Anno ſexto

Georgii III. Regis.

CAP. XLIII.

An Act for explaining, amending, and further enforcing, the Execution of Two ſeveral Acts, One made in the Twenty ſixth Year of His late Majeſty, and the other in the Fifth Year of His preſent Majeſty's Reign, for the Amendment and Preſervation of the publick Highways and Turnpike Roads of this Kingdom; and for obliging Mortgagees taking Poſſeſſion of Toll-gates on Turnpike Roads, and Toll-gatherers appointed by them, to account.

WHEREAS by an Act made in the Twenty ſixth Year of His late Majeſty, intituled, An Act for the Amendment and Preſervation of the publick Highways and Turnpike Roads of this Kingdom, and for the more effectual Execution of the Laws relating thereto; it was, amongſt other Things, enacted, That from and after the Twenty ninth Day of September, One thouſand ſeven hundred and fifty four, it ſhould not be lawful for any Waggon or Wain whatſoever (other

Preamble, reciting Clauſes in Act 26 *Geo.* III.

(other than and except as therein is excepted) to travel, paſs, or be drawn upon any Turnpike Road, unleſs the Fellies of the Wheels of every ſuch Waggon or Wain reſpectively ſhould be of the Breadth or Gauge of Nine Inches from Side to Side at the leaſt, and that every Owner or Owners of ſuch Waggon and Wain, driven, drawn, or conveyed, in or upon any Turnpike Road, contrary to the Directions, Tenor, or true Meaning of the ſaid Act, ſhould, for every ſuch Offence, forfeit and pay the Sum of Five Pounds, to be recovered and applied in ſuch Manner as the ſaid Act directs, or otherwiſe, ſhould forfeit and loſe One of the Horſes or Beaſts of Draught drawing ſuch Waggon, not being the Shaft or Thill Horſe, together with all Gears, Bridles, Halters, and Accoutrements, to ſuch Horſe or Beaſt of Draught reſpectively belonging, to the ſole Uſe and Benefit of the Perſon or Perſons who ſhould ſeize or diſtrain the ſame; with a Proviſo, that nothing in the ſaid Act ſhould extend, or be conſtrued to extend, to any Waggon drawn by leſs than Five Horſes or Beaſts of Draught: And whereas, notwithſtanding the Directions in the ſaid Act, ſeveral Truſtees or Commiſſioners of Turnpike Roads, and ſeveral Gate-keepers or Toll-gathers by them appointed, have permitted Waggons and other Four Wheel Carriages, having the Fellies of the Wheels thereof of a leſs Breadth than Nine Inches, to be drawn and to paſs on Turnpike Roads, and through Turnpike-gates or Bars, with more than Four Horſes; be it therefore 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 the Truſtees or Commiſſioners of every Turnpike Road, or any Five or more of them, ſhall, at their Firſt Meeting after the Fifth Day of July, One thouſand ſeven hundred and ſixty ſix, give particular and expreſs Orders and Directions in Writing, to every Toll-gatherer or Gate-keeper on the reſpective Roads under the Care and Direction of ſuch Truſtees or Commiſſioners, that they do not permit or ſuffer any Waggon or other Four Wheel Carriage, having the Fellies of the Wheels of leſs Breadth than Nine Inches, to be drawn on ſuch Turnpike Roads; and that if any Toll-gatherer or Gate-keeper ſhall permit or ſuffer any Waggon or other Four Wheel Carriage, having the Fellies of the Wheels thereof of leſs Breadth than Nine Inches, and drawn by more than Four Horſes, to be drawn or to paſs on any Turnpike Road within the

Commiſſioners of Turnpike Roads are required, at their Firſt Meeting after 5 *July*, 1766, to give written Orders to the Toll-gatherers, not to permit Waggons or other Four Wheel Carriages, with Wheels leſs than 9 Inches broad, and drawn by more than 4 Horſes, to paſs, without ſeizing One of the Horſes, &c.

View

View or with the Knowledge of ſuch Gate-keeper or Toll-gatherer, or to paſs through any Toll-gate or Bar without ſeizing or diſtraining One of the Horſes drawing the ſame, not being the Shaft or Thill Horſe, together with all Gears, Bridles, Halters, and Accoutrements, to ſuch Horſe reſpectively belonging, and delivering the ſame into the Cuſtody of the Conſtable, or other Pariſh Officer; and applying to a Juſtice or Juſtices of the Peace for his or their Precept to ſuch Conſtable or other Pariſh Officer, to deliver the ſame to ſuch Gate-keeper or Toll-gatherer ſeizing or diſtraining the ſame, to and for his and their own Uſe and Benefit, in the Manner the ſaid Act directs; ſhall forfeit and pay for every ſuch Offence the Sum of Forty Shillings; to be recovered in a ſummary Manner, before One Juſtice of the Peace, to and for the Uſe and Benefit of the Perſon or Perſons who ſhall inform againſt ſuch Gate-keeper or Toll-gatherer.

and deliver the ſame to the Conſtable, and apply to the Juſtice for his Precept for delivering up the ſame;

forfeits 40*s.* to the Informer.

Provided always, That nothing in this Act, or the Act herein before recited, ſhall extend to any ſuch Waggon, or other Four Wheel Carriage, laden with One Block of Marble or Stone, or One Piece of Timber, or One Piece of Ordnance.

Particular Carriages exempted.

And whereas by an Act made in the Fifth Year of his preſent Majeſty, intituled, An Act to continue Part of an Act made in the Thirtieth Year of the Reign of His late Majeſty King *George* the Second, intituled, *An Act to render more effectual the ſeveral Laws now in being for the Amendment and Preſervation of the Publick Highways and Turnpike Roads of this Kingdom*; and for making further Proviſions for the Preſervation of the ſaid Roads; it was, amongſt other Things, enacted, That from and after the Twenty fourth Day of June, One thouſand ſeven ſeven hundred and ſixty five, the Truſtees appointed, or to be appointed, by any Act of Parliament paſſed, or to be paſſed, for making, repairing, or amending, any Turnpike Road, or any Perſon authorized and appointed by them, ſhould, during the Time aforeſaid, permit and ſuffer all Waggons and Wains, having the Axle Trees thereof of ſuch different Lengths, that the Diſtance from Wheel to Wheel of One Pair of the ſaid Wheels be not more than Four Feet Two Inches, to be meaſured at the Ground; and that the Diſtance from Wheel to Wheel of the other Pair thereof ſhould be ſuch, that the fore and hind Wheels of ſuch Waggons and Wains ſhould roll a Surface of, at leaſt, Sixteen Inches wide on each Side of the ſaid Waggons and Wains; and having the Fellies of the Wheels thereof

Clauſe in Act 5 *Geo.* III.

of the Breadth of Nine Inches at the Bottom or Sole thereof; to pass upon any Turnpike Road, and through any Toll-gate or Bar, upon paying only so much of the Tolls and Duties as should not exceed One Half of the full Toll or Duty payable, or by the said Act intended to be paid, for all Waggons or Wains having the Fellies of the Wheels of the Breadth or Gauge of Nine Inches from Side to Side, or for the Horses or Beast of Draught drawing the same, and not rolling a Surface of Sixteen Inches, in the Manner herein before set forth: And whereas it would be for the Preservation of Turnpike Roads, and for the Convenience of Passengers travelling thereon in Coaches and Carriages, or on Horseback, if the Distance from Wheel to Wheel, of either Pair of the Wheels of any Broad Wheeled Waggons or Wains, should not be more than Four Feet Two Inches; and that the Distance from Wheel to Wheel of the other Pair thereof, should be such, that the fore and hind Wheels of such Waggons and Wains should roll only One single Surface or Path, on either Side of such Waggons and Wains, of Sixteen Inches wide; be it further enacted by the Authority aforesaid, That no Persons passing upon any Turnpike Road, or through any Toll-gate or Bar thereon, with any Waggons or Wains, shall be allowed the Benefit or Exemption herein before recited, except such Waggons or Wains shall have the Axle Trees of such different Lengths, that the Distance from Wheel to Wheel, of either Pair of the said Wheels, be not more than Four Feet Two Inches, to be measured at the Ground; and that the Distance from Wheel to Wheel of the other Pair thereof, shall be such, that the fore and hind Wheels of such Waggons and Wains shall roll only One single Surface or Path of Sixteen Inches wide, at the least, on each Side of such Waggons and Wains; and no Persons driving any Waggons or Wains which shall roll Two different or separate Surfaces or Paths, on both or either Side of such Waggons or Wains, although the Fellies of the Wheels thereof shall be of the Breadth of Nine Inches, shall, after the Fifth Day of July, One thousand seven hundred and sixty six, be allowed the said Benefit or Exemption; any thing in the said Act to the contrary notwithstanding.

After 5 *July*, 1766, such Carriages only are intitled to the Exemptions granted by the recited Act, as shall have the Distance and Fellies of their Wheels made conformable to the Regulations here set down.

Recital of another Clause in the said Act.

And whereas Provision was made in the said Act, that no Person should make, or cause to be made, any Hedge or other Fence on any Turnpike Road, not inclosed on both Sides, within the Distance of Thirty Feet; or should plough or break up the Soil of any Land

Land or Ground within the Distance of Fifteen Feet from the Middle or Center of any Turnpike Road; and if any Person should plough or break up the Soil of any Land or Ground within the Distance of Fifteen Feet from the Middle or Center of any Turnpike Road, such Person should forfeit the Sum of Forty Shillings; but no Penalty was laid on such Person as should make, or cause to be made, such Hedge or Fence as aforesaid, other than the Expence of taking down the same; and it was not declared or directed thereby how the Penalty laid on such Persons so ploughing or breaking up the Soil as aforesaid, when recovered, should be applied, or to whom the same should be paid; by reason whereof the said Provisions have not been effectual for the Purposes thereby intended; be it therefore further enacted by the Authority aforesaid, That from and after the passing of this Act, if any Person shall make, or cause to be made, any Hedge or other Fence on or near any Turnpike Road, not inclosed on both Sides, within the Distance of Thirty Feet from the Middle or Center of such Turnpike Road, such Person (besides being liable to have the same taken down, as by the said Act is directed) shall forfeit the Sum of Forty Shillings, to be recovered in the same Manner as in the said Act is directed, with respect to the Penalty thereby inflicted on Persons so ploughing or breaking up the Soil as aforesaid; and also that the said Penalties, and each of them, when recovered, shall be applied, paid, and belong, to the Person or Persons respectively upon whose Information such Penalties, or either of them, shall be recovered.

The Penalty of 40*s.* on Persons making any Hedge or Fence on any Turnpike Road, not inclosed on both Sides, within 30 Feet Distance of the Center of the Road,

and on Persons ploughing or breaking up the Ground within 15 Feet of the Center of the Road,

how to be recovered and applied.

And whereas it hath happened, or may happen, that Mortgagees of the Tolls or Duties already granted, or that may be hereafter granted, by any Act of Parliament made or to be made for the making any Turnpike Road, have taken or may take Possession of the Toll-gates or Bars, with an Intent to repay themselves the Monies lent on, or advanced for, the Use of such Roads by such Mortgagees: And whereas there is not, at present, any proper and speedy Means of bringing such Mortgagees to account for the Monies they have received, or may receive, at such Toll-gates or Bars; be it therefore enacted by the Authority aforesaid, That all and every Mortgagee and Mortgagees that hath taken or been in Possession of any Toll-gate or Bar set up or erected on any Turnpike Road, shall, after the Fifth Day of July, One thousand seven hundred and sixty six, within Fourteen Days after he, she, or they, shall have

Mortgagees in Possession of any Toll-gates, are to account upon Oath to the Trustees within 14 Days after receiving Notice from them for the Purpose;

received Notice in Writing from the Truſtees or Commiſſioners of ſuch Turnpike Road, or any Five of them, render upon Oath, to be adminiſtered and taken by and before One Juſtice of the Peace, or any One Truſtee or Commiſſioner of ſuch Turnpike Road (which Oath ſuch Juſtice, Truſtee, or Commiſſioner, is hereby authorized and impowered to adminiſter) a true and exact Account in Writing to ſuch Truſtees or Commiſſioners, or to any Perſon appointed by them, or any Five of them, to be named in ſuch Notice, of all Monies received by ſuch Mortgagee or Mortgagees, or by any other Perſon or Perſons, for his, her, or their Uſe and Benefit, or by his, her, or their Authority, at ſuch Toll-gate or Bar, and of what he, ſhe, or they, have expended in keeping the ſame; and that all and every Mortgagee and Mortgagees of ſuch Tolls, taking or being in the Poſſeſſion of any Toll-gate or Bar after the ſaid Fifth Day of July, One thouſand ſeven hundred and ſixty ſix, ſhall, within Fourteen Days after ſuch Notice in Writing from ſuch Truſtees or Commiſſioners, or any Five of them, render a like Account, upon Oath, to be ſworn before One Juſtice of the Peace, or One Truſtee or Commiſſioner of ſuch Turnpike Road, in Writing (which Oath ſuch Juſtice, Truſtee, or Commiſſioner, is hereby authorized and impowered to adminiſter) to ſuch Truſtees or Commiſſioners, or to any Perſon appointed by them, or any Five of them, to be named in ſuch Notice, of all Monies by them received, or by any Perſon or Perſons for their Uſe or Benefit, or by his, her, or their Authority, at ſuch Toll-gate or Bar, not before accounted for, and of the Sum or Sums he, ſhe, or they, have expended in keeping the ſame; and in caſe he, ſhe, or they, in either Caſe reſpectively, ſhall neglect to render ſuch Account when required, in the Manner herein directed, he, ſhe, or they, ſhall ſeverally forfeit and pay to the ſaid Truſtees or Commiſſioners, for every Refuſal, Neglect, or Omiſſion to render ſuch Account, the Sum of Five Pounds; to be recovered by the ſaid Truſtees or Commiſſioners, or any Five or more of them, or by the Treaſurer or Clerk to ſuch Truſtees or Commiſſioners, in a ſummary Manner, before One Juſtice of the Peace; and, when recovered, ſhall be applied to the Uſe of the reſpective Road or Roads whereon ſuch Toll-gate or Bar ſhall be placed.

on Forfeiture of 5*l.*

to be recovered in a ſummary Way,

and applied to the Uſe of the Road.

And be it further enacted by the Authority aforeſaid, That the Gate-keeper or Toll-gatherer of every ſuch Toll-gate

Toll-gate or Bar shall, when required by Notice in Writing from the said Trustees or Commissioners, or any Five or more of them, render upon Oath, to be administered by and taken before any One Justice of the Peace, Trustee or Commissioner of such Turnpike Road (which Oath such Justice, Trustee, or Commissioner, is hereby authorized and impowered to administer) a true and exact Account in Writing to the said Trustees or Commissioners, or to any Person to be named in such Notice appointed by them, or any Five of them, of all Monies received by him, her, or them, at such Toll-gate or Bar, not before accounted for, under the Penalty of Twenty Shillings for every such Offence or Neglect; to be recovered in a summary Manner before any One Justice of the Peace, and applied to the Use of the respective Road on which such Toll-gate shall be placed.

The Gate-keeper also is to account upon Oath, when required by Notice from 5 Trustees, for all Monies received not before accounted for,

on Penalty of 20s.

to be recovered in a summary Way, and applied to the Use of the Road;

Provided always, That such Gate-keeper or Toll-gatherer shall not hereby be obliged to account oftener than Once in every Fourteen Days.

but is not obliged to account oftener than Once a Fortnight.

And be it further enacted by the Authority aforesaid, That if any such Mortgagee or Mortgagees shall keep Possession of any Toll-gate or Bar by him, her, or themselves, or by any other Person or Persons on his, her, or their Behalf, and receive the Tolls or Duties thereat, after such Mortgagee or Mortgagees shall have received the full Sum or Sums of Money due on their respective Mortgage or Mortgages, and the Interest thereof; such Mortgagee or Mortgagees shall forfeit and pay, as a Penalty, to the said Trustees or Commissioners, double the Sum or Sums of Money he, she, or they, shall have received over and above the Sum or Sums of Money due on such Mortgage or Mortgages, and the Interest thereof, with Treble Costs of Suit; to be recovered by the said Trustees or Commissioners, or by the Treasurer or Clerk to such Trustees or Commissioners, by Action of Debt, Bill, Plaint, or Information, in any of his Majesty's Courts of Record at Westminster, and when recovered shall be applied to the Use of the respective Road or Roads on which such Toll-gate or Bar shall be placed.

Mortgagee keeping Possession after receiving his Debt with Interest,

forfeits double the Surplus Money received, and Interest, with Treble Costs of Suit.

And whereas by several Acts of Parliament for the Amendment and Preservation of the Public Highways and Turnpike Roads of this Kingdom, the Persons guilty of several Offences against the said Acts are subject to the Forfeiture of One of the Horses or Beasts drawing the Waggon, Cart, or Carriage, of such Offender, with all Geers, Bridles, Halters, and Accoutrements, to such Horse or Beast belonging, upon Proof

being made of the Offence upon Oath before One Juſtice of the Peace; ſuch Horſe or other Beaſt to be immediately delivered to the Perſon or Perſons who ſeized or diſtrained the ſame, to and for his and their own Uſe and Benefit: And whereas Doubts have ariſen whether the Perſon diſtraining is a competent Witneſs for the Proof of ſuch Offence; for removing of ſuch Doubts, be it further enacted by the Authority aforeſaid, That from and after the Fifth Day of July, One thouſand ſeven hundred and ſixty ſix, no ſuch Conviction ſhall be had or made unleſs upon the Oath of One or more credible Witneſs or Witneſſes not intereſted in ſuch Seizure.

Convictions for Offences againſt the Turnpike Acts, where the Penalty is the Forfeiture of One of the Horſes, is to be upon the Oath of Two Witneſſes not intereſted.

And be it further enacted, That if any Perſon or Perſons ſhall think him, her, or themſelves, aggrieved by the Determination of any Juſtice of the Peace, he, ſhe, or they, may appeal to the then next General Quarter Seſſion of the Peace, who ſhall finally determine the Matter of ſuch Appeal, and allow ſuch Coſts not exceeding Forty Shillings to either Party as ſuch Seſſion ſhall think fit; on which Determination no Certiorari ſhall lie or be brought.

Appeal to the Quarter Seſſions allowed.

No *Certiorari* to be againſt their Determination.

And be it further enacted by the Authority aforeſaid, That any Truſtee or Commiſſioner of any Turnpike Road appointed, or to be appointed, by virtue of any Act now or hereafter to be made, may act as a Juſtice of the Peace in hearing and determining Offences, and all other Matters, relating to ſuch Road, in as full and ample a Manner as if he was not Commiſſioner or Truſtee; any Law, Cuſtom, or Uſage, to the contrary notwithſtanding.

Truſtees may act as Juſtices in all Matters relating to the Roads for which they are Truſtees.

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FINIS.