Anno tricesimo primo

Georgii II. Regis.

An Act to explain, amend, and render more effectual an Act passed in the Twenty ninth Year of the Reign of His present Majesty, intituled, *An Act for appointing a sufficient Number of Constables for the Service of the City and Liberty of* Westminster; *and to compel proper Persons to take upon them the Office of Jurymen, to present Nusances and other Offences within the said City and Liberty.*



WHEREAS an Act passed in the Twenty ninth Year of the Reign of His present Majesty, intituled, An Act for appointing a sufficient Number of Constables for the Service of the City and Liberty of *Westminster*; and to compel proper Persons to take upon them the Office of Jurymen, to prevent Nuisances and other Offences within the said City and Liberty: And whereas Difficulties have arisen in ascertaining, who ought, in many Cases, to repair Pavements and remove

Preamble, reciting the Act 29 *Geo.* II.

remove Annoyances, and the said Act hath in other Respects been found insufficient to answer the several Purposes thereby intended: Therefore, to render the same more effectual; be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all Pavements, within the said City and Liberty, belonging or opposite to Churches, or other publick Buildings or Grounds, which are the Property of any Parish, and which of Right ought to be repaired by such Parish, shall, from time to time be repaired, and kept in Repair, and also all Annoyances belonging thereto be removed, by the Churchwardens of such Parish for the time being; and all Pavements belonging or opposite to Markets, shall be repaired and kept in Repair, and all Annoyances belonging thereto be removed, by the Proprietors of such Markets, their Agents or Lessees; and all Pavements belonging or opposite to Hospitals, Alms-houses, charitable Foundations, and all other publick Buildings, not being the Property of any Parish, shall be repaired, and all Annoyances belonging thereto be removed, by the principal Officer or Person residing in such Buildings respectively, who are hereby declared to be the Occupier or Occupiers thereof; and all Pavements belonging or opposite to Lands and Grounds, or adjoining to any Wall or Fence, where no Houses are erected or built, shall be repaired, and all Annoyances belonging thereto be removed, by the Owners of such Lands and Grounds, or other Person or Persons, who of Right ought to repair such Pavements, or remove such Annoyances, as the Case shall be: And it shall be lawful for the said Annoyance Jury appointed by the said recited Act, and qualified as therein is directed, or any Twelve or more of them, and they are hereby required to present all bad and defective Pavements, and all Annoyances belonging or opposite to all such Buildings, Places, and Grounds, as aforesaid, first leaving Notice in Writing with such Churchwardens, Proprietors of Markets, their Agents or Lessees, Principal Officers, or Persons residing in such Buildings, or Owners of such Grounds, as aforesaid, or affixing the same upon some Publick Part of such Buildings, or on the Walls or Fences of such Grounds, where any defective

Repairs of Pavements, and Removal of Annoyances, belonging to Parish Churches, publick Buildings, or Grounds, to be done by the Churchwardens;

if belonging to Markets, by the Proprietors, &c.

to Hospitals, Alms-houses, charitable Foundations, &c. by the principal Officer thereof;

and to private Grounds, by the Owners.

Annoyance Jury may present bad Pavements and Annoyances, first giving Notice of their Intention to the proper Persons;

tive Pavements or Annoyances shall be found, of their Intention to present the same; and in case such Churchwardens, Proprietors of Markets, their Agents or Lessees, Principal Officers, or Persons residing in such Buildings, or Owners of Grounds, as aforesaid, shall not within Fourteen Days next after such Notice given, cause such Pavements to be amended, and Annoyances to be removed, then the said Jury shall amerce the said Churchwardens, Proprietors of Markets, their Agents or Lessees, Principal Officers, or Persons aforesaid, in such Sum or Sums of Money as they shall think proper, according to the Nature of the Offence, not exceeding Forty Shillings for any One Offence.

and if the same be not amended, or removed within 14 Days, may amerce the said Persons according to the Nature of the Offence.

And be it further enacted by the Authority aforesaid, That all Tenants or Occupiers of Houses, Buildings, or Grounds, in all Places within the said City and Liberty, shall be subject and liable to repair the Pavements belonging or opposite to any such Houses, Buildings, or Grounds; and it shall be lawful for all Tenants to deduct and detain out of their Rent due or to grow due, all and every such Sum and Sums of Money as they shall have expended in repairing such Pavements, according to Notice to be given for that Purpose by the Annoyance Jury, as aforesaid (except in such Cases only where Tenants are by any Covenant, Contract, or Agreement, to keep such Pavements in Repair at their own Expence) any Law or Usage to the contrary notwithstanding.

Occupiers of Houses are to repair the Pavements, and deduct the Charges out of their Rent;

except where they are by Contract, to keep the same in Repair.

And whereas the Pavements within the Limits aforesaid are frequently broken up and damaged by Persons belonging to the several Proprietors of Water Works, and are often relaid with bad Materials, or in an improper Manner; be it therefore further enacted by the Authority aforesaid, That when and as often as any Paviour, Agent, Servant, or other Person, belonging to or employed by any of the Proprietors of Water Works, or any other Person employed by them, or any of them, shall break, take up, or otherwise damage any Pavement within the said City and Liberty, such Paviour, Agent, Servant, or other Person, shall cause the same to be relaid or repaired as soon as conveniently may be, with good durable Stone and Gravel, and in a substantial and Workman-like Manner; and in case they shall not relay or repair

Pavements broken up by Persons belonging to any Company of Water Works, are to be relaid by them in a substantial Manner, and in a convenient Time.

such Pavement with all convenient Speed, and to the Satisfaction of the Person to whom the same belongs,

in Default, the Annoyance Jury, upon Complaint, and View thereof,

such Person may at any Time within Fourteen Days next after such Pavement shall have been broken up or damaged, as aforesaid, apply to the Foreman, or to any One of the Annoyance Jurymen, of the Division for the Parish wherein such Pavement shall be, who, upon such Application, is hereby required, together with Six or more of the Jurymen for that Division, to view the

may direct the Proprietor to relay the same,

Premisses in Question; and if upon their View it shall appear to them that such Pavement hath not been relaid in due Time, or in the Manner before directed, the said Jurymen shall direct the Person to whom such Pavement belongs, or who is liable to repair the same, to cause the same to be relaid or repaired in a proper Manner; and when such Pavement shall have been relaid or repaired, according to the Direction of the said Jurymen,

and upon his Application to the Court, and Proof of the Charges,

the Person to whom such Pavement belongs, and who shall have caused such Pavement to be relaid or repaired, as aforesaid, may apply to a Court, to be held by the Dean of Westminster for the time being; or the High Steward of the City and Liberty of Westminster for the time being, or his Deputy; the Two Chief Burgesses of Westminster, and the other Burgesses, or any Five or more of them, whereof the said Dean, High Steward, or his Deputy, or One of the said Two Chief Burgesses, to be One; and upon such Application made, the said Court are hereby required to examine into the Premisses, upon Oath (which Oath they are hereby impowered to administer to any Person or Persons for that Purpose;)

the Jury are to amerce the Company's Agent in the same,

and the said Jury, or any Twelve or more of them, shall at the said Court amerce any Collector, Paviour, Agent, Servant, or any other Person belonging to or employed by any of the Proprietors of Water Works, upon whose Account such Pavement shall have been broken up or otherwise damaged, and which shall not have been relaid or repaired as before directed, in so much Money, as shall, upon such Examination, appear to the said Court to have been justly expended in relaying or repairing such Pavements; and also in a further Sum not exceeding Forty Shillings, nor less than Twenty Shillings, for every such Neglect or Offence; which Money so expended in relaying or repairing such Pavement, shall, when recovered, be forthwith paid by the

and also in a Sum not exceeding 40 s. nor less than 20 s. for such Neglect.

said Court, to the Person who shall have caused such Pavement to be relaid or repaired, according to the Direction of the said Jurymen, as aforesaid.

Provided always, That no such Amerciament shall be set or imposed upon any such Collector, Paviour, Agent, Servant, or Person aforesaid, unless Three Days Notice in Writing shall have first been given by the said Court to such Collector, Paviour, Agent, Servant, or other Person aforesaid. But the Court is to give Notice to the Agent before the Amerciament be imposed.

Provided always, and be it further enacted by the Authority aforesaid, That no Paviour, or other Person or Persons belonging to any Company of Water Works, shall break or take up, or otherwise Damage, any Pavement within the said City and Liberty, without first giving Notice, in Writing, by what Company of Water Works he or they are employed, to the Proprietor or Occupier of the House, Ground, Wall, or Building; to which such Pavement shall belong or appertain, or by affixing such Notice upon some conspicuous Part of such House, Ground, Wall, or Building, where the Proprietor or Occupier cannot be found; any Law or Usage to the contrary notwithstanding: And in case any such Paviour, or other Person or Persons aforesaid, shall break up or damage any Pavement as aforesaid, without giving such Notice as aforesaid, every such Person shall be amerced by the said Jury in any Sum not exceeding Forty Shillings for every Offence. Paviour belonging to Water Works, before he breaks up any Pavement, is to give Notice to what Company he belongs, under Penalty of 40 s.

And whereas the long Time allowed by the said recited Act, for removing Annoyances, in some Cases hath been found inconvenient: For Remedy whereof, be it enacted by the Authority aforesaid, That when and as often as the said Annoyance Jury shall, upon their own View and Knowledge, find any Annoyances, Obstructions, or Encroachments, upon any of the publick Ways, Streets, or Passages, within the said City and Liberty, of such a Nature as to require as speedy Removal as may be, or which can be removed within a less Time than Fourteen Days, it shall be lawful for the said Jury, by an Order, in Writing, left at the House of the Person who shall have caused or suffered such Annoyance, Obstruction, or Encroachment, to direct such Person to remove the same within a reasonable Time to be specified in such Notice; and if all such Annoyances, Obstructions, or Encroachments, shall not be removed within such reasonable Time as by the said Notice Annoyance Jury where requisite may order the speedy Removal of any Annoyances or Obstructions; and if not complied with, may amerce the Offender in a Sum not exceeding 40 s.

tice shall be directed, then the said Jury shall amerce the Person or Persons causing such Annoyance, Obstruction, or Encroachment, in such Sum as they shall think proper, not exceeding Forty Shillings for any One Offence.

No Hourd or Fence to be set up in the Streets, without a Licence first had from the Court.

And be it further enacted by the Authority aforesaid, That no Builder, or other Person, shall erect or set up, or cause to be erected or set up, in any of the publick Streets, Lanes, or Passages, within the said City and Liberty, any Hourd or Fence whatsoever, without a Licence under the Common Seal of the said Court first had and obtained; in which Licence shall be expressed the Length and Breadth of such Hourd or Fence, and also the Time the same shall be allowed to continue; which Licences the said Court are hereby required to grant to all Persons applying for the same, under such Restrictions and Limitations, as aforesaid, at the Discretion of the said Court; and no more than Five Shillings shall be paid for each Licence: And if any Person shall erect, or cause to be erected, any Hourd or Fence within the Limits aforesaid, without such Licence, or which shall not be agreeable to the Directions thereof, or shall suffer any Materials for building to remain on the Outside of any Hourd or Fence above the Space of Forty eight Hours, every Person offending in any of the Cases aforesaid, shall be amerced by the said Jury in a Sum not exceeding Forty Shillings for every such Offence.

Fee payable for the Licence.

Penalty.

Licence to be no Defence against Prosecution for a Nuisance.

Provided always, That such Licences shall not be construed to extend to be a Defence to any Prosecution for a Nuisance.

And whereas by the said recited Act the said Annoyance Jury are impowered to destroy all unlawful Weights, Balances, and Measures, of Persons dealing by Weight or Measure within the Limits aforesaid; and a Doubt having arisen upon the Construction of such Part of the said Act as relates thereto: For obviating whereof, be it enacted and declared by the Authority aforesaid, That all Weights and Measures made use of by Persons dealing by Weight or Measure, within the said City and Liberty, shall be sized and sealed by the Standards belonging to the said City, and also marked with a Port-cullis by the Officer already appointed for that Purpose, or by such other Officer as may hereafter be appointed by the said Dean, High Steward, or his Deputy, the Two Chief Burgesses, and the other Burgesses,

Weights and Measures to be sized, sealed, and marked by the proper Officer.

Burgesses, of Westminster, or any Five or more of them, whereof the said Dean, High Steward, or his Deputy, always to be One, at a Court to be held for that Purpose (and by no other Person or Persons whatsoever) which Officer appointed, or to be appointed, is hereby required, upon Application to him made for that Purpose, to seal and mark, in Manner aforesaid, all Weights and Measures which shall be brought to him for that Purpose, and which shall be agreeable to the Standards belonging to the said City; and the said Officer shall demand and receive, for each Weight and Measure so by him sealed and marked, as aforesaid, for his Pains and Trouble therein, the Fees following, and no more; that is to say, For every Bushel, Four Pence; for every Half Bushel, Two Pence; for every Peck, Half Peck, and Quarter Peck, One Penny; for all Half Pecks, or Quarter Pecks, per Dozen, Ten Pence; for every Sack, Two Pence; for every Ale and Beer Measure, One Farthing; for every Hundred Weight, Four Pence; for every Half hundred Weight, Two Pence; for all Pound Weights, and all other Weights under Half a hundred Weight, One Halfpenny; for all Ounce Weights, and all other Weights under a Pound, One Farthing: And all Weights and Measures belonging to Persons dealing by Weight or Measure within the said City and Liberty, which shall not be sealed and marked in Manner before directed, shall be deemed unlawful; and it shall and may be lawful for the said Annoyance Jury, or any Twelve or more of them, and they are hereby authorized and required, to destroy all such unlawful Weights and Measures, and to amerce the Owner or Owners thereof, or the Person in whose Possession the same shall be found, in any Sum or Sums of Money not exceeding Forty Shillings for any One Offence.

Officers Fees for sealing and marking the same.

Unsealed Weights and Measures may be destroyed as unlawful,

and the Owners amerced in a Sum not exceeding 40 s.

And be it further enacted by the Authority aforesaid, That the Officer already appointed, or hereafter to be appointed as aforesaid, after all necessary Charges and Expences attending the Sizing, Sealing, and Marking such Weights and Measures as aforesaid, shall have been first deducted, shall, and he is hereby directed and required half-yearly, within One Calendar Month next after the Twenty fifth Day of March, and the Twenty ninth Day of September, in every Year, to pay, or cause to be paid to the Deputy Steward of Westminster for the time being, on account

Sealing Officer to pay half-yearly to the Deputy Steward a Moiety of his Profits.

of his Trouble and Expence in attending his Office of Deputy Steward of Westminster, One Moiety of the clear Money arising from or on account of such Sizing, Sealing, and Marking as aforesaid.

Court, upon Complaint, may amerce Annoyance Juryman, for Non-execution of his Office.

And, for the better executing the Purposes of the said recited Act, and this present Act; be it further enacted by the Authority aforesaid, That if any Annoyance Juryman shall in any Manner neglect or refuse to execute the Duty of his Office of Juryman, it shall be lawful for the said Court, upon Complaint to them made of any such Neglect or Refusal, to fine such Juryman for every such Offence, in any Sum not exceeding Forty Shillings.

High Constable to obey the Orders of the Court,

and Petty Constables to be assisting to him;

under Penalty of being amerced by the Court.

And be it further enacted by the Authority aforesaid, That the High Constable for the said City and Liberty is hereby required to obey all lawful Orders which he shall from time to time receive from the said Dean, High Steward, or his Deputy, at any Court to be holden for the said City and Liberty; and all Petty Constables are required to be aiding and assisting to the High Constable in the Execution of all such Orders and Directions; and if the said High Constable, or any Petty Constable, shall refuse or neglect to obey such Orders, or in any other Manner misbehave in their respective Offices, the said Court shall and may fine any High and Petty Constable, so offending, in any Sum not exceeding Forty Shillings for every such Offence.

Aged Persons exempted from serving as Constables, or as Leet or Annoyance Jurymen.

And be it further enacted by the Authority aforesaid, That no Person within the said City or Liberty of Westminster, shall be liable or compelled to serve as a Constable, or to find a Person to serve in his Stead, who is of the Age of Sixty three Years, or upwards; nor shall any Person be liable or compelled to serve either as a Leet or Annoyance Juryman, who is of the Age of Seventy Years, or upwards; any thing in the said recited Act, or this present Act, contained to the contrary notwithstanding.

Adjournments of the Court Leet.

And be it further enacted by the Authority aforesaid, That the said Dean, High Steward, or his Deputy, shall, and are hereby authorized and impowered to adjourn the Court Leet held for the said City and Liberty, from time to time, as often as shall be convenient; any Law or Usage to the contrary notwithstanding: And if any Leet Juryman appointed, or to

be appointed by virtue of the said recited Act, shall neglect or refuse to attend the said Court Leet as often as thereunto required by the said Court, or in any other Manner neglect or refuse to execute the Duty of his Office of Juryman, it shall be lawful for the said Court Leet to fine such Juryman for every such Offence, in any Sum not exceeding Forty Shillings.

Court may amerce Jurymen for Non-attendance, or other Neglect.

And be it further enacted by the Authority aforesaid, That the said High Bailiff, or his Deputy or Deputies, is and are hereby directed and required forthwith to execute all Warrants which he or they have already received, or may hereafter receive, for levying any Fine set or imposed, or to be set or imposed, for any Offences against the said recited Act, or this present Act, from the said Court Leet, or from the said Court of Burgesses, or from any Justice of the Peace before whom any Person shall have been, or may be convicted for any Offence against the said Acts, or either of them; and in case the said High Bailiff, or his Deputy or Deputies, shall refuse or neglect to execute any such Warrant or Warrants, as aforesaid, according to the true Intent and Meaning thereof, or to pay over all such Fines as he shall, from time to time, receive by virtue of any such Warrant or Warrants, according to the true Intent and Meaning of the said recited Act, or this present Act, it shall and may be lawful for the said Court Leet, or Court of Burgesses respectively, and they are hereby authorized and impowered to fine such High Bailiff, or his Deputy or Deputies, so offending, in any Sum not exceeding Five Pounds for every such Offence; and if any Fine or Fines set or imposed upon the said High Bailiff, or his Deputy or Deputies, by the said Court Leet, or Court of Burgesses, as aforesaid, shall remain unpaid for the Space of One Calendar Month next after the same shall have been so set or imposed, the High Constable of the City and Liberty of Westminster, is hereby authorized and required by any Warrant or Warrants from the said Court Leet, or Court of Burgesses respectively, directed to him for that Purpose, to levy all and every such Fine and Fines, so to be set or imposed on the said High Bailiff, or his Deputy or Deputies, as aforesaid, by Distress of the Goods and Chattles of the said High Bailiff, or his Deputy or Deputies, and to cause Sale to be made thereof, in case they shall not be

High Bailiff, or his Deputy, to execute all Warrants of the Court Leet, or Court of Burgesses,

and to pay over the Sums received, on Penalty of being fined by the Court.

Fines imposed on the High Bailiff, &c. for Default in the Premisses,

to be levied by the High Constable, by Distress and Sale.

be redeemed within Five Days next after such Distress made, rendering the Overplus, if any, to the Owner upon Demand, after deducting the reasonable Charges of making such Distress and Sale, as aforesaid.

High Bailiff to retain a Fourth of the Fines levied by him;

And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the said High Bailiff, or his Deputy or Deputies, to retain in his or their Hand or Hands, One fourth Part of the several Sums of Money that shall be levied by him or them, for the respective Fines set by virtue of this or the said recited Act, in Consideration of his or their Trouble and Expence in levying the same.

and pay over the Remainder to the Overseers of the Parish, to be applied as the former Act directs.

Provided always, and be it declared and enacted by the Authority aforesaid, That the remaining Three Fourth Parts of the said Fines shall be paid over by the said High Bailiff, his Deputy or Deputies, to the respective Overseers of the several Parishes in Westminster, within the like Time, and applied by them to the same Uses and Purposes, as are directed by the said recited Act, with respect to the Whole of such Fines.

Fines and Amerciaments in general, except where otherwise directed, to be levied and applied as the former Act directs.

And be it further enacted by the Authority aforesaid, That all Fines and Amerciaments which shall be set or imposed upon any Person by virtue or in pursuance of this Act, shall and may be levied, recovered, and applied, except where the same are directed to be otherwise levied, recovered, applied, or disposed of by this Act, in the same Manner as the Fines and Amerciaments set or imposed by the said recited Act, are thereby directed to be levied, recovered, and applied.

High Bailiff to transmit an Account thereof to the Court of Burgesses,

to be entered, together with the Licence Fees for Hoards, &c. and their Application, in proper Books,

And be it enacted by the Authority aforesaid, That the said High Bailiff, or his Deputy or Deputies, shall, from time to time, transmit to the said Court of Burgesses, an Account in Writing of all Fines and Amerciaments by him levied or received, in pursuance of this, or the said recited Act; and that the Clerk of the said Court of Burgesses, shall, in a Book to be kept for that Purpose, make a just and due Entry of all Fines and Amerciaments set or imposed by virtue of this, or the said recited Act, and likewise an Account of all Monies received in pursuance thereof, or on account of Licences granted for erecting Hoards, by virtue of this Act, and the Application of the several Sums so received; which Account the respective Overseers

seers of the several Parishes in Westminster, for the time being, shall have Liberty to inspect at all seasonable and convenient Times, upon Application to the said Clerk, and take Copies thereof so far as relates to the said Fines. which may be inspected by the Overseers; and Copies taken thereof.

And be it further enacted by the Authority aforesaid, That this Act and all the Powers and Authorities herein contained, shall commence and have Continuance from and after the Twenty ninth Day of September, in the Year of our Lord One thousand seven hundred and fifty eight. Commencement and Continuance of this Act.

And be it further enacted by the Authority aforesaid, That if any Suit shall be brought or commenced against any Person or Persons, for any thing done in pursuance of this Act, or in relation to the Premisses, that in every such Case, the Action shall be commenced within Six Months next after the Fact committed, and not afterwards; and shall be laid and brought in the County of Middlesex, and not elsewhere, except such Person or Persons against whom such Action shall be brought, shall remove into and reside in the City of London, in which Case the said Action shall be laid and brought in the said City of London; and the Defendant and Defendants in such Action or Actions to be brought, 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 hereof; and if it shall appear so to be done, or if any such Action or Suit shall be brought after the Time before limited for bringing the same, or shall be brought in any other County, City, or Place, than the County of Middlesex (except in such Case as aforesaid) that then and in such Case, the Jury shall find for the Defendant or Defendants; and if upon such Verdict, or if the Plaintiff or Plaintiffs shall become Nonsuit, or discontinue his, her, or their Action or Actions; or if a Verdict shall pass against the Plaintiff or Plaintiffs; or if, upon Demurrer, Judgement shall be given against the Plaintiff or Plaintiffs; the Defendant or Defendants shall and may recover Treble Costs, and have the like Remedy for the same, as any Defendant or Defendants hath or have for Costs of Suit, in other Cases by Law. Limitation of Actions. General Issue. Treble Costs.

Places and Persons exempted from the Jurisdiction of the Act.

Provided always, That this Act, or any Thing or Matter herein contained, shall not extend to the Church or College of Westminster, nor to the Close of Westminster, nor to any Person or Persons inhabiting within the Site, Circuit, or Precinct of the said Church, College, or Close, for any Offence or Misgovernment to be committed by them, or any of them, within the Site, Circuit, or Precinct of the said Church, College, or Close.

FINIS.