ANNO TRICESIMO QUARTO

# Georgii III. Regis.

## CAP. LXIV.

An Act for the more effectually repairing of such Parts of the Highways of this Kingdom as are to be repaired by Two Parishes. [23d *May* 1794.]

WHEREAS the Common Highways in this Kingdom are to be maintained and kept in Repair (except in certain Cases) by the Inhabitants of the several Parishes in which such Common Highways are situated; but it frequently happens that the Boundaries of such Parishes pass through the Middle of such Common Highways, and One Side of such Highways is situated in One Parish, and the other Side of such Highways is situated in another Parish, whereby great Inconveniencies have often arisen to such Parishes, in settling the Time and Manner of repairing and amending the same, and great Detriment has arisen thereby to the Publick from the Want of the due Repair of such Highways: For Remedy thereof, 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 it shall and may be lawful for any Two Justices of the Peace for any County, Riding, or Division, upon Complaint or Application to them by any Surveyor, or any One of the Surveyors of the Highways of any Parish, (stating to such Justices in Writing, and by a Plan thereunto annexed, that there is situated in the said Parish, and also in some other Parish adjoining thereto, specifying the same, a certain Common Highway, particularly describing the same by Metes, Bounds, and Admeasurement thereof, One Side of which Common Highway ought to be made or repaired by One of such Parishes, and the other Side thereof by the other of such Parishes), to issue their Summons, with a Copy of such Writing and Plan thereunto annexed, to the Surveyor or One of the Surveyors of the Highways of such other Parish, to appear before them on a Day to be mentioned in such Summons, not more than Fourteen Days, nor less than Seven Days from the Day of the Date of such Summons; and that in case the Parties shall then appear before such Justices, they may then

Preamble.

Two Justices may determine what Parts of Highways lying in Two Parishes shall be repaired by each, &c.

then proceed finally to decide the Matter in the Manner herein-after mentioned, in caſe all the Parties ſhall conſent thereto; but in caſe the Surveyor ſummoned ſhall not appear on ſuch Firſt Summons, or appearing ſhall require further Time, the ſaid Juſtices ſhall adjourn the further Conſideration of the Matter for any further Time, not more than Twenty-one Days, nor leſs than Fourteen Days from the Day of ſuch Adjournment, of which the Surveyor not appearing ſhall have Notice; on which Day the ſaid Juſtices ſhall proceed to hear the Parties and their Witneſſes, and whether the Party ſummoned does or does not appear, ſhall proceed to examine and finally determine the Matter in Form following; (that is to ſay), That it ſhall and may be lawful for ſuch Juſtices, and they are hereby required to divide the Whole of ſuch Common Highway by a tranſverſe Line croſſing ſuch Highway, into Two equal Parts, or into Two ſuch unequal Parts and Proportions as, in Conſideration of the Soil, Waters, Floods, the Inequality of ſuch Highway, or any other Circumſtances attending the ſame, they, in their Diſcretion, ſhall think juſt and right; and to declare, adjudge, and order, that the Whole of ſuch Highway on both Sides thereof, in One of ſuch Parts, ſhall be maintained and repaired by One of ſuch Pariſhes, and that the Whole of ſuch Highway on both Sides thereof, in the other of ſuch Parts, ſhall be maintained and repaired by the other of ſuch Pariſhes; and ſhall cauſe ſuch their Order, and a Plan of ſuch Highway, and the Allotment thereof as before-mentioned, to be fairly delineated on Paper or Parchment, and filed with the Clerk of the Peace of the County in which ſuch Highway ſhall happen to lie, and ſhall alſo cauſe ſuch Poſts, Stones, or other Boundaries, to be placed and ſet up in ſuch Highway as in their Judgement ſhall be neceſſary for aſcertaining the Diviſion and Allotment aforeſaid.

Pariſhes bound to repair the Parts ſo allotted.

II. And be it further enacted, That from and after ſuch Order and Plan ſhall be ſo filed with the Clerk of the Peace as aforeſaid, ſuch Pariſhes, and the Inhabitants thereof reſpectively, ſhall be bound as of Common Right to maintain and keep in Repair ſuch Parts of ſuch Common Highway ſo allotted to them as aforeſaid, and ſhall be liable to be proſecuted and indicted for Neglect of ſuch Duty, and ſhall in all Reſpects whatſoever be liable and ſubject to all the Proviſions, Regulations, and Penalties, contained in any Act or Acts of Parliament for the Repair of the Highways which are or ſhall be in Force, in like Manner as they are liable and ſubject to with reſpect to the Repair of any other Common Highway within ſuch Pariſhes reſpectively, and alſo ſhall be diſcharged from the Repair of ſuch Parts of ſuch Highway as ſhall not be included in their reſpective Allotments.

How Coſts of Proceedings ſhall be defrayed, &c.

III. And be it further enacted, That all Coſts, Charges, and Expences, to be incurred by reaſon of any of the Proceedings before-mentioned, ſhall be borne and defrayed by ſuch Two Pariſhes, the ſame being ſettled and aſcertained by ſuch Two Juſtices; and in caſe the ſaid Parties ſhall refuſe or neglect to pay and diſcharge their reſpective Share of ſuch Coſts and Expences, it ſhall and may be lawful for either of ſuch Juſtices, or any other Juſtice of the Peace for the ſaid County, Riding, or Diviſion, to levy the ſame by Diſtreſs and Sale, with the Coſts of ſuch Diſtreſs, on the Goods and Chattels of any Surveyor of the Highways of the Pariſh ſo refuſing or neglecting to defray ſuch Coſts and Charges as aforeſaid.



IV. And

IV. And be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to affect, change, or alter, in any Manner whatſoever, any Boundaries of Counties, Lordſhips, Hundreds, Manors, or any other Diviſion of publick or private Property, nor the Boundaries of any Pariſhes, otherwiſe than for the Purpoſe of amending and keeping in Repair ſuch particular Portion of the Highways, in the Manner herein-before mentioned.

Boundary of Counties, &c. not to be changed except for the Purpoſe aforeſaid.

V. And be it further enacted, That nothing herein contained ſhall relate, or be conſtrued to relate, to any Highways, the Repair of any Part of which belongs to any Bodies Politick or Corporate, Townſhip, or other ſuch Place, or to any private Perſon or Perſons, by the Reaſon of Tenure of any Lands, or otherwiſe howſoever, but that the ſame ſhall be conſtrued to relate to ſuch Highways, the Repair of which belongs to Pariſhes only: Provided always, That in caſe any ſuch Body Politick or Corporate, Townſhip, or other ſuch Place, or any ſuch private Perſon or Perſons as aforeſaid, or any other Perſon and Perſons who ſhall be bound by Law to repair One Side of any Part of any Common Highway, ſhall be deſirous that the ſame ſhould be placed under the Regulations of this Act, and that a Diviſion and Allotment thereof ſhould be made, according to the Proviſions thereof, and the Parties who are bound to the Repair of the other Side of the ſaid Highway ſhall conſent thereto, it ſhall and may be lawful for ſuch Two Juſtices to make an Order for the Diviſion and Allotment of ſuch Highway, and ſuch Order, when filed with the Clerk of the Peace, ſhall have the like Force and Effect, to all Intents and Purpoſes whatſoever, as is herein directed with reſpect to the like Order where Pariſhes only are concerned.

Act not to relate to Highways repairable by Bodies Politick, &c. which may however on Conſent be put under the Regulations of it,

VI. And be it further enacted, That this Act ſhall not be conſtrued to extend to that Part of *Great Britain* called *Scotland*.

nor to extend to *Scotland*.

VII. And be it further enacted, That it ſhall and may be lawful for either of the Two Pariſhes, between whom any ſuch Allotment of any Highway ſhall be made by virtue of this Act, by an Order in Veſtry, ſpecially called for the Purpoſe, to appeal to the Quarter Seſſions of the Peace for the County where ſuch Pariſhes ſhall lie, to be holden next after the Time when ſuch Order and Plan ſhall be filed with the Clerk of the Peace as aforeſaid, and not otherwiſe; and that upon the hearing of ſuch Appeal, the Juſtices at ſuch Quarter Seſſions ſhall make ſuch Order as ſhall appear to them to be juſt, either by affirming, quaſhing, or amending, the Order of the Two Juſtices, and ſhall allow Coſts to either Party as in their Diſcretion they ſhall think right; which Order of the Quarter Seſſions ſhall not be removed by Writ of *Certiorari* or otherwiſe, but ſhall be final to all Intents and Purpoſes whatſoever.

Appeal may be made to the Quarter Seſſions.

VIII. And be it further enacted, That ſuch Complaint, Summons, Adjudication, and Plan, may be in the ſeveral Forms ſtated in the Appendix hereunto annexed, or as near thereto as the Circumſtances and Nature of each particular Caſe may admit.

Complaints &c. may be made in the annexed Forms.

# APPENDIX.

## INFORMATION.

County of } AT a Petty Seſſion, holden before *J. P.* and *K. P.* Two of His Majeſty's Juſtices of the Peace for the ſaid County, this Day of

*J. S.* One of the Surveyors of the Highways of the Pariſh of *A.* came before the Juſtices aforeſaid, and gave them to be informed,

See Plan. That there is in the ſaid County a certain Common Highway, leading from *M.* to *N.*; and that there is a certain Part of the ſaid Highway, that is to ſay, ſo much thereof as lies between a certain Place called *C.* and a certain other Place called *D.* being in Length, [*as the Caſe may be*] One Side of which laſt-mentioned Part of the ſaid Highway adjoining to the Pariſh of *A.* lies within the ſaid Pariſh of *A.* and is to be, and of Right ought to be, repaired by the ſaid Pariſh of *A.*; and that the other Side of the ſame Part of the ſaid Highway adjoining to the Pariſh of *B*, lies within the Pariſh of *B.* and is to be, and of Right ought to be, repaired by the ſaid Pariſh of *B.*; and ſtating that the Repair of ſuch Part of the ſaid Highway is very inconvenient to the Pariſhes aforeſaid, and the Want thereof detrimental to the Publick: And therefore praying, That ſuch Part of the ſaid Highway may be allotted and apportioned for the Repair thereof, by the Juſtices aforeſaid, to the ſaid ſeveral Pariſhes of *A.* and *B.* in the Manner directed by an Act, paſſed in the Thirty-fourth Year of the Keign of King *George* the Third, intituled, *An Act*, &c.

(Signed) *J. S.*
One of the Surveyors of the Highways for the Pariſh of *A.*

The above Application was made to us the Day and Year firſt above written.

*J. P.*
*K. P.*

SUMMONS,

SUMMONS, to be ſubjoined to a Copy of the above Information.

County of } TO the Surveyors of the Highways of the Pariſh of *B.* in the ſaid County, any or either of them.

Whereas a certain Information has been given to us *J. P.* and *K. P.* Two of His Majeſty's Juſtices of the Peace for the ſaid County, by *J. S.* One of the Surveyors of the Highways of the Pariſh of *A.* in the ſaid County, a true Copy whereof is above written; theſe are, in His Majeſty's Name, to ſummon you, any or either of you, to appear before us at in the ſaid County, on the Day of at to ſhew Cauſe (if any) why an Allotment and Apportionment of the Highway therein mentioned ſhould not be made, according to the Proviſions of the Act referred to in the ſaid Information. Hereof fail not. Given under our Hands, this Day of

*J. P.*
*K. P.*

Final ORDER and ADJUDICATION, to be filed with the Clerk of the Peace.

WHEREAS, &c.

1. *State the Original Application.*
2. *The Summons.*
3. *The Appearance; and that the Parties were heard, or, their Non-appearance.*

Now we, the Juſtices aforeſaid, having fully heard and underſtood the Premiſes, do declare, adjudge, and order, That the ſaid Highway ſhall be divided in the following Manner; (that is to ſay), that at the Diſtance of meaſuring from the Place called *C.* there ſhall be erected certain Poſts or Stones, *E.* and *F.* on each Side of the ſaid Highway; and the Whole of the ſaid Highway, from the Place called *C.* to ſuch Poſts or Stones, ſhall be from Time to Time, and at all Times hereafter, repaired, by the Pariſh of *A.*; and the Whole of the ſaid Highway, from ſuch Poſts or Stones to the Place called *D.* ſhall from Time to Time, and at all Times hereafter, be repaired by the Pariſh of *B.*

In Witneſs whereof, we have hereunto ſet Our Hands and Seals, this Day of

*J. P.* (L. S.)
*K. P.* (L. S.)

PLAN.

# PLAN.

Parish of *A.*

Bound to repair on this Side to the dotted Line.

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*E.*  Stone.

*M.* *C*.....Highway.....*D.* *N.*

*F.*  Stone.

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Parish of *B.*

Bound to repair on this Side to the dotted Line.

FINIS.