Anno quarto & quinto

Annæ Reginæ.

An ACT for Repairing the Highways between *Barnhill* and *Hatton-Heath* in the County of *Cheſter*.



Whereas the greateſt part of the High-way between Hatton-Heath in the County of Cheſter, and a Place called Pickle-Sands, in the ſame County, leading through the Townſhips of Golborne-David, Handley cum Milton, and Chowley, being above Three Miles and an half in length, and being an Ancient Road for Coaches, Carts and other Carriages, as well between London and Cheſter, as alſo between Cheſter and Shrewsbury, in the County of Salop, by reaſon of the great and many Loads and heavy Carriages of Cheeſe and other Goods which are Weekly drawn through the ſame, and do relate not only to the Trade of the City of Cheſter, and Adjacent Counties, but alſo of Ireland, and being in ſeveral Places thereof very narrow, is become very Ruinous, and oftentimes Impaſſable, inſomuch that it is become very Dangerous to all Perſons, Horſes and Cattle that paſs that way, and for that the Ordinary Courſe appointed by the Laws and Statutes of this Realm, is not ſufficient for the Effectual Repairing and Amending the ſame, neither are the Inhabitants of the ſeveral Townſhips, in which the ſaid Ruinous Places of the ſaid Roads do lye, of Ability to repair the ſame, without ſome other Proviſion of Monies to be Raiſed towards the putting the ſame into good and ſufficient Repair, there being alſo no Stones, Gravel or other Materials fitting for the Mending thereof, to be had, but at great diſtance from the ſaid reſpective Towns: For Remedy whereof, and to the intent the ſame may be forthwith effectually Repaired and Amended,

and from time to time hereafter kept, in good Repair, May it pleale Your Majeſty that it may be Enacted; And be it Enacted by the Queens moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and the Commons in this preſent Parliament Aſſembled, and by the Authority of the ſame, That for the Surveying, Ordering, Repairing and Keeping in Repair the ſaid Ruinous Places, in the ſaid Road, the Juſtices of Peace at the Quarter-Seſſions to be holden for the ſaid County of Cheſter, next after the Paſſing of this Act, ſhall and may then, and ſo from time to time in every Year, Nominate and Appoint a convenient Number of Sufficient and Able Perſons reſiding and inhabiting in or near the reſpective Ruinous Places of the ſaid Road ſo to be Amended, as aforeſaid, to be the ſeveral and reſpective Surveyors of the reſpective Places aforeſaid, for the Year from thence next enſuing, and that the ſaid Juſtices ſhall cauſe Notice to be given to the ſeveral Surveyors ſo choſen in Writing, of the ſaid Choice, which ſaid Surveyors, and every of them, having no Lawful Impediment, to be Allowed by the ſaid Juſtices, by whom they ſhall be choſen in manner aforeſaid, or any Two of them, within One Week next after ſuch Notice to him or them given of their Election, ſhall and are hereby required reſpectively to meet in ſome convenient Place, within their ſeveral and reſpective Diviſions, for the which they are reſpectively appointed Surveyors, to the Intent to View and Survey the ſaid reſpective Ruinous Places, and conſider the Defects thereof, and the beſt Method and Means that can be uſed for the Repairing, and alſo the ſeveral Sums that will be neceſſary for Making good the ſame, and make their reſpective Certificates thereof in Writing, under their Hands, to the Juſtices of Peace at the next Quarter-Seſſions to be held for the ſaid County of Cheſter, who thereupon ſhall and may make ſuch Order and Orders in and about the ſame, as to them ſhall ſeem good; which ſaid Order or Orders ſo to be made, ſhall be by the ſaid reſpective Surveyors, and all other Perſons concerned in putting this Act in Execution, duly Obſerved and Performed; And the ſaid reſpective Surveyors are hereby Impowered to Appoint and Require ſuch Carts and Perſons who are liable to work in the Highways by the Statutes already in Force, from time to time, to come and work in the ſaid reſpective Places as they ſhall think needful and appoint, for which the ſaid reſpective Surveyors ſhall pay unto ſuch Labourers, and to the Owners of ſuch Teams, Carts and Wains, according to the uſual Rate of the Country, wherein if any Difference happen, the ſame to be ſettled by the Two next Juſtices of the Peace, which is to be concluſive to all Parties. Provided nevertheleſs, That no Perſon be compellable by this Act to Travel above Four Miles from his Dwelling-Houſe, nor to work above Three Days in any One Week, nor at any time in Seed-time, Hay-time, or Corn-harveſt.

And be it further Enacted by the Authority aforeſaid, That it ſhall and may be lawful for the ſaid Surveyors, and ſuch Perſon and Perſons as they ſhall appoint, to dig, take, and carry away Gravel, Sand, or Stones, Grigg or Heath out of the Waſte or Common of any of the Pariſhes, Towns, Hamlets,

or Villages where any of the said Ruinous Places shall or do lie, or in any other Parishes, Towns, Hamlets or Villages next Adjacent, for the Amending thereof, without paying any thing for the same, or where there is not sufficient of such Materials in any such Common or Waste Ground, to dig in the several Grounds of any Person or Persons in the Parish, Towns, Villages or Hamlets aforesaid, not being an House, Garden, Orchard, Yard, Pavement, Meadow, or Park Stored with Deer, Avenues and Planted Walks, where any such Materials are or may be found, and from time to time to carry away such and so much thereof as the Surveyors shall adjudge necessary for the said Reparations, without paying any thing for such Materials, save only reasonable Satisfaction to the Owner or Occupier of the Ground, where the same shall be so digged and carried away, for the Damage he or they shall thereby sustain, to be Assessed and Adjudged by the said Justices, or the major part of them, at the next or any other Quarter-Sessions for the said County of Chester, in case of Difference concerning the same; And that the Pits and Places where and from whence such Materials shall be digged and carried away for the Reparations aforesaid, shall, with all convenient speed, to be adjudged by the said Justices or the major part of them, as aforesaid, if desired by the Party owning such Ground, be filled up, and levelled with Earth, or other Materials.

And whereas the greatest part of the said Way between Hatton-Heath and Pickle-Sands aforesaid, is so very narrow, that, during the time of the Amending of the said Ways, there will not be room sufficient for the Passage of Carts and Carriages that shall be then Drove through the same, without hindring and disturbing the Workmen that shall be there Imployed, and Prejudicing and Damnifying their Work before it be perfected and completed: Be it therefore further Enacted by the Authority aforesaid, That the Justices of the Peace of the said County of Chester, or the major part of them, being Five at the least, at their Quarter-Sessions, shall have Power to Enlarge or Widen any part of the said Highway between the Places aforesaid, so that the Ground to be taken into the said Highways do not exceed Ten Yards in breadth, and that the said Power do not extend to pull down any House, or to take away the Ground of any Garden, Orchard, Court or Yard; And for the satisfaction of the Persons who are Owners of, or may be Interested in the said Ground that shall be laid into the said Highways, the said Justices are hereby Impowered to Impannel a Jury before them, and to Administer an Oath to the said Jury, that they will Assess such Damages to be given, and Recompence to be made to the Owners and others Interested in the said Ground-Rent or Charge respectively for their respective Interests, as they shall think reasonable, either for the absolute Purchase of such Land to become part of the said Highway for ever, or for the Use only of such Land or Ground, during the time of the Amendment and Repair of the said Highways, as aforesaid; And in case the said Justices shall think it reasonable to lay such Land to the said Highway for ever, then such Jury shall Assess any Price for the same, not exceeding Twenty five Years Purchase for the Lands so laid out, and likewise such Recompence as they shall

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think reasonable for the making of a New Ditch and Fence to that side of the Highway that shall be so Enlarged, and also Satisfaction to any Person that may be otherwise injured by the Enlarging of the said Highways; And upon Payment of the said Money so Awarded, or Leaving it in the Hands of the Clerk of the Peace of the said County of Chester, for the Use of the Owner, or of others Interested in the said Ground, the Interest of the said Persons in the said Ground-Rent or Charge, shall be for ever divested out of them; And the said Ground, and all other Grounds that shall be laid into any Highway, by Virtue of this Act, shall be esteemed and taken to be a Publick Highway to all Intents and Purposes whatsoever, unless after the Amendments of the said Highways are finished, the Justices of the said County shall think it reasonable, and the said Party or Parties so Divested, shall desire to take back their Lands that shall be so laid into the said Highways, as aforesaid, on such Terms as any Jury so Impannelled, as aforesaid, shall think fit to allow them for the Damage they have sustained by reason of the Passage of the Carts and Carriages going over their Lands, during the time of the Amendment of the said Highways, as aforesaid.

And for Defraying of the Charges in and about the Reparations to be done in the Places aforesaid, Be it further Enacted, That the said Justices at the Quarter-Sessions aforesaid, shall and may Chuse and Appoint One or more fit Person or Persons to be Receiver or Receivers, Collector or Collectors of such Sum or Sums of Money, in the Name of Toll, to be paid for all such Horses, Carts, Coaches, Wagons, Droves and Gangs of Cattle as in time to come shall pass, be lead or driven in or through the said Way, as are hereafter in this Act limited (that is to say;) For every Horse One Peny; For every Coach, Chariot, Calash, Chaise, and Wagon, One Shilling; For every Cart, Six Pence; For every Score of Sheep or Lambs, Four Pence, and so proportionably for every greater or lesser Number; For every Score of Calves, Four Pence; For every Score of Hogs, Six Pence, and so for every greater or lesser Number of Calves or Hogs proportionably, not being under Five; For every Score of Oxen and Neat Cattle, Eight Pence, and so for every greater or lesser Number proportionably; And that from and after the Passing of this Act, all and every Person and Persons who shall Travel with Horse, Coach, Chariot, Calash, or Chaise, Cart or Wagon, or shall lead or drive any Oxen or other Cattle before mentioned in and through the Highway aforesaid, shall and are hereby Required to pay unto the said Collector or Collectors, Receiver or Receivers of Toll in that behalf, from time to time to be appointed, as aforesaid, after the Rates aforesaid; The Place or Places for Collecting the said Toll to be upon the said Highway in or between Hatton-Heath and Pickle-Sands aforesaid, by setting up a Turnpike or Turnpikes or otherwise, as the Justices of the Peace at the next or any future Quarter-Sessions to be held for the said County of Chester, after the Passing of this Act, shall direct and appoint; And in case any Person or Persons, upon demand made of Toll, as aforesaid, by the Collector or Receiver in that behalf to be appointed, shall neglect or refuse to pay the same, That then it

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shall and may be lawful to and for the said Collector or Receiver appointed for the Receipt of the said Toll, upon such refusal to Distrain and Detain such Horse, Cart, Coach, Chariot, Calash, Chaise, Wagon, Oxen or other Cattle before mentioned, or any of them, until the said Toll shall be satisfied and paid, according to the Tenor of this Act, together with such Damages as the Party or Parties so Distraining shall sustain in and about the making of the said Distress, or by the keeping thereof; And in case the same shall not be satisfied and paid within the Space of Five Days next after such Distress made, That then and not sooner, it shall and may be lawful to and for the Party making the said Distress, to sell the same, rendring the Overplus (if any be) to the Owner; Which said Monies so to be received for Toll, as aforesaid, shall be paid to the said Surveyors for and towards the Amendment of the said Ruinous Places in the said Highway, according to the true meaning hereof, and not elsewhere.

And be it further Enacted by the Authority aforesaid, That the said Surveyors and every of them, and also the said Collector and Receiver, at the Quarter-Sessions of the Peace for the said County of Chester, to be holden next after Easter in every Year, shall yearly make and yield up unto the said Justices of the Peace there to be Assembled, a perfect Account in Writing Signed by every of them respectively, of all the Monies which they or any of them have respectively received for the said Toll by virtue of this Act, and likewise of all their Disbursements in and about the said Highway or otherwise, by reason of their Offices; and shall then and there, upon their respective Corporal Oaths, which the said Justices are hereby Impowered to Administer, Depose, That the Account so delivered in by them is a true Account as to what relates to every of them respectively; and in Case any Overplus of Money so received, remain in their Hands, shall Pay the same to the Surveyors to be Chosen for the Year ensuing, to be disbursed and laid out in mending the said Road according to the true meaning of this Act, and not elsewhere or otherwise; which said Justices, to whom such Account shall be given at the said Quarter-Sessions, shall out of the Benefit of the said Toll make such Allowance unto the said Surveyors, for and in Consideration of their Care and Pains taken in Execution of their Offices, and to such Person or Persons who have been or shall be Assisting in and about procuring the said Highway to be mended, as aforesaid, by advancing or laying out any Monies or otherwise relating thereto, as to them shall seem good; And in case the Collector or Receiver of the aforesaid Toll so to be Paid, as aforesaid, shall not, upon request, duly Pay the same unto the said Surveyors for the time being, so to be appointed, as aforesaid, or in case the said Surveyors or any of them, shall not make such Account and Payment unto the several Person and Persons, according to the Order, Direction and Appointment of the said Justices, as aforesaid, That then the said Justices, at any Quarter-Sessions to be holden for the said County of Chester, shall make Enquiry concerning such Defaults, as well by Confession of the said Parties themselves, as by Testimony of One or more credible Witnesses upon Oath, which Oath they are hereby Impowered to Administer; and if

any Person or Persons shall be thereof Convicted, the said Justices upon such Conviction, shall Commit the Party or Parties so Convict to the Common-Goal of the said County, there to remain without Bail or Mainprize, until he or they shall have made a true and perfect Account and Payment, as aforesaid, and shall appoint such other Person or Persons to Act in his or their Place or Places, as the said Justices shall think fit.

And for as much as the Monies so to be Collected by such Receipt of the said Toll, will not at present Raise such a Stock or Sum of Money as may be sufficient for the speedy Repairing of the Premisses: It is hereby further Enacted, That the said Surveyors, or the Major part of them for the time being, may and are hereby enabled, by Order of the said Justices to be made at the Quarter-Sessions, and not otherwise, to engage the Profits arising by the said Toll, for such Sum and Sums of Money by them to be borrowed for that purpose, and by Indenture under the Hands and Seals of the said Surveyors for the time being, or the Major part of them, to Transfer the said Profits of the said Toll, and to Grant and Convey the same for any Time or Term, during the Continuance of this Act, unto any Person or Persons that shall or will, upon that Security, Advance any Sum or Sums of Money, with Interest for the same, not exceeding the Rate of Six Pounds per Centum per Annum, for every Hundred Pounds, which said Money so to be Advanced, shall be Distributed by the Justices at the Quarter-Sessions in the Proportions, and for the purposes aforesaid, and not otherwise.

And be it further Enacted by the Authority aforesaid, That if any Person or Persons, not having any lawful Excuse to be allowed, as aforesaid, shall neglect or refuse to take upon him or them the said Office of Surveyor, being thereunto Nominated and Chosen as by this Act is appointed, or to do and perform his or their Duty in the due and speedy Execution of this Act, the said Justices at their Quarter-Sessions, shall and may, and hereby have Power to impose on such Person or Persons, so refusing or neglecting, any Fine or Fines, not exceeding Five Pounds upon each Person so refusing, and to cause the same to be Levied by Distress and Sale of his and their Goods, rendring to the Party the Overplus if any shall be; And then and in such Case, or in Case of the Death of any of the said Surveyors, some other Person or Persons shall be Appointed by Two or more Justices of Peace that live nearest to the Party or Parties so dying, neglecting or refusing; and such other Person or Persons so to be Appointed by the said Justices, are hereby required to Execute their said Offices in such manner, and under such Penalties as if they had been Chosen by the Justices at their Sessions of the Peace, as aforesaid.

And be it further Enacted by the Authority aforesaid, That all Fines and Forfeitures to be Imposed or Incurred by virtue of this Act, shall be paid to the Surveyors for the time being, for and towards the Repairing of the said Ruinous Places in the said Highway, according to the true Meaning of this Act, and not to any other Person or Persons, or to or for any other Use or Uses, Intent or Purpose whatsoever.

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And be it further Enacted by the Authority aforesaid, That if any Suit shall be Commenced against any Person for any thing done in pursuance of this present Act, That in every such Case the Action shall be brought in the Court of Great-Sessions held for the said County of Chester, and not elsewhere, and the Defendant in such Action to be brought, may plead the General Issue, and give this Act, and the Special Matter in Evidence at any Tryal to be had thereupon, and that the same was done in pursuance, and by the Authority of this present Act; And if it shall so appear to be done, or that such Action shall be brought in any other County, That then the Jury shall find for the Defendant; And upon such Verdict, or if the Plaintiff shall be Nonsuited, or Discontinue his Action after the Defendant shall have appeared, or if upon Demurrer Judgment shall be given against the Plaintiff, the said Defendant shall Have and Recover Double Costs, and have the like Remedy for the same, as any Defendant hath in other Cases by Law.

Provided always, That no Person or Persons having Occasion to pass the Place where the Toll is taken, and return the same Day before Eight of the Clock at Night, between the Months of September and February, and before Ten of the Clock at Night, during the other Months of the Year, with the same Horse, Coach, Chariot, Calash, Chaise, Wagon or other Carriage, or with the same Cattle, shall be Compelled the same Day to pay the said Toll a second time; And further also, That all and every Person and Persons passing through the Place appointed for Receiving the Toll aforesaid, and inhabiting in any of the Townships of Golborne-David, Handley cum Milton or Chowley aforesaid, shall have Liberty to carry away any Quantities of Stone, Sand, Lime or Gravel, Dung, Mould or Compost of any Nature or Kind soever, or any Wood or Brick not going to any Market; And that all Carts with Hay not going to any Market, or Corn in the Straw at Hay-time or Harvest, Plows, Harrows, and other Implements of Husbandry, and all Horses Carrying or Drawing the same, and all other things whatsoever, imployed in the Husbanding, Stocking and Manuring of the several and respective Lands in the said several and respective Townships, shall pass to and fro through the said Place where the said Toll is to be Received, as aforesaid, without paying any thing for their respective Passing through the same; And that it shall and may be Lawful also for all and every Soldier and Soldiers upon their March, and all Carts and Wagons attending them, and all Persons Riding Post, to pass through the said Place where the said Toll is to be Collected, without paying any thing for their Passing; Any thing in this Act contained to the contrary thereof in any wise notwithstanding.

Provided also, That all and every Person and Persons, who by Law are Chargeable towards the Repairing the said Highway, shall still remain so Chargeable, and do their respective Works in the said Highway, as before they used to do therein, according to the Direction and Appointment of the Ordinary Surveyors of their respective Townships; Any thing herein to the contrary thereof notwithstanding.

Provided also, That neither this Act nor any thing herein contained, shall extend to any further time, or be of force any longer than the Term of One and twenty Years, to be accounted from the

the Passing of this Act; And also that if at any time before the Expiration of the said One and twenty Years, the Ruinous Places in the said Highway shall be sufficiently Amended and Repaired, and so adjudged by the Justices of the Peace of the said County of Chester, at their Quarter-Sessions, That then from and after such Adjudication made, and Repayment of such Monies as shall have been borrowed, the aforesaid Toll shall cease and determine; Any thing herein contained to the contrary thereof notwithstanding.

FINIS.