ANNO TRICESIMO SEPTIMO

Georgii III. Regis.

CAP. LV.

An Act for taking down and rebuilding the Pariſh Church of *Milbrooke* in the County of *Southampton*, and for enlarging the Church Yard of the ſaid Pariſh. [9th *May* 1797.]

Preamble.

WHEREAS the Pariſh Church of *Milbrooke*, in the County of *Southampton*, and Dioceſe of *Wincheſter*, is a very antient Structure, and is in a very decayed and ruinous State and Condition, and not large enough for the Pariſhioners to aſſemble therein to hear Divine Service; and it is neceſſary that the ſaid Church ſhould be taken down and rebuilt: And whereas the preſent Burial Ground or Church Yard is too ſmall for the Uſe of the ſaid Pariſh: And whereas the Pariſhioners have agreed with Sir *Charles Mill* Baronet, and his Undertenant, for a Piece or Parcel of Ground on which the ſaid Church may more conveniently be rebuilt, and which will alſo be ſufficient to enlarge the Burial Ground or Church Yard of the ſaid Pariſh: And whereas it will be neceſſary, for carrying the aforeſaid Purpoſes into Execution, to raiſe a Sum of Money, which cannot be done without the Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted, and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and

Truſtees Names.

by the Authority of the ſame, That the Rector, Curate, and Church-wardens of the ſaid Pariſh for the Time being, Sir *Charles Mill* Baronet, *James Amyatt*, *William Fitzhugh*, *Fulke Greville*, *John Jarrett*, *Charles Mackett*, *John Poore*, and *Alexander Scott*, Eſquires, *Joſeph Bernard*, *Thomas King*, and *William Webb*, Gentlemen, ſhall be, and they are hereby appointed Truſtees for putting this Act in Execution; and all and every the Powers, Authorities, Directions, Matters, and Things, by this Act given to and directed to be done by or before the ſaid Truſtees, ſhall and may be exerciſed, had, and done, by or before any Three or more of them; and ſhall be of as full Force and Effect, as if done or executed by or before all the Truſtees.

II. Provided always, That no Perſon ſhall be capable of acting as a Truſtee in the Execution of this Act (except in the Power of adminiſtering the following Oath) until he ſhall have taken the Oath following:

Oath.

'I *A. B.* do ſwear, That I will faithfully, impartially, and honeſtly, according to the beſt of my Knowledge and Judgement, execute the ſeveral Truſts and Powers repoſed in me as a Truſtee by virtue of an Act, paſſed in the Thirty-ſeventh Year of the Reign of His Majeſty King *George* the Third, intituled, [*Here ſet forth the Title of the Act.*]'

Which Oath ſhall and may be adminiſtered by any One of the ſaid Truſtees.

Power to elect new Truſtees in the Room of thoſe dying, &c.

III. And be it further enacted, That when any Truſtee appointed by, or to be appointed in purſuance of this Act, (except ſuch Perſons as are declared to be Truſtees by virtue of their Situation or Office,) ſhall die or refuſe to act, it ſhall be lawful for the remaining Truſtees, by Writing under their Hands, to nominate and appoint another Perſon, (not being One of the People called *Quakers*,) being Owner of Land, or a Pariſhioner in the ſaid Pariſh, to be a Truſtee, in the Room of the Truſtee ſo dying or refuſing to act; and the Perſon ſo to be nominated and appointed ſhall be and is hereby inveſted with the ſeveral Powers by this Act granted to the Truſtees herein and hereby nominated and appointed.

No Truſtee to act if he contracts, diſpoſes of his Property, &c.

IV. Provided always, and be it further enacted, That if any Truſtee ſhall enter into any Contract, or have any Share or Intereſt in any Contract made for the Purpoſes of this Act, or being a Land Owner in the ſaid Pariſh, ſhall ſell and diſpoſe of his Property therein, or being a Pariſhioner therein ſhall leave the ſaid Pariſh and reſide elſewhere, every ſuch Perſon ſhall, during the Time of his being ſo intereſted in the Premiſes, or ſelling his ſaid Property, or leaving the ſaid Pariſh as aforeſaid, be utterly diſabled from acting in the ſaid Truſt; any Thing herein contained to the contrary thereof in anywiſe notwithſtanding.

Firſt Meeting of Truſtees.

V. And be it further enacted, That the ſaid Truſtees ſhall and may meet together in the Veſtry Room of the ſaid Pariſh, or in any other convenient Place, on the *Monday* Fortnight after this Act ſhall have received His Majeſty's Royal Aſſent, and proceed to put this Act in Execution; and then, and from Time to Time afterwards, adjourn themſelves to meet, or meet according to ſuch Notice as is herein-after direct-

ed to be given, within the ſame Hours, and at ſuch Place or Places, within the ſaid Pariſh, as ſuch Truſtees ſhall think proper and convenient; but no Act of the ſaid Truſtees ſhall be valid, unleſs made or done at ſome publick Meeting to be held by virtue of this Act.

Proceedings to be at Publick Meetings only.

VI. Provided always, and it is hereby enacted, That it ſhall be lawful for the ſaid Truſtees to order a Meeting of the Truſtees as often as they ſhall find it neceſſary; and that of all Meetings to be held in purſuance of this Act (unleſs by Adjournment) previous Notice ſhall be given in the ſaid old Church, or in the *Saliſbury* and *Wincheſter* Journal, or ſome other Provincial Newſpapers, ſigned by the Clerk to be appointed to the ſaid Truſtees, as hereby directed, until the ſaid intended new Church ſhall be built or compleated, and uſed for the Celebration of Divine Service, and then ſuch Notice ſhall be given in ſuch new Church, on the *Sunday* next before ſuch Meetings reſpectively, by the Rector of the ſaid Pariſh for the Time being, or Curate, or ſome other Perſon to be appointed by the ſaid Rector to give the ſame, thereby ſetting forth the Day, Hour, and Place, of ſuch Meeting; and the ſaid Truſtees ſhall at all ſuch Meetings pay their own Expences; and that all ſuch Truſtees as are Juſtices of the Peace may act as Juſtices, notwithſtanding their being Truſtees, except only in ſuch Caſes where they ſhall be immediately and perſonally intereſted; and that in all Caſes where the Truſtees, or any Juſtice or Juſtices of the Peace, are authoriſed to examine any Perſon or Perſons on Oath or Affirmation, it ſhall be lawful for ſuch Truſtees and Juſtices, and they are hereby required to adminiſter ſuch Oath, or take ſuch Affirmation.

Notice of Meeting to be given in the old Church, or *Saliſbury* and *Wincheſter* Journal, *etc.*

Truſtees to pay their own Expences.

Truſtees may act as Juſtices.

VII. And be it further enacted, That the ſaid Truſtees ſhall ſue and be ſued in the Name of their Clerk, and that no Action that may be brought or commenced by or againſt the ſaid Juſtices, or any of them, by virtue or on Account of this Act, in the Name of their Clerk, ſhall abate or be diſcontinued by the Death or Removal of ſuch Clerk, or by the Act of ſuch Clerk, without the Conſent of the Truſtees; but the Clerk to the ſaid Truſtees for the Time being ſhall always be deemed Plaintiff or Defendant in ſuch Action, as the Caſe may be: Provided always, that every ſuch Clerk, in whoſe Name any Action or Suit ſhall be commenced, proſecuted, or defended, in purſuance of this Act, ſhall always be reimburſed and paid, out of the Monies to be raiſed by virtue of this Act, all ſuch Coſts and Charges as by the Event of any ſuch Proceedings he ſhall be put to, or become chargeable with, by reaſon of his being ſo made Plaintiff or Defendant therein.

Actions to be in the Name of their Clerk.

VIII. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, by any Writing under their Hands, to appoint a Treaſurer or Treaſurers, and Clerk, and One or more fit and able Perſon or Perſons, if neceſſary, to ſuperintend and inſpect the Buildings and Works intended to be carried on under or by virtue and in purſuance of this Act; and alſo to appoint ſuch other Perſon or Perſons as may be neceſſary and proper for any of the Purpoſes of this Act, or to execute any Rules, Orders, and Regulations, to be made in purſuance of the ſame; and ſhall and may take ſuch Security as they the ſaid Truſtees ſhall think proper, from ſuch Treaſurer and Clerk, or any other Perſon or Perſons ſo to be employed and appointed as aforeſaid, or any of them; and ſhall and

Truſtees to appoint a Treaſurer and Clerk;

taking Security;

and may remove them;

and may from Time to Time remove ſuch Treaſurer and Clerk, or other Perſon or Perſons, and appoint others in the Room and Stead of ſuch of them as ſhall be ſo removed, or that ſhall die, or may diſcontinue any ſuch Office or Offices, when they the ſaid Truſtees ſhall think proper ſo to do: And ſuch Truſtees ſhall and may, out of the Monies ariſing by virtue of this Act, pay, or cauſe to be paid, to all ſuch Treaſurers, Clerks, and other Perſons, ſuch Salaries or other Allowances as they the ſaid Truſtees ſhall judge reaſonable, for and in Conſideration of their Employment reſpectively.

and allow them Salaries.

Truſtees may contract for Ground.

IX. And be it further enacted, That the ſaid Truſtees ſhall have full Power and Authority, from Time to Time, to treat, contract, and agree, with the ſaid Sir *Charles Mill* Baronet, and the Owners and Occupiers, and all other Perſons intereſted in the ſaid Lands, Tenements, and Hereditaments, with their and every of their Appurtenances ſo fixed and agreed on for re-building the ſaid Church, and for encreaſing the Burial Ground or Church Yard, and to purchaſe the ſame, or ſuch Part thereof reſpectively, as the ſaid Truſtees ſhall think fit; and upon Payment of ſuch Sum and Sums of Money, as ſhall be agreed upon for ſuch Purchaſes, to cauſe ſuch Tenements to be taken down, and the ſame, with the Land thereto appertaining, to be employed for the Purpoſes of rebuilding the ſaid Church, and making an additional Burial Ground or Church Yard thereto; and the ſame ſhall for ever after remain as Part and Parcel of the ſaid Church and Burial Ground, or Church Yard thereof; and this Act ſhall be ſufficient to indemnify the ſaid Truſtees, their Agents, Workmen, Officers, and Servants, and all Perſons acting by or under their Authority, or under the Authority of the ſaid Truſtees, againſt the Heirs, Executors, Adminiſtrators, or Aſſigns, of the ſaid Sir *Charles Mill*, or of any of the ſaid Owners or Occupiers of the ſaid Premiſes, or any Part thereof, as effectually as if the ſame had been ſold and conveyed by Deed of Feoffment, Bargain and Sale, or other Aſſurance in the Law whatſoever; and it ſhall be lawful for the ſaid Sir *Charles Mill*, his Heirs and Aſſigns, and his Tenants, Owners, and Occupiers of the ſaid Tenements, Lands, and Hereditaments, and to and for all other Perſon and Perſons whomſoever, who are or ſhall be ſeiſed, poſſeſſed of, or intereſted in, the ſaid ſeveral Houſes, Meſſuages, Tenements, and Hereditaments, and the Appurtenances thereunto belonging, intended to be purchaſed for the Purpoſes aforeſaid, to ſell to the ſaid Truſtees all and every the ſaid Lands, Tenements, Hereditaments, Eſtates, and Intereſts, or any Part thereof; and the ſame ſhall be conveyed to the Rector of the ſaid Pariſh of *Milbrooke*, and his Succeſſors, Rectors of the ſaid Pariſh of *Milbrooke* for the Time being, in Truſt for the Land Owners and Pariſhioners of the ſaid Pariſh for the Purpoſes of this Act; and that all Contracts, Agreements, Bargains, Sales, and Conveyances which ſhall be made by ſuch Perſons as aforeſaid, ſhall be good and valid in Law to all Intents and Purpoſes, not only to convey the Eſtate and Intereſt of the Perſon or Perſons conveying, but alſo to convey all Right, Eſtate, Intereſt, Uſe, Property, Claim, and Demand whatſoever, of all other Perſons whomſoever, and all Perſons claiming or to claim by, from, or under them; any Law, Statute, Uſage, or any other Matter or Thing whatſoever to the contrary thereof in anywiſe notwithſtanding; and all ſuch Perſons ſo conveying ſhall be and are hereby indemnified for what they ſhall do by virtue of or in

Proprietors to ſell.

Perſons conveying indemnified.

in purſuance of this Act, notwithſtanding any Omiſſion or Miſtake of Matter or Form whatſoever.

Money belonging to Corporations, &c. to be re-inveſted.

X. And be it further enacted, That the Money or Recompence to be paid for any Land which ſhall be purchaſed for the Purpoſe aforeſaid, belonging to any Corporation or other incapacitated Perſons, ſhall, if the ſame exceed the Sum of Twenty Pounds, be paid to ſuch Perſon or Perſons as ſuch Corporation, or the Guardians, Truſtees, or Committees, of ſuch incapacitated Perſons, ſhall reſpectively nominate and appoint to receive the ſame in Truſt, with all convenient Speed, to be re-inveſted in the Purchaſe of other Lands, which ſhall be conveyed and ſettled upon and ſubject to the like Uſes, Truſts, and Limitations, as the Land to be purchaſed for the Purpoſes of this Act, belonging to ſuch Corporation, or other incapacitated Perſons, ſhall be then ſettled, limited, or aſſured.

Old Church to be taken down.

XI. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, and they are hereby authorized and required, to cauſe the Whole of the ſaid old Church, and the ſaid Meſſuages, Tenements, and Hereditaments, ſo to be purchaſed as aforeſaid, to be taken down, and the Materials thereof to be ſold, or otherwiſe diſpoſed of, for the Purpoſes of this Act; and the Scite of the ſaid old Church to be thrown into the preſent Church Yard, and the Lands belonging to the ſaid Tenements, or ſuch Part thereof as the ſaid Truſtees ſhall think fit, to be taken in, walled, fenced, and encloſed, for the Purpoſes aforeſaid, at ſuch Time or Times, and with ſuch Materials, and in ſuch Manner, as they ſhall think fit; and alſo cauſe a Church and a Tower to be erected and built thereon, or upon the ſame or on ſome Part or Parts thereof, and alſo on ſuch other Part or Parts of the ſaid Ground ſo to be purchaſed, as they the ſaid Truſtees ſhall think fit, after ſuch Model, and of ſuch Dimenſions and Materials, and in ſuch Manner, as they the ſaid Truſtees, or any Nine or more of them, ſhall agree upon or direct; and alſo to cauſe Pews, Seats, and Galleries, and ſuch Bells, Ornaments, and Conveniencies, to be made, erected, and ſet up, in the ſaid intended Church, as they the ſaid Truſtees ſhall or may deem proper or neceſſary, in order that the ſaid intended new Church and Church Yard as aforeſaid, may be conſecrated and ſet apart, and compleatly finiſhed, furniſhed, and encloſed, for the Celebration of Divine Service, according to the Uſe of the Church of *England*; all which Works, Matters, and Things, ſhall be done by Contract or otherwiſe, ſubject to the Inſpection and Control of a Surveyor or Surveyors on the Part of the ſaid Truſtees, as the ſaid Truſtees ſhall from Time to Time think proper, and moſt expedient to fulfil the Intentions of this Act.

New Church to be built.

Pews, &c. to be made.

Contracts to be in Writing.

XII. And be it further enacted, That all Contracts and Agreements made or entered into by and between the ſaid Truſtees, and any Perſon or Perſons whomſoever, relating to any Act, Matter, or Thing, to be done or performed in Execution of any of the Powers hereby granted, ſhall be reduced and put into Writing, and ſigned by the Parties thereto, and ſhall be good, valid, and binding, as well upon the ſaid Truſtees as upon all other Parties thereto, his, her, and their Executors, Adminiſtrators, Succeſſors, and Aſſigns; and, in caſe of Breach thereof, Actions may be brought and maintained, and Damages and Coſts recovered thereon, againſt the Party or Parties not performing the ſame, or ſpecific Performance

Performance thereof may be decreed, as in any other Caſe of Contracts or Agreements between any other Perſons whomſoever.

The Scite of the old Church and Houſes, *etc.* to be Part of the Church Yard.

XIII. And be it further enacted, That the Scite of the ſaid old Church, and the ſaid Tenements, Hereditaments, and Premiſes, ſo to be purchaſed as aforeſaid, when taken down as aforeſaid, and the Lands and Grounds belonging thereto as aforeſaid, ſhall be, and the ſame are hereby deemed to be, the Church Yard for the Purpoſes thereof; and that the ſaid new Church, when the ſame ſhall have been completed, finiſhed, and rendered fit for the Celebration of Divine Service, ſhall be conſecrated and for ever ſet apart as a Place for the Celebration of Divine Worſhip according to the Uſe of the Church of England as now by Law eſtabliſhed; and alſo the ſaid Church Yard thereof, ſo to be added as aforeſaid, ſhall be conſecrated and for ever ſet apart for the Burial of the Dead; and the ſaid new Church, and the ſaid Church Yard ſo to be added as aforeſaid, ſhall from henceforth for ever be called or known by the Name of, and to all Intents and Purpoſes be, *the Pariſh Church and Church Yard of Millbrooke* aforeſaid, and ſubject to the Juriſdiction of the Biſhop of the ſaid Dioceſe in the ſame Manner as the old Church; and that Divine Service, according to the Uſe of the Church of *England*, as now by Law eſtabliſhed, the Solemnization of Matrimony, Baptiſms, and all other Matters and Things which were, and of Right have been, uſed to be celebrated, ſolemnized, adminiſtered, had, done, and performed, in the ſaid old Church, ſhall and may be celebrated, ſolemnized, adminiſtered, had, done, and performed, in ſuch and the like Manner in the ſaid new Church and the ſaid Church Yard ſo to be added as aforeſaid; and the Churchwardens for the Time being of the ſaid Pariſh ſhall be inveſted with the Bells, Ornaments, Furniture, Seats, (except ſuch Seats as the ſaid Truſtees ſhall or may let), Books, Plate, Goods, and Chattels, of the ſaid new Church, and ſhall have the ſame Power and Authority in the ſaid new Church, and Church Yard thereof, ſo to be enlarged as aforeſaid, as they now have in the ſaid old Church and Church Yard.

Name of new Church and Church Yard.

Churchwardens to be inveſted with the Furniture, *etc.* in the new Church.

Pews to be allotted for the Rector and Churchwardens;

and to Landholders and Pariſhioners;

XIV. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, and they are hereby required to ſet out and allot, unto or for the Rector of the ſaid Pariſh Church for the Time being, One of the Pews to be built or made in the ſaid intended Church; and One other Pew for the ſaid Churchwardens for the Time being, without paying any Compenſation or Satisfaction for the ſame, ſuch new Pews not being inferior, in Point of Goodneſs and Convenience, to the Pews in the ſaid old Church, now occupied by the preſent Rector and Churchwardens of the ſaid Pariſh; and that the ſaid Truſtees ſhall ſet out and allot, from the other of the ſaid Pews and Seats in the ſaid intended Church, a ſufficient Number of the ſaid Pews and Seats for all the Landholders of the ſaid Pariſh, and for the Pariſhioners therein; and that the ſaid Landholders and Pariſhioners of the ſaid Pariſh ſhall have Choice of ſuch Pews, when ſet out, in Priority, according to the annual Value of the Houſes ſuch Landholders and Inhabitants reſpectively poſſeſs, or the Amount of Subſcriptions for carrying the ſaid Plan into Execution, the Poſſeſſor of the Houſe and Lands of the higheſt Value, or having ſubſcribed the largeſt Sum of Money, to have the firſt Choice; and when Two or more Landholders or Inhabitants happen to poſſeſs Houſes and Lands of the

ſame annual Value, and who ſhall have ſubſcribed a like Sum of Money each for carrying the ſaid Plan into Execution, then the Poſſeſſors of ſuch Houſes, and Subſcribers of ſuch Sums of Money, ſhall, in that Caſe, draw for the Preference; and that ſuch Pews ſo allotted and ſet out by the ſaid Truſtees, or being choſen in conſequence of being drawn for, ſhall belong to ſuch Land Owners and Pariſhioners, and the Proprietor or Proprietors of the ſame, in Right of the ſaid Houſes, his, her, and their Heirs and Aſſigns.

and to Land-owners.

XV. Provided always, That in caſe it ſhall happen any of the Land Owners within the ſaid Pariſh ſhall not have or poſſeſs any Houſe or Houſes on the ſaid Land, it ſhall and may be lawful to and for the ſaid Truſtees to ſet out and allot a Pew to ſuch Land Owner or Land Owners, in ſuch Manner as they ſhall deem neceſſary and proper; and the ſame ſhall belong to ſuch Land Owner or Land Owners, his or their Heirs and Aſſigns.

Pews to be numbered.

XVI. And be it further enacted, That the ſaid Truſtees ſhall and they are hereby required to cauſe the ſeveral Pews and Seats, ſo to be built and ſet up in the ſaid intended Church, to be numbered, and the ſeveral Numbers thereof to be entered in a Book to be provided for that Purpoſe, and to be preſerved or kept in the Veſtry Room of ſuch Church, and to be opened for the Inſpection of all Perſons intereſted therein, at all ſeaſonable Times, without Fee or Reward,

Monuments, *etc.* to be taken down;

and placed on the Scite of the old Church, or in the new Church.

XVII. Provided always, and be it further enacted, That in the taking down of the ſaid old Church as aforeſaid, as little Damage ſhall be done to the Graves, Grave Stones, Monuments, and Monumental Inſcriptions, in and about the ſame, as reaſonably may be; and that ſuch of the ſaid Grave Stones, Monuments, and Monumental Inſcriptions, as ſhall be neceſſarily removed on Account thereof, ſhall be fixed or placed on ſuch other Part or Parts of the Scite of the ſaid old Church, or in the ſaid intended new Church, for anſwering as far as may be the Purpoſe or Purpoſes for which the ſame were originally laid, fixed, placed, or put up, as the ſaid Truſtees ſhall in their Diſcretion think fit; and that ſuch Grave Stones, Monuments, and Monumental Inſcriptions, and alſo all and every the Vaults, Grave Stones, Monuments, and Monumental Inſcriptions, and Right of Burial, in ſuch Part of the Scite of the ſaid old Church, being the particular Property of any Perſon or Perſons now living, or belonging to the Families buried in or under the ſaid old Church or Church Yard, ſhall continue to belong to ſuch Perſons or Families reſpectively, in like Manner as before and at the Time of paſſing this Act.

No Burials in the new Church.

XVIII. And be it further enacted, That no Burials or Interment of Dead ſhall at any Time be allowed or permitted by any Perſon or Perſons whomſoever, in or under the Scite of the ſaid intended new Church, nor any Grave or Vault made therein for that Purpoſe.

Aſſeſſments to be made.

XIX. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, or any Five or more of them, being Owners of Lands or Pariſhioners in the ſaid Pariſh, and they are hereby directed and required, Once or oftener in every Year if thought needful by them, by any

Writing under their Hands, to make an Aſſeſſment or Aſſeſſments, Rate or Rates, upon all and every the Lands, Houſes, Mills, Wharfs, Shops, Warehouſes, Vaults, or other Tenements or Hereditaments whatſoever within the ſaid Pariſh, in any Sum of Money not exceeding One Shilling in the Pound on Lands, and Eight-pence in the Pound on Houſes, in any One Year, of the yearly Rent or yearly Value of ſuch Lands, Houſes, Mills, Wharfs, Shops, Warehouſes, Vaults, or other Tenements or Hereditaments, all which Aſſeſſments or Rates ſhall be collected or recovered Half-yearly by the Churchwardens for the Time being of the ſaid Pariſh, or any One or more of them, after the ſame ſhall be allowed by Two or more Juſtices of the Peace acting for the ſaid County of *Southampton*, who ſhall and are hereby authoriſed to allow the ſame; and by Warrant under their Hands and Seals, to authoriſe and appoint the ſaid Churchwardens, ſo appointed Receivers and Collectors of ſuch Aſſeſſments or Rates, (and they are hereby reſpectively empowered and enabled by virtue of ſuch Warrant only), to levy the ſaid Aſſeſſments or Rates upon any Perſon or Perſons liable to pay the ſame, who (after Demand made thereof) ſhall neglect or refuſe to pay ſuch Aſſeſſments or Rates, according to the true Intent and Meaning of this Act, by Diſtreſs of their Goods and Chattels, and to detain and keep the ſame until ſuch Aſſeſſments or Rates, with the reaſonable Charges of ſuch Diſtreſs, ſhall be paid; and it ſhall be lawful for the Perſon or Perſons ſo diſtraining, after the Space of Four Days next after ſuch Diſtreſs taken, to ſell the Goods and Chattels ſo diſtrained, returning the Overplus (if any) to the Owner or Owners thereof after the reſpective Aſſeſſment or Rate, and the reaſonable Charges of diſtraining, keeping, and ſelling the Diſtreſs, ſhall be deducted; One Moiety of which ſaid Aſſeſſment or Aſſeſſments, Rate or Rates, ſhall be ſuſtained, borne, and paid, by the reſpective Landlords or Owners of the ſaid Lands, Houſes, Mills, Wharfs, Shops, Warehouſes, Vaults, Tenements, and Hereditaments reſpectively; and the remaining Moiety by the reſpective Inhabitants, Tenants, or Occupiers thereof, in Proportion to the Time they ſhall ſo inhabit or occupy the ſame; but in caſe any ſuch Inhabitants, Tenants, or Occupiers, ſhall not be rated to the Poors Rate of the ſaid Pariſh, then and in ſuch Caſe the Whole of the ſaid Aſſeſſment or Aſſeſſments, Rate or Rates, ſhall be ſuſtained, borne, and paid, by the ſaid Landlords and Owners; and the ſaid Tenants or Occupiers rated to the Poors Rate ſhall and may deduct and retain, out of the Rents payable to their reſpective Landlords and Owners of the ſaid Premiſes, the ſaid Moiety, and if not rated to the ſaid Poors Rate, then the Whole of ſuch Rate or Aſſeſſment ſhall be allowed; and the Landlords and Owners, mediate or immediate, according to their reſpective Intereſts, are hereby required to allow to ſuch Tenants, ſuch Deductions and Payments accordingly; and every ſuch Tenant paying, or having levied upon him or them, ſuch Rate or Rates, Aſſeſſment or Aſſeſſments, for and upon the Landlord's Account, ſhall be acquitted and diſcharged of and from ſo much Money as the ſame ſhall amount unto, as fully and effectually as if the ſame had been actually paid to any ſuch Landlord or Landlords, or other Perſon or Perſons, to whom his, her, or their Rent was or ſhould be paid or payable; and when any Perſon or Perſons ſhall refuſe or omit to pay the Sum or Sums of Money rated or aſſeſſed upon him, her, or them, on, or for, or in reſpect of the Lands, Houſes, Mills, Wharfs, Shops, Warehouſes, Tenements, Hereditaments, or Premiſes, held or occupied by him, her, or them, by virtue

Tenants to deduct Rates out of the Rents payable to Landlords.

of this Act, the ſame ſhall be levied and recovered as directed by this Act, not only in the ſaid Pariſh of *Milbrooke*, but in any other Pariſh or Place, the Warrant or Warrants for recovering and levying the ſame being firſt counterſigned by ſome Juſtice of the Peace for the County or Place where any Goods or Chattels of the reſpective Perſon or Perſons ſhall be found; and that the Monies to ariſe by ſuch Aſſeſſment or Aſſeſſments ſo to be made as aforeſaid, and all other Sum or Sums of Money to be received on Account of the ſaid intended Church and the Church Yard thereof, ſhall be, and the ſame are hereby veſted in the ſaid Truſtees, and ſhall be applied or appropriated by them for the Purpoſes of this Act.

Aſſeſſments veſted in Truſtees.

XX. And be it further enacted, That the ſaid Churchwardens for the Time being, and each and every of them, ſhall, Once in every Six Calendar Months at leaſt, and from Time to Time as often as he or they ſhall be thereunto required by the ſaid Truſtees, deliver in Writing, under his or their Hand or Hands, upon Oath if ſo required, to the ſaid Truſtees, or unto ſuch Perſon or Perſons as they ſhall appoint, a true, faithful, and perfect Account of all ſuch Sum and Sums of Money as they or any of them have or hath collected or received for or on Account of the ſaid Seats, Subſcriptions, Rates, or Aſſeſſments, and of all and every other Sum and Sums of Money to be received, or which ſhall have been rated or aſſeſſed as aforeſaid and not received, and of all other Matters and Things done and performed by them, or any of them, by virtue of this Act, for the Purpoſes aforeſaid; and ſhall deliver in all Accounts, Books, Papers, and Vouchers relating thereto, and ſhall duly account and pay unto the ſaid Truſtees, or to the Treaſurer or Treaſurers to be appointed by the ſaid Truſtees as aforeſaid, all Sum and Sums of Money remaining in the Hands of the ſaid Churchwardens, or any of them; and in caſe ſuch ſaid Churchwardens ſhall refuſe or neglect to account for and pay any Sum or Sums of Money collected or received by them reſpectively by virtue of this Act, and which ſhall remain in his or their Hands reſpectively as aforeſaid, or to deliver in ſuch Accounts, Books, Papers, and other Vouchers, it ſhall be lawful for any Two or more Juſtices of the Peace, of and for the ſaid County of *Southampton*, upon Complaint thereof made to them, to make Enquiry of and concerning ſuch Neglect or Refuſal, as well by Confeſſion of the Party as by the Oath or Oaths of any credible Witneſs or Witneſſes; and if any ſuch Churchwarden ſhall be convicted of ſuch Neglect or Refuſal before ſuch Juſtices, the ſaid Juſtices ſhall thereupon commit the Perſon ſo offending to the common Gaol of the ſaid County, there to remain without Bail or Mainpriſe, until he ſhall have made a true and perfect Account and Payment as aforeſaid, or ſhall have compounded for the ſame with the ſaid Truſtees, which Compoſition the ſaid Truſtees are hereby authorized and empowered to make and receive.

Churchwardens to account Half-yearly, and pay all Monies in their Hands to the Truſtees.

XXI. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, and they are hereby authorized and empowered, to borrow and take up at Intereſt, on the Credit of the Aſſeſſments and Rates to be laid and raiſed by virtue of this Act, ſuch Sum or Sums of Money to be applied to the Purpoſes of this Act as they ſhall think expedient, ſo as ſuch Rate or Aſſeſſment to be made for the Payment of the Intereſt of ſuch Sum or Sums of Money ſo to be borrowed, do not exceed the Sum of One Shilling in the Pound upon Lands, and Eight-pence in the Pound

Power to raiſe Money by Mortgage of the Rates.

Pound upon Houſes in any One Year of the yearly Value of ſuch Lands, Houſes, Mills, Wharfs, Shops, Warehouſes, or other Tenements or Hereditaments as aforeſaid; and they are hereby empowered to demiſe or mortgage the ſaid Aſſeſſments and Rates, or any Part or Parts thereof, as a Security to any Perſon or Perſons, or to their Truſtee or Truſtees, for ſuch Sum or Sums of Money ſo to be borrowed, and for the Intereſt thereof.

Truſtees to cauſe Entries of all Monies received.

XXII. And be it further enacted, That the ſaid Truſtees ſhall cauſe Entries to be made in a Book or Books, of all ſuch Sums of Money as ſhall be received from or on Account of the ſaid Rates or Aſſeſſments, and from the ſaid Materials, and otherwiſe under this Act, and alſo of, from, or on Account of the voluntary Contributions or Subſcriptions of any Perſon or Perſons diſpoſed to promote the ſaid pious Undertaking, and all other Receipts of Money whatſoever to be received on Account of this Act; and alſo of all Payments, Debts, and Credits to be made, or cauſed to be made by the ſaid Truſtees, or which ſhall ariſe from, or be occaſioned by the carrying of the Powers of this Act into Execution, or any other Matter or Thing relating thereto, and alſo of all other their Proceedings under this Act; which Book or Books ſhall, from Time to Time, and at all convenient Times, be open to the Inſpection and Peruſal of any Perſon or Perſons paying or liable to pay any Sum or Sums of Money, for or on Account of the Rates or Aſſeſſments, or voluntarily contributing or ſubſcribing any Sum or Sums of Money, for or towards the Purpoſes of this Act.

The Rates to ceaſe when the Church is finiſhed, and Debt paid.

XXIII. And be it further enacted, That when the ſaid intended Church, and the Tower, Bells, and Seats, with the Appurtenances ſhall be finiſhed and completed, and the Works, with reſpect to the old Church, and the ſaid Houſes, Lands, Hereditaments, and Premiſes, and the ſaid Church Yard, and all other Matters and Things, ſhall be done and performed in purſuance of this Act, and all Debts contracted on Account of carrying the Powers of this Act into Execution be paid, the Powers granted to the aforeſaid Truſtees by this Act ſhall ceaſe and determine, and the ſaid Rates ſhall alſo ceaſe, and the ſaid Pews and Seats in the ſaid intended Church ſhall from thenceforth, at all Times afterwards, be let or diſpoſed of, except ſuch Pews as ſhall have been ſet out and allotted or let, and have been diſpoſed of by the ſaid Truſtees in purſuance of this Act, ſubject to the Contracts then exiſting with reſpect thereto (if any) by the Pariſhioners and Inhabitants of the ſaid Pariſh, in Veſtry aſſembled, or the major Part of them then preſent, and that the Money and Rents from thenceforth to ariſe from the letting or diſpoſing of the ſaid Pews, and alſo ſuch Sum or Sums of Money received under this Act from the Sale and Rents of the ſaid Pews and Seats, and the ſaid Rates or Aſſeſſments, and otherwiſe, as ſhall remain unapplied after the Purpoſes of this Act ſhall be ſatisfied, ſhall be applied in ſuch Manner as they the ſaid Pariſhioners and Inhabitants, in Veſtry aſſembled, or the major Part of them then preſent, ſhall think fit.

For repairing the Foot Paths leading to the Church.

XXIV. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Truſtees to make and keep in Repair the preſent Foot Ways or Paths, or any other Foot Ways or Paths, leading to the Church and Church Yard, which they ſhall deem neceſſary, and to put and

place Poſts and Rails for the better Protection thereof, and pay the Expences thereof, and of keeping the ſame in Repair, out of the Monies, Rates, and Aſſeſſments, to be made and raiſed by virtue of this Act; and in caſe any Perſon or Perſons ſhall wilfully damage or deſtroy the ſame, or ſhall ride or drive any Carriage or Horſe on the ſaid Foot Ways or Paths, he, ſhe, or they ſhall forfeit and pay any Sum not exceeding Twenty Shillings for the Firſt Offence, and any Sum not exceeding Forty Shillings for every other Offence; ſuch Penalties to be recovered by Information before any Juſtice of the Peace for the ſaid County, by the Oath of One credible Witneſs, or by the Confeſſion of the Party or Parties committing ſuch Offence; and the ſaid reſpective Penalties, when recovered, ſhall be paid to the Clerk to the ſaid Truſtees, and applied for the Purpoſes of this Act.

Coſts of this Act to be paid.

XXV. And be it further enacted, That all Coſts, Charges, and Expences of paſſing this Act, and all other Charges incident to the obtaining thereof, ſhall be borne, paid, and defrayed out of the firſt Monies ariſing by virtue thereof, or from ſuch voluntary Contributions as aforeſaid.

Divine Service to be performed in *Eling* Church until the new Church is completed.

XXVI. Provided always, and be it further enacted, That during the Time of taking down the ſaid old Church, and building and finiſhing the ſaid intended new Church as aforeſaid, it ſhall and may be lawful for the Rector of the ſaid Pariſh, his Curate, or the officiating Miniſter, to publiſh the Banns of Marriage between the Inhabitants of the ſaid Pariſh, to ſolemnize Marriages of ſuch Inhabitants by Banns or Licence, and to perform all other Offices belonging to their ſacred Function in the Pariſh Church of *Eling*; and the Banns ſo publiſhed, and the Marriages ſo ſolemnized, and Offices ſo performed, ſhall be as good and valid in the Law, as if the ſame had been publiſhed, ſolemnized, and performed in the ſaid old Church.

Penalties and Forfeitures, how to be levied and recovered.

XXVII. And be it further enacted, That all Penalties and Forfeitures by this Act impoſed, ſhall and may be levied and recovered in like Manner as the Aſſeſſments or Rates hereby authorized to be made and collected, can or may be levied or recovered.

General Appeal.

XXVIII. And be it further enacted, That if any Perſon or Perſons ſhall find him or themſelves aggrieved by any Order, Direction, or Appointment of the ſaid Truſtees, or by Means of the ſaid Rate or Rates, Aſſeſſment or Aſſeſſments, or any other Matter or Thing to be made, done, or committed in purſuance or under Colour of this Act, it ſhall be lawful for ſuch Perſon or Perſons to appeal to the next Quarter Seſſions of the Peace, to be held in and for the ſaid County of *Southampton*, before the Juſtices of the Peace of the ſaid County, or other greater Number of them, then and there aſſembled; and they are hereby authorized to ſummon and examine Witneſſes upon Oath, and to hear and determine the Matter of the ſaid Appeal, and make ſuch Order therein as to them ſhall ſeem meet, which Order ſhall be final and concluſive to all Parties, but ſo as that ſuch Appeal ſhall be made within Three Calendar Months next after ſuch Cauſe of Complaint ſhall have ariſen; and that the Perſon or Perſons ſo appealing ſhall firſt give, or cauſe to be given Fourteen Days Notice at the leaſt, in Writing, of his

his or her Intention of appealing as aforeſaid, and of the Matter or Cauſe thereof, to the Churchwardens for the Time being of the ſaid Pariſh, or to the Clerk to the ſaid Truſtees; and within Three Days next after ſuch Notice enter into a Recognizance with Two ſufficient Sureties conditioned to try ſuch Appeal, and abide by the Order and pay ſuch Coſts as ſhall be made and awarded thereon; and that ſuch Juſtices, upon hearing and finally determining the Matter of ſuch Appeal, ſhall and may, and they are hereby directed and required, to award ſuch Coſts to the Party or Parties appealing, or appealed againſt, as they ſhall think proper.

XXIX. And be it further enacted, That no Action or Suit ſhall be commenced againſt any Perſon or Perſons for any Thing done in purſuance of this Act, until Thirty Days Notice ſhall be given thereof, in Writing, to the Clerk to the ſaid Truſtees, or after ſufficient Satisfaction, or Tender thereof hath been made to the Party or Parties aggrieved, or after Three Calendar Months next after the Fact committed, for which ſuch Action or Actions, Suit or Suits, ſhall be ſo brought; and every ſuch Action ſhall be brought, laid, and tried, in the ſaid County of *Southampton*, and not in any other Town, County, or Place; and the Defendant or Defendants, in every ſuch Action or Suit, may plead the General Iſſue, and give this Act, and the Special Matter in Evidence, at any Trial which ſhall be had thereupon; and if the Matter or Thing ſhall appear to have been ſo done, or if it ſhall appear that ſuch Action or Suit was brought before Thirty Days Notice thereof given as aforeſaid, or that ſufficient Satisfaction was made or tendered as aforeſaid; or if any ſuch Action or Suit ſhall not be commenced within the Time before for that Purpoſe limited, or ſhall be laid in any other County or Place than as aforeſaid, then the Jury or Juries ſhall find for the Defendant or Defendants therein; and if a Verdict or Verdicts ſhall be found for ſuch Defendant or Defendants, or if the Plaintiff or Plaintiffs in ſuch Action or Suit ſhall become nonſuited, or ſuffer a Diſcontinuance of ſuch Action or Suit, or, if upon Demurrer in ſuch Action, Judgement ſhall be given for the Defendant or Defendants therein, then, and in either or any of the Caſes aforeſaid, ſuch Defendant or Defendants ſhall have Treble Coſts, and ſhall have ſuch Remedy for recovering the ſame, as any Defendant or Defendants may have for his, her, or their Coſts, in any other Caſes by Law.

General Iſſue.

Treble Coſts.

XXX. And be it further enacted, That where any Diſtreſs ſhall be made for any Sum or Sums of Money to be levied by virtue of this Act, the Diſtreſs itſelf ſhall not be deemed unlawful, nor the Party or Parties making the ſame be deemed a Treſpaſſer or Treſpaſſers on Account of any Default or Want of Form in any Proceedings relating thereto; nor ſhall the Party or Parties diſtraining be deemed a Treſpaſſer or Treſpaſſers, *ab initio*, on Account of any Irregularity which ſhall afterwards be done by the Party or Parties diſtraining, but the Perſon or Perſons aggrieved by ſuch Irregularity, may recover full Satisfaction for the Special Damage, in an Action on the Caſe.

Diſtreſs not to be deemed unlawful for Want of Form.

XXXI. Provided always, That no Plaintiff or Plaintiffs ſhall recover in any Action or Actions, for any ſuch Irregularity, Treſpaſs, or other Proceedings, if Tender of ſufficient Amends ſhall be made by or on the

Plaintiff not to recover if ſufficient Amends be offered.

Behalf of the Party or Parties who ſhall have committed, or cauſed to be committed, any ſuch Irregularity, Treſpaſs, or other wrongful Proceedings, before ſuch Action brought; and in caſe no ſuch Tender ſhall have been made, it ſhall be lawful for the Defendant or Defendants in any ſuch Action, by Leave of the Court where ſuch Action ſhall depend, at any Time before Iſſue joined, to pay into Court ſuch Sum of Money as he or they ſhall ſee fit; whereupon ſuch Proceedings, Orders, and Judgements, ſhall be made, had, and given, in and by ſuch Court, as in other Actions where the Defendant is allowed to pay Money into Court.

Proceedings not to be vacated for Want of Form.

XXXII. And be it further enacted, That no Proceedings to be had touching the Conviction of any Offender or Offenders againſt this Act, or any Order made, or other Matter or Thing to be done or tranſacted in or relating to the Execution of this Act, ſhall be vacated or quaſhed for want of Form, or be removed or removeable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*; any Law or Statute to the contrary notwithſtanding.

Publick Act.

XXXIII. And be it further enacted, That this Act ſhall be taken and allowed in all Courts of Juſtice as a Publick Act; and all Judges, Juſtices, and others are hereby required to take Notice thereof as ſuch, without the ſame being ſpecially pleaded.

FINIS.