders), and the Owners of the Land over which the Road may pass, without the Necessity of summoning such Jury : the said Inhabitants to be notified in Writing by the Commissioners One Month previous to any Alteration whatever, in Three of the most public Places of such Parish aforesaid.

Jury to assess Damages where Alterations affect improved Land, &c.

Alterations may be made by Consent.

Stopping up or encroaching on any Street or Highway.

Penalty.
Recovery.

IV. And be it further enacted, That if any Person or Persons do or shall hereafter alter, stop up or encroach on any Street, Highway or Public Road, by laying Timber, Wood, Rubbish, Stones, Carts, Trucks, or any Thing thereon, or by having Gates or Doors opening towards and hanging over the said Streets, Highways or public Roads, such Person so offending contrary to the true Intent and Meaning of this Act, shall for every such Offence forfeit the Sum of Forty Shillings, to be recovered with Costs of Suit before any One Justice of the Peace, upon the Oath of One or more credible Witness or Witnesses,

nesses, and levied by Warrant directed to the Constable of the Town or Parish where such Offence shall be committed, by distraining the Goods and Chattels of the Offenders ; and where no such Effects are to be found, the Offender or Offenders to be imprisoned for Six Days ; or in case such Offender shall not be known or found, the said Articles (if saleable) shall be forfeited and sold by the Order of the said Commissioner or the Surveyor after Three Days' public Notice, unless sooner claimed, and the Proceeds arising from such Sale shall be applied to the repairing of such Streets or Highways ; and in case such Encumbrances be of a nature not to produce any Thing by the Sale thereof, then the said Commissioners or Surveyors shall be empowered to employ any Person liable to labour on the Highways to remove such Encumbrances ; which Person shall be allowed therefor according to the Time he may be employed, to be deducted from the Time he shall be by Law liable to work on the Roads, Streets or Highways.

V. And be it further enacted, That the Width of all Highways or Roads hereafter to be laid out, shall be left to the Discretion of the Commissioners for the Time being of the Town or Parish where such Highways or Roads may be laid out, so that they do not exceed Six Rods, and are not less than Two Rods.

Width of Roads.

VI. And be it further enacted, That the Highways, Roads, Streets and Bridges within each County shall be cleared, maintained and repaired by the Inhabitants thereof ; and that all male Inhabitants of the age of Sixteen Years and upwards, shall work either in Person or by able and sufficient Men in their Stead, in each and every Year, provided with such necessary Implements as shall be directed by the respective Surveyors, the Number of Days (allowing Eight Hours to each Day) hereafter provided : that is

All male Persons of the Age of Sixteen Years and upwards to work in Person or by Substitute.

to

Scale of Labour.

to say, Licenced Schoolmasters; and all Apprentices and Persons under the Age of Twenty one Years, Two Days; Journeymen Mechanics, Hired Servants, and Common Labourers, Three Days; all Persons whose real and personal Estate may be estimated to be worth the Sum of One hundred Pounds, and not exceeding Two hundred Pounds, Four Days; exceeding Two hundred Pounds, and not exceeding Four hundred Pounds, Five Days; exceeding Four hundred Pounds, and not exceeding Seven hundred Pounds, Six Days; exceeding Seven hundred Pounds, and not exceeding One thousand Pounds, Eight Days; exceeding One thousand Pounds, and not exceeding Two thousand Pounds, Ten Days; exceeding Two thousand Pounds, and also all Persons whose yearly Income may exceed Three hundred Pounds, Twelve Days; and all other male Inhabitants who do not come within any of the foregoing Description of Persons shall work Four Days: Provided always, that upon Application to Two of His Majesty's Justices of the Peace for said County, they shall and may, at their Discretion, lessen the Number of Days to be performed by any poor and indigent Person.

Justices may lessen the Labour of indigent Persons.

Lists of Inhabitants with the Number of Days' Labour to be made out and published.

VII. And be it further enacted, That the Commissioners in each Town or Parish for the Time being, shall, by the First Day of May in each and every Year, make out a List of the Number of Days' Work to be performed by the Inhabitants in their respective Parishes, agreeably to the Provisions of this Act, according to the best of their Judgment; and shall make out a List of the Inhabitants in such Town or Parish, with the Number of Days' Work assessed upon and to be performed by each Person, and shall advertise the same in the most public Place in such Town or Parish; and shall also furnish the Surveyors in their respective Districts with a List of such Inhabitants, and the Number of Days' Work so

to be done by each, and shall within Fifteen Days direct the said Surveyors at what Places the Work shall be done ; which Work shall be done by such Inhabitants under the Direction of such Surveyors; and it shall further be the Duty of the said Commissioners to add to their List the Names of such Persons as may come into their respective Parishes to reside after the said First Day of May, and to fix and assess the Number of Days' Work to be performed by such Persons, unless they produce a certificate of their having performed their respective Proportions of Labour in some other Town or Parish.

Work to be done under the Surveyors.
Persons may be added to the List.

VIII. And be it further enacted, That if any Person in such List named prefer paying Money to doing such Labour, it shall and may be lawful for such Commissioners to take and receive from such Person the sum of Two Shillings and Sixpence for each Day's Labour required to be done by them ; and the Monies which may be paid in lieu of such Labour, as well as Forfeitures which may be received by virtue of this Act, shall be laid out, under the Direction of such Commissioners, on such Highways, Roads, Streets and Bridges, between the First Day of May and the First Day of October in every Year, and accounted for by them to the Justices at their First General Sessions in each and every Year.

Commissioners may receive Money in lieu of Labour.

Application.

IX. And be it further enacted, That it shall be the Duty of the Surveyors of Highways in the several Parishes in this Province, when so directed by the Commissioners, at the most fit and suitable Time between the First Day of May and the First Day of September in each and every Year, to summon the Inhabitants of their respective districts, either personally or by leaving Notice at their usual Place of Abode, giving them at least Six Days' Notice of the Time and Place where they are to be employed ; and the said Surveyors shall then proceed to expend the Labour

Surveyors to summon Inhabitants to work on the Roads between the First of May and First of September.

Labour of the Persons so summoned, in making, mending or repairing the Highways, Roads, Streets and Bridges in the most useful Manner, during the Number of Days appointed for each Person to labour; subject nevertheless to such Orders and Directions, as the said Surveyors may from Time to Time receive from the Commissioners: and when any Surveyor of Highways shall judge the Use of Waggons, Carts, Trucks, Ploughs or Harrows more necessary than the Labour of Men, in that Case such Surveyor may call on any Person or Persons within his District keeping any Waggon, Cart, Truck, Plough or Harrow, with Two good Oxen, or Two Horses; which Waggon, Cart, Truck, Plough or Harrow, with Two good Oxen, or Two Horses, with a competent Driver, shall be equal to Three Days' Labour.

Waggons,
Ploughs, &c.
may be called
out.

Statements of
Persons liable
to work on the
Roads to be
furnished when
called for by the
Surveyor.

X. And be it further enacted, That every Person when called upon by the Surveyor of any Parish shall within Twenty four Hours give and render to the said Surveyor a particular Account and Statement, in Writing, containing the Names of all Persons who may be in his, her or their Employ, or who may be resident in the House kept or occupied by such Person or Persons, and who may be liable to perform Labour on the Highways; such Statement to contain not only the Names of Persons belonging to his, her or their Family, but also the Names of any Boarders, Lodgers and domestic Servants who may be liable as aforesaid; and if any such Person or Persons shall neglect or refuse to render such Account when so called upon, or shall give and render a false or incorrect Account or Statement, he or she shall forfeit and pay the Sum of Five Pounds, to be sued for and recovered by the Commissioners of the said Parish, before any One Justice of the Peace in and for the said County in which the said Parish is situate; and the

Penalty.
Recovery.

the Penalty when recovered to be paid into the Hands of the Commissioners, to be by them applied in making and repairing the Roads within the said Parish. Application.

XI. And be it further enacted, That if any Person or Persons when so summoned to labour as aforesaid by the Surveyors of their respective Districts, shall neglect or refuse to appear and labour agreeably to such Summons, it shall be the Duty of such Surveyor, within Six Days from and after such Neglect or Refusal, to make Report of such Delinquency to some One of the Commissioners, who shall without Delay make Complaint in their own Names to a Justice of the Peace against every such Delinquent; which Justice shall, on Conviction, adjudge every such Delinquent to pay the Sum of Two Shillings and Sixpence for every Day he has so neglected to appear and labour, together with Costs of Suit, to be levied by Warrant of Distress and Sale of such Offender's Goods and Chattels, under the Hand and Seal of such Justice, directed to any Constable in the Town or Parish to which such Offender may belong, and in case no Goods or Chattels can be found, it shall and may be lawful to commit such Offender to the common Gaol of the County, not exceeding Six Days; and if any Person who shall appear agreeably to such Summons, and being under the Direction of such Surveyor, shall refuse or neglect to work, or shall not work in such Manner as to satisfy such Surveyor, he is hereby empowered to dismiss such Person from the Work, and shall forthwith make Complaint against him to some One of the Commissioners, who shall immediately proceed against him in the same Manner as is herein before directed to be done against Persons neglecting to appear and labour after being duly summoned; and the Person so dismissed by such Surveyor, for such Delinquency, shall be Penalty for neglecting or refusing to labour.

Mode of Recovery.

Persons not working satisfactorily to be dismissed and proceeded against.

P adjudged

adjudged to pay the Sum of Two Shillings and Sixpence for every Day he shall have neglected or refused to work to the Satisfaction of such Surveyor, agreeably to such Summons, or be liable to Imprisonment, not exceeding Six Days, in the Manner herein before mentioned.

Penalty for refusing to furnish Carts &c.

XII. And be it further enacted, That in case any Person keeping any Waggon, Cart, Truck, Plough or Harrow, with Two Oxen or Two Horses, when called upon as aforesaid by such Surveyor, shall refuse or neglect to furnish such Waggon, Cart, Truck, Plough or Harrow, with Two Oxen or Two Horses, with a competent Driver, agreeably to such Direction of such Surveyor, it shall in like manner be the Duty of such Surveyor forthwith to make Complaint of such Offender last mentioned to some One of the Commissioners, who shall immediately proceed against him in the same Manner as is directed in the last preceding Section; and such Offender last mentioned, shall be adjudged to pay the sum of Seven Shillings and Sixpence for every day he shall so have neglected or refused to furnish such Waggon, Cart, Truck, Plough or Harrow, with Two Oxen or Two Horses, with a competent Driver, agreeably to such Direction of such Surveyor, or be liable to Imprisonment, not exceeding Six Days, in the Manner in the same Section mentioned: Provided always, that if any Person who may be summoned to do his Labour on the Highways shall produce a Certificate, within Six Days after being so summoned, from any Commissioner appointed by virtue of this Act, that he has in the current Year done his Tour of Labour in any other Parish in this Province, he shall be excused from doing such Labour that Year; and if the Person so summoned shall neglect to produce such Certificate within the Time so specified, he shall not be allowed to derive any Benefit or Exemption therefrom;

Mode of Recovery.

Certificates of having worked in any other Parish to be produced within Six Days after Summons.

therefrom; and that no Justice of the Peace shall receive any such Certificate in Evidence upon any Prosecution to be brought under the Provisions of this Act, as a Defence to such Prosecutions, unless it shall be made to appear to the Satisfaction of the said Justice that such Certificate was produced to, or left at the Dwelling-House of such Surveyor, within the Time above specified.

XIII. And be it further enacted, That during the intervening Time between the finishing the Statute Labour in any one Year and commencing the same in the next succeeding Year, it shall and may be lawful for the Commissioners of Highways in the several Towns and Parishes within this Province, to direct the Surveyors of Highways, from Time to Time as Occasion may require, to remove all Trees and Windfalls from and out of the Roads, and to repair all Bridges, and all such Parts of the Highways that shall require Reparation and Amendment, within their respective Districts, and also to provide such Materials as may be necessary for making and repairing such Roads and Bridges; and the said Surveyors are hereby authorized and required, when so directed, to summon so many of the Inhabitants of the said Parish as may be necessary, to work after such Manner as they (the said Surveyors) shall direct, in removing such Trees or Windfalls, and in repairing such Roads and Bridges, and also in providing such Materials as may be necessary for such Reparation and Amendment; and all Persons keeping any Waggon, Carts, Trucks, Sleds or Teams shall, when called upon by such Surveyor for the Purposes aforesaid, attend with the same; which Work and Labour, when so performed, shall be deducted from and allowed as a part of the Number of Days such Person may be obliged by Law to work on the Highways; and any Person

Power to repair Roads, &c. in the intervening Time between Performance of Statute Labour.

Persons working to have Credit therefor.

not

Penalties.

not attending, or refusing to work as aforesaid, shall forfeit the Sum of Two Shillings and Sixpence for each Day's Neglect, and also the Sum of Five Shillings per Day for refusing or neglecting to furnish such Carts, Waggons, Trucks, Sleds or Teams, to be sued for, and recovered, and applied as is directed in and by the Eleventh Section of this Act.

Returns of
Highways to be
made to the
Clerks of the
Peace to be re-
gistered.

XIV. And be it further enacted, That the Commissioners for each Town or Parish for which they shall be appointed, shall from Time to Time enter in Writing all the Highways of Roads laid out or altered, and sign the same, and, within Three Months after such Highway or Road shall be laid out or altered as aforesaid, make a Return thereof into the Office of the Clerk of the Peace for the County in which such Highways or Roads are laid out, to be by such Clerk entered in a Book kept for that Purpose; and whatsoever the said Commissioners shall do according to the Powers given them in this Act, being so entered, shall be valid and good to all Intents and Purposes whatsoever; and that every Commissioner who shall refuse or neglect to perform the Duty enjoined and required of each of them as aforesaid, shall forfeit and pay for every such Refusal or Neglect the Sum of Three Pounds, to be recovered and applied in the same Manner as is herein after directed in the Twentieth Section of this Act.

Penalty.

How private
Roads shall be
laid out.

XV. And Whereas it may be necessary to lay out private Roads within the several Counties in this Province; Be it further enacted, That upon Application to the Commissioners appointed as aforesaid for any Town or Parish for a private Road, the Commissioners shall view the same, and if they are of Opinion that such Road is absolutely necessary, and Twelve principal Freeholders of the County, to be summoned in Manner aforesaid, under Oath, shall be of
the

the same Opinion, the said Commissioners are hereby empowered to lay out such Road; Provided that they shall not lay out such Road through any Person's Land without the Consent of the Owner or Owners thereof, or agreeing with, or paying to him or them the Value of the Land so to be laid out into such Road, with such Damages as he or they may sustain by the said Road; and in case they cannot agree, then the true Value shall be set and appraised by the Justices of the Peace issuing such Warrant as aforesaid for the summoning such Freeholders, and by the Oath of the said Freeholders so summoned; and all the Expenses and Charges attending the said Road shall be paid by the Person or Persons applying for the same: Provided always, that no such private Road shall be laid out more than Two Rods wide, against the Consent of the Owner or Owners of the Lands through which the same is to pass.

Expenses.

Width of private Roads.

XVI. And be it further enacted, That if any public Road hereafter to be laid out by virtue of this Act, shall pass through any improved Lands, where the Damage to the Owner or Owners of such Lands by means of such Road shall be greater than the Allowance made for Roads in the Grants of such Lands, which shall be ascertained by a Jury to be summoned in the Manner First herein before mentioned on the Application of the Owner or Owners of the said Land, or if such Road shall occasion the Removal of any Building, then and in such Cases the Damage to the Owner or Owners of such Land shall be ascertained by such Juries.

Damages by public Roads through improved Lands &c., to be estimated by a Jury.

XVII. And be it further enacted, That the Commissioners of Highways and Roads for each Town or Parish, or a Major Part of them, be and they are hereby authorized and required, after the First Snow, and as soon as the Rivers and Marshes are safe for the passing of Cattle on the

Ways to be marked in the Snow.

Ice,

Ice, to order the Surveyors of Highways and Roads for the said Town or Parish to summon forthwith so many Inhabitants as the said Commissioners shall in their Discretion think necessary, to work after such Manner as they (the said Surveyors) shall direct, in cutting or carrying Bushes, or marking Ways; and such Person not attending or refusing to perform the said Work as directed by the said Surveyors, shall forfeit the Sum of Two Shillings and Sixpence for each Day's Neglect, to be sued for, recovered and applied as is directed in the Eleventh Section of this Act: and the Rivers and the several Parts of the same when frozen over as aforesaid shall be considered as a Part of the Towns or Parishes to which they are respectively opposite, for the Purposes directed by this Clause; and the Commissioners for the Towns or Parishes opposite to each other upon any River, are hereby authorized and required to agree upon and determine the Distance upon the said River which is to be worked upon by their respective Towns in pursuance of this Act.

Penalty.

Rivers when frozen over to be considered as Parts of the Parishes &c.

Teams with competent Drivers to be sent when summoned.

Penalty.

Ways to be marked with evergreen Bushes.

XVIII. And be it further enacted, That every Person keeping a Team shall be obliged, forthwith on being summoned by the said Surveyors, to send his Team with a competent Driver to work in such Manner as the said Surveyors shall direct; and on any such Person neglecting to send his Team and a good Driver, or not performing such reasonable Work as the said Surveyors shall direct, the Owner of the said Team shall forfeit the Sum of Five Shillings, to be sued for, recovered and applied as is directed in the Eleventh Section of this Act.

XIX. And be it further enacted, That the said Way shall be marked in such Place as the said Commissioners shall direct, with evergreen Bushes erected at the Distance of not more than Four Rods (lengthways of the said Path) from each

each other, and Five Feet in Height; and on any of the said Marks being displaced, the Surveyors shall summon forthwith as many of the nearest Inhabitants with their Teams as they may judge necessary to replace them; and in Case of Refusal or Neglect, every Person so offending shall forfeit the Sum of Two Shillings and Sixpence for each Man, and Five Shillings for each Team, for each Day so summoned: Provided, when the public Roads are on the Bank of the River, the said Path shall be marked on the River: the said Fines and Forfeitures to be recovered by Complaint to a Justice of the Peace as in case of Refusal to labour on the Highways, and to be appropriated by the Commissioners towards performing the said Service: Provided always, that the Number of Hours which any Person shall work in pursuance of the Directions of this Section, or the Sum he shall forfeit, shall be deducted from and allowed as a Part of the Number of Hours he is obliged by Law to work upon the Highways.

Penalty.

Roads on Banks of Rivers.

Work done under this Section to be credited.

XX. And be it further enacted, That if any Person shall willfully cut, or take down, or destroy any of the Bushes so to be erected by virtue of this Act, he shall forfeit and pay the Sum of Twenty Shillings, upon Conviction before any One of His Majesty's Justices of the Peace, upon the Oath of One or more credible Witness or Witnesses, to be levied by Warrant of Distress and Sale of the Offender's Goods, rendering the Overplus (if any) after deducting the Costs and Charges to the Offender; One Half of the said Forfeiture to be applied to the Use of the Poor of the Town or Parish where such Offence shall be committed, the other Moiety to him or them who shall inform and sue for the same; and for Want of such Effects to levy on, the Offender or Offenders shall be imprisoned for a Term not exceeding Six Days.

Penalty for destroying the Marks.

Recovery.

Application.

Winter Roads to
be broken in
the Snow.

XXI. And be it further enacted, That the said Surveyors of the Highways (by the Direction of the Commissioners) shall have full Power and Authority, and they are hereby required, during the Winter Season, to summon such and so many of the Inhabitants having Horses, Oxen or Teams, in their respective Districts, as they in their Discretion shall think fit, to work, at the Time and Place appointed, on the Highways or public Winter Roads, by breaking Roads in the Snow with their said Horses, Oxen or Teams, whenever the Depth of Snow shall render the same necessary, not exceeding Four Days in each Winter, and at no greater Distance than Three Miles from their own Houses ; and such Inhabitants shall perform the same Work over and above the Work which such Inhabitants are liable to perform upon the Highways, Roads and Bridges in and by this Act ; and every Person who shall refuse or neglect to work when so called upon, shall forfeit and pay for each and every Day he shall so refuse or neglect to appear and work with his Oxen or Horses, as is herein required, the Sum of Seven Shillings and Sixpence, to be recovered in the same Manner as is prescribed by the Eleventh Section of this Act, and to be applied by the Commissioners towards breaking the Winter Roads.

Penalty.

Sleds and
Sleighs to be fur-
nished with
Bells.

XXII. And be it further enacted, That no Horse Sled or Sleigh shall be drawn on the Highways or public Roads of this Province, unless the same shall be furnished with One or more Bell or Bells for each Horse drawing such Sled or Sleigh, to be fastened to such Sled or Sleigh, or to the Harness thereof, so as distinctly to be heard, under the Penalty of Five Shillings for every Offence, to be recovered from the Owner or Driver thereof by any Person who shall sue for the same, upon Conviction, before any One of His Majesty's Justices of the Peace,

Penalty.

Recovery.

by

by the Oath of One or more credible Witness or Witnesses, or on the View of such Justice, and levied by Warrant of Distress and Sale of the Offender's Goods and Chattels by Warrant under the Hand of such Justice, rendering the Overplus (if any) after deducting the Costs and Charges of such Distress and Sale to the Offender; which Fines shall be paid and appropriated in like Manner as is mentioned in the Twentieth Section of this Act.

Application.

XXIII. And be it further enacted, That the respective Commissioners of Highways shall, on or before the First Day of December in each and every Year, deliver in to the Clerk of the Peace of their respective Counties, to be by him filed, the several and respective Accounts of the Labour done on the Highways, so to be given them by the said Surveyors, and also an Account (with proper Vouchers) of all Sums of Money received by them for Fines or Forfeitures accruing by virtue of this Act, and the Purpose for which such Sums shall have been expended; and if such Sums or any Part thereof remain in their Hands, they shall pay the same into the Hands of the County Treasurer, to be disposed of by the Order of the Justices or the Major Part of them in their General Sessions, for the making, repairing and amending the Roads, Highways, public Streets and Bridges in the District of the Parish where such Money was forfeited; and if any Commissioner shall neglect or refuse to deliver in such Accounts, or any or either of them, to the Clerk of the Peace as aforesaid, he shall forfeit and pay for every Offence the Sum of Five Pounds, to be recovered before Two Justices of the Peace in such County respectively, to be paid into the Hands of the Treasurer, and applied in the Manner herein before mentioned, and shall also be subject to an Action of Debt, to be brought by and in the Name of the Treasurer of

Accounts of Labour and Money to be delivered to the Clerk of the Peace.

Penalty.

Recovery and Application.

such County, for any Sum so remaining in his Hands.

Labour by Commissioners and Surveyors.

XXIV. And be it further enacted, That the Commissioners appointed by virtue of this Act shall not be required to do any Work on the Highways; and when any Surveyor or Surveyors shall be required to superintend the Work on the Highways more than Six Days, the Commissioners shall pay him or them at the Rate of Five Shillings per Day, out of the Monies voluntarily paid into their Hands, or collected for Fines, by virtue of this Act.

Assessments of Damages on account of Roads to be laid before the Sessions.

XXV. And be it further enacted, That the said Commissioners shall and may, in all Cases where a Jury shall have assessed the Damages for the Owners of any Land over which a Road may have been laid out or altered either by the said Commissioners or a Jury, lay before the Justices of said County at their General Sessions the Assessment so made by said Jury; which Assessment the said Justices are hereby authorized and required to examine and allow, and to make such Order for the Payment thereof by the Inhabitants of any One or more Parishes in said County, as they (the said Justices) may think just and reasonable, and thereupon shall issue their Warrants to the Assessors of such Parishes for the assessing and levying the several Sums allowed and ordered as aforesaid; which Sums shall be rated, assessed and collected in such Manner and under the same Regulations, Restrictions, Penalties and Forfeitures as County Charges are rated, assessed and collected, and shall be paid into the Hands of the Persons for whom such Damages may have been assessed.

To be allowed and assessed as the Justices shall think reasonable.

If any Roads to be laid out or altered, be not generally useful, Commissioners to report to the Sessions, who

XXVI. Provided always, and be it further enacted, That if any Road or Highway so to be laid out or altered, shall not in the Opinion of the said Commissioners be necessary or useful for the Parish generally in which the same

situate,

situate, but for the particular Convenience of a certain Portion, District or Neighbourhood, whether lying wholly in One Parish or between Two or more Parishes, they shall report the same to the said Justices in General Sessions, specifying in such Report the Bounds and Limits of such Portion, District or Neighbourhood, together with the Names of the Persons resident in the same ; which said Justices are hereby authorized and required to examine into the Matter, and, if they should be of the same Opinion as the said Commissioners, then to appoint Two or more Persons within the said District or Neighbourhood to be Assessors, who shall thereupon assess the Damages which may be sustained in laying out such Road upon the said Persons resident in the said District or Neighbourhood, in the same Manner as if such District or Neighbourhood were a distinct Parish ; and the like Proceedings may be had for levying and recovering the said Assessment as are now provided for the Collection of other Rates for County Charges.

are to examine
in^o the Matter,
&c.

XXVII. And be it further enacted, That no Prosecution or Suit for the Recovery of any of the Penalties mentioned in this Act, shall be brought or instituted after the Expiration of Six Months from the Time of committing the Offence intended to be prosecuted ; Provided nevertheless, that nothing in this Act shall be construed to extend to prevent those intrusted with public Money, by virtue of any of the herein before recited or any other Acts, from being held accountable for all Monies so received by them.

Prosecutions to
be commenced
within Six
Months.

Exception.

XXVIII. Provided always, and be it further enacted, That any Person thinking that he has been overrated or assessed too high by the said Commissioners, may appeal to the Justices of the Peace at their next General Sessions after the said Work and Labour required by this Act has been

Persons overrat-
ed may appeal
to the Sessions.

been performed; and the said Justices are hereby authorized and required to examine into the Appeal, and if the said Appellant shall make it appear to their Satisfaction that he has been assessed too high, the said Justices shall and may give Relief, by allowing the said Appellant the Number of Days in which he may appear to have been over assessed, out of his Proportion of Statute Labour on the Highways the next Year.

No Appeal to be heard unless a Memorandum and Affidavit shall have been left, &c.

XXIX. Provided also, and be it further enacted, That no such Appeal shall be heard unless the Person deeming himself aggrieved do, within One calendar Month after receiving Notice of the said Assessment, or being summoned to perform Labour, leave a written Memorandum in the Office of the Clerk of the Peace for the County, or with the Commissioners of Highways of the Parish, who are required to transmit the same to the said Clerk's Office; to which Memorandum shall be annexed an Affidavit in the Form following, or to that Effect :

Form of Affidavit.

' County of }
' Ss. } I, A. B. of the Parish of ———
' ——— in the said County, do make Oath that
' the Whole of the Property, real and personal,
' owned by me, or held by any other Person in
' Trust for me or for my Use, does not exceed
' —————, and that my whole yearly Income
' does not exceed —————.
' Sworn at ——— the ——— Day of
' ——— before me
' C. D. Justice Peace.'

Act not to interfere with the Charter of Saint John.

XXX. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to interfere with the Rights and Privileges granted by Charter to the Mayor, Aldermen and Commonalty of the City of Saint John.

Limitation.

XXXI. And be it further enacted, That this Act shall continue and be in Force until the First

First Day of April One thousand eight hundred and thirty-three.

CAP. XXXIV.

An Act to repeal an Act, intituled *An Act to prevent illicit and clandestine Trade, and for imposing a Duty upon Articles illegally imported or brought into this Province, to be levied and paid after the Condemnation and Sale thereof.*

Passed 31st March 1831.

BE it enacted by the President, Council, and Assembly, That an Act made and passed in the Forty seventh Year of the Reign of King George the Third, intituled *An Act to prevent illicit and clandestine Trade, and for imposing a Duty upon Articles illegally imported or brought into this Province, to be levied and paid after the Condemnation and Sale thereof,* be and the same is hereby repealed.

47 Geo. 3. c. 16.
repealed.

CAP. XXXV.

An Act to amend an Act, intituled *An Act to repeal all the Acts now in Force relative to the Importation and Spreading of infectious Distempers in the City of Saint John; and to make more effectual Provisions for preventing the same.*

Passed 31st March 1831.

WHEREAS by the Seventh Section of an Act made and passed in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, intituled *An Act to repeal all the Acts now in Force relative to the Importation and Spreading of infectious Distempers in the City of Saint John; and to make more effectual Provision for preventing the same,* the Mayor, Aldermen and Commonalty, in Common Council convened, are empowered to order and direct the landing of Passengers from Vessels whilst performing Quarantine, in order to facilitate the Recovery of those who

Preamble.

10 & 11 Geo. 4,
c. 27.

are