

advancing their monies or of the dates of their respective securities or otherwise.

An action of
ejectment
may be sup-
ported by
one mortga-
gee.

And be it further enacted, That if any mortgagee or mortgagees of the said tolls toll-gates bars chains toll-houses and buildings shall seek to obtain possession of the said toll-gates bars chains toll-houses and buildings, in order to pay himself herself or themselves the principal money and interest, or any part thereof due to him her or them, it shall be competent for him her or them as lessor or lessors of the plaintiff, and upon his her or their demise only and without uniting in such demise the other mortgagees of the said tolls and premises to obtain such possession, but such person or persons who shall obtain the possession thereof, shall not apply the tolls which may consequently be received by him her or them to his her or their own exclusive use and benefit, but to and for the use and benefit of all the mortgagees of the said tolls toll-gates buildings and premises *pari passu*, and in proportion to the several sums which may be due to them as such mortgagees.

Application
of the tolls
and money
to be bor-
rowed.

And be it further enacted, That out of the monies already received by virtue of the said recited Acts, or any of them, and now in the treasurer's hands, or out of the first money which shall arise or be received from the tolls mortgages or otherwise by virtue of this Act, the said Trustees or any five or more of them shall first pay and discharge all the costs and expences relative to the obtaining and passing of this Act; secondly, the costs and expences of keeping in repair the said roads; thirdly, the interest of the principal monies by the said former Acts or any of them, and which by virtue of and under the powers of this Act may be borrowed on the credit thereof; fourthly, the cost and expences of widening varying altering turning improving and rendering commodious the said roads and otherwise putting this Act in execution; and lastly, the principal monies already borrowed by virtue of the said Acts, or to be borrowed by virtue of this Act.

Empowering
Trustees of
Peterbo-
rough roads
and Trustees
of this Act
to enter into
an agree-
ment re-
specting
part of the
roads by
this Act to
be repaired.

And whereas that part of the said road by the said recited Acts directed to be repaired and hereinbefore described, leading from *James Deeping Stone Bridge* to *Maxey Outgang* in the county of *Northampton*, being a distance of about half a mile forms a junction with the turnpike-road leading from thence to the city of *Peterborough*, and might be more conveniently repaired and be better maintained if the same were put under the management of the Trustees for repairing the said turnpike-road leading from *Maxey Outgang* to *Peterborough*: And whereas the Trustees for executing an Act passed in the twenty-ninth year of

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the reign of his Majesty King *George* the Second, intituled "An Act for repairing and widening the Roads leading from the East Side of *Lincoln Heath* to the City of *Peterborough*, and from the East End of *Marham Lane* to the Town of *Walton* in the County of *Northampton*, and from the Town of *Bourn* to the Town of *Colsterworth*, and from *Donington High Bridge* to the *Cross Post* in the Parish of *Hacconby*, and from the East End of a Lane called *Hale Drove* to and through the Town of *Old Sleaford* to the End of *Long Edge* in the Parish of *Quarrington* in the County of *Lincoln*;" and also for executing an Act passed in the sixteenth year of the reign of his late Majesty King *George* the Third, intituled "An Act for enlarging the Term and Powers of an Act made in the twenty-ninth Year of the Reign of his Majesty King *George* the Second, intituled an Act for repairing and widening the Roads leading from the East Side of *Lincoln Heath* to the City of *Peterborough*, and from the East End of *Marham Lane* to the Town of *Walton* in the County of *Northampton*, and from the Town of *Bourn* to the Town of *Colsterworth*, and from *Donnington High Bridge* to the *Cross Post* in the Parish of *Hacconby*, and from the East End of a Lane called *Hale Drove* to and through the Town of *Old Sleaford* to the End of *Long Hedge* in the Parish of *Quarrington* in the County of *Lincoln*;" and also for executing another Act passed in the thirty-ninth and fortieth years of the reign of his said late Majesty King *George* the Third, intituled "An Act for continuing for twenty-one Years, and from thence to the End of the then next Session of Parliament the Term, and altering and enlarging the Powers of two Acts passed in the twenty-ninth Year of the Reign of his late Majesty King *George* the Second, and the sixteenth Year of the Reign of his present Majesty, for repairing and widening the Road leading from the East Side of *Lincoln Heath* to the City of *Peterborough*, and several other Roads therein mentioned in the Counties of *Northampton* and *Lincoln*," may find it desirable in the execution of their trust, to undertake the repair also of the said piece of road, and the Trustees for executing this Act may be willing to give up and relinquish the repair thereof; Be it therefore further enacted, that it shall be lawful for the Trustees for carrying this Act into execution, or any five or more of them, to enter into an agreement with the Trustees for executing the said three recited Acts, or any five or more of such Trustees respecting the repair of the said piece of road leading from *James Deeping Stone Bridge* to *Maxey Outgang* aforesaid, any thing in this Act contained to the contrary notwithstanding: Provided always, that no such agreement shall exonerate or discharge any person or persons liable at the time or thereafter to be liable to perform statute-duty on that part of the said road or to contribute

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contribute in any manner to the repair thereof, other than the Trustees for executing this Act, but all and every such persons and person shall continue subject and liable to perform statute-duty thereon and contribute to the repair thereof, in like manner as they would or might have been in case no such agreement had been entered into.

Where old securities are lost, new ones may be executed.

And whereas divers creditors on the said roads have lost or mislaid the mortgages or assignment of the tolls executed by the Trustees for securing to him her or them the principal money lent on the credit of the said Acts, or the tolls thereby granted with interest for the same, or the transfers of such mortgages or assignments, and it is reasonable that in cases where it can be proved to the satisfaction of the Trustees, that any person is truly and *bond fide* entitled to any sum or sums of money secured on the tolls granted by the said recited Acts or any of them, although they cannot produce the said mortgage security that another assignment of the tolls hereby granted should be executed for securing the repayment of the money now due on the said mortgage security of the said Act or the tolls thereby granted: Be it therefore further enacted, that it shall and may be lawful for any five or more of the Trustees for executing this Act, in any case where it shall appear by the books kept by the clerk or treasurer to the said Trustees, or by any other satisfactory evidence adduced at any meeting of the said Trustees, that any person or persons is or are a creditor or creditors on the tolls granted by the said recited Acts or any of them, and that the mortgage or assignment of the tolls for securing any such sum or sums of money or the transfer thereof has been lost mislaid or by accident destroyed, in every such case to execute at the expence of the person or persons applying for the same, an assignment of the tolls by this Act granted for the sum or sums of money mentioned in such original assignment or transfer, and every such assignment to be executed by the Trustees for executing this Act, shall be valid and effectual for the purposes thereby intended.

Trustees may widen or alter road, and purchase lands.

And be it further enacted, That in case the said Trustees shall think proper to widen turn vary or alter any part or parts of the said roads for the better accommodation of coaches carriages and passengers, it shall be lawful for the said Trustees, and they are hereby authorized and empowered from time to time to treat contract and agree with any person or persons for the purchase or exchange of any lands grounds or hereditaments lying near or contiguous to the said roads, and for the loss or damage the owners proprietors and occupiers thereof, or any of them, shall or may in anywise sustain by such widening turning varying or altering such roads, and to pay out of the monies hereby vested in the said Trustees for the purposes of this Act, such sum

or

or sums of money as shall be agreed upon between such owners proprietors occupiers or persons interested as aforesaid and the said Trustees, and for the costs attending such purchase; which roads when widened turned varied or altered by virtue of this Act, shall be and remain thirty feet wide at the least; and such lands and grounds when so purchased as aforesaid, shall by order and direction of the said Trustees be laid into and made part of such roads in such manner as the said Trustees shall think convenient, with proper drains ditches and fences for that purpose, and shall thenceforth be deemed and taken to be a public or common highway, and part of the roads to be repaired by virtue of this Act: Provided always, that it shall not be lawful for the Trustees acting in the execution of this Act, in turning varying or altering any part of the said roads, to deviate more than one hundred yards from the present line or course of the said roads without the consent in writing of the owners or reputed owners and occupiers for the time being of the estate lands or grounds which may be affected by any such deviation respectively.

Provided always and be it further enacted, That nothing in this Act contained shall extend to the taking down of any dwelling-house or other building, or to the taking in of any land that is a garden or orchard adjoining to any dwelling-house, or any yard park paddock planted walk inclosed nursery for trees, or avenue to any house or any part thereof, without the consent of the owner or proprietor thereof respectively in writing first had and obtained, except part of a stable situate on the north or north-west side of the said road in the town of *Spalding* belonging to *Henry Clarke* esquire and now in the occupation of *John Rawlings*.

Dwelling-houses, gardens, &c. not to be damaged.

And be it further enacted, That in all cases where the said Trustees shall turn or alter any part or parts of the present roads, or make any new road over and through any private grounds, or shall take away any fence for widening the said roads, the said Trustees shall make or cause to be made and planted proper quickset hedges or fences on both sides of such new made road, or on the side upon which any such fence may be so removed as aforesaid with sufficient ditches to the same, and a sufficient post and rail or other fence to protect the growth thereof, so as effectually to guard and fence off the lands adjoining to the said roads, and also proper gates bridges and arches, where necessary, out of the said roads into the lands adjoining, and shall keep such fences so to be made in good order and repair for and during the term of seven years from the time that such fences shall have been made or set up, unless

Trustees to fence the roads.

less the owner or proprietor for the time being of any such land or ground shall agree with the Trustees to keep such fences in repair from any earlier period.

Trustees
may con-
tract for
purchasing.

And for removing all difficulties which may obstruct such contracts, Be it further enacted, that it shall be lawful for any owner or proprietor, and for all bodies politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, tenants for life, or in fee-tail general or special, or for years determinable on any life or lives, feoffees in trust, executors administrators guardians or trustees, or any other person or persons whomsoever, not only for and on behalf of themselves, but also for and on behalf of their infants wards *cestuique* trusts, lunatics idiots or persons of unsound memory and understanding, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for all and every person or persons whomsoever, who are or shall be seised or possessed of or interested in any such lands or hereditaments, to contract with the said Trustees for the satisfaction to be made for such damages as aforesaid, or to sell and convey unto them any such lands or hereditaments or any part thereof, for any of the purposes of this Act; and all contracts sales and conveyances which shall be so made, shall be valid to all intents and purposes, any law statute usage or other matter whatsoever to the contrary notwithstanding; and all such bodies politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, tenants for life or in fee tail general or special, or for years determinable on any life or lives, feoffees in trust, executors administrators guardians and trustees, and all other persons are and shall be hereby indemnified for what they shall do by virtue or in pursuance of this Act; and if any such owner proprietor occupier bodies politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, tenants for life, or in fee tail general or special, or for years determinable on any life or lives, feoffees in trust, executors administrators guardians or trustees or any other person or persons interested in any such lands or hereditaments, upon notice to him her or them given in writing or left at the dwelling-house or houses or place or places of abode of such person or persons, or of the head officer or officers of such bodies politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, or at the house of the tenant in possession of the lands or hereditaments which may be used or taken for the purposes of widening altering or improving the said roads or any part or parts of such roads shall by the space of forty days after such notice given or left as aforesaid, neglect or refuse to treat or shall not agree in the premises or by reason of absence shall

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be

Where per-
sons neglect
or refuse to
treat.

be hindered from treating, then and in every such case the said Trustees shall cause such damage to be inquired into and ascertained by and on the oaths of a jury of twelve indifferent men of the county wherein such lands or hereditaments shall be situated, (which oaths any two or more of the said Trustees are hereby empowered and required to administer,) what damage shall be sustained by and what recompence and satisfaction shall be made to such owners proprietors or occupiers, or other person or persons interested for or on account of the using and taking of such lands or grounds, for the purposes of this Act; and in order thereto the said Trustees are hereby empowered and required from time to time as occasion shall require, to summon and call before the said jury, and examine upon oath all and every person or persons whomsoever, who shall be thought necessary and proper to be examined as a witness or witnesses touching or concerning the premises, (which oath any one or more of the said Trustees are hereby empowered to administer,) and they shall also order and cause the said jury to view the places in question, if there be occasion, and use all lawful ways and means as well for their own as the jury's better information in the premises, as the said Trustees shall think fit; and after the said jury shall have inquired of ascertained and settled such damage and recompence, the said Trustees shall thereupon order adjudge and determine the said sum or sums of money so assessed by the said jury to be paid to the owners occupiers and proprietors of or other persons interested in the said lands or hereditaments, according to such verdict or inquisition of the said jury; which said verdict or inquisition and judgment order or determination so had and made shall be final binding and conclusive to all intents and purposes, against all parties and persons whomsoever claiming or to claim in possession reversion or remainder in fee or in tail general or special or for life or lives or otherwise, their heirs and successors as well absent as present, infants femes covert and persons under any disability whatsoever, bodies politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, as well as all other persons whomsoever; and all and every such owners occupiers and proprietors, and all and every person and persons any ways interested in such lands or grounds shall, upon payment or tender of the sum or sums of money so assessed as aforesaid, or upon depositing the same in the Bank of *England* in the manner directed by this Act (as the case may require,) thereby be thenceforth to all intents and purposes divested of all right title claim interest and property of in to or out of the same.

Verdict of
jury to be
final.

And

Trustees to
issue their
warrant to
the sheriff to
summon the
jury.

And be it further enacted, That for the summoning or returning of such jury or juries it shall be lawful for the said Trustees and they are hereby empowered to issue their warrant or warrants to the sheriff of such county, thereby commanding and requiring the said sheriff to impanel summon and return an indifferent jury of twenty-four persons, to appear before the said Trustees at such time and place as in such warrant shall be appointed, and such sheriff or his deputy or deputies is and are hereby required to impanel summon and return such number accordingly, and out of the persons so impanelled summoned and returned or out of such of them as shall appear on such summons, the said Trustees shall swear or cause to be sworn twelve who shall be the jury for the purposes aforesaid; and in default of a sufficient number of jurymen the said sheriff or his deputy or deputies shall return other honest and indifferent men of the standers by, or that can be speedily procured to attend that service, to the number of twelve and all persons concerned shall have their lawful challenges against any of the said jurymen when they come to be sworn, but shall not challenge the array, and the said Trustees acting in the premises shall have power from time to time to impose any reasonable fine or fines on such sheriff or his deputy or deputies bailiffs or agents making default in the premises, and on any of the persons who shall be summoned and returned on such jury and shall not appear, unless for some sufficient excuse, or who shall refuse to be sworn on the said jury, or being so sworn shall refuse to give or shall not give their verdict, or in any other manner shall wilfully neglect their duty therein contrary to the true intent and meaning of this Act; and on any of the persons who being required to give evidence before the said jury, touching the premises, shall refuse or neglect to appear, having been paid or tendered a reasonable sum for his her or their costs charges and expences, not having a sufficient excuse, or appearing shall refuse to be sworn and give evidence, and from time to time to levy and apply such fine or fines in the same manner as other penalties forfeitures and fines are hereinafter directed to be levied and applied, so that such fines shall not exceed the sum of twenty pounds upon any such sheriff or his deputy, and the sum of five pounds upon any other of the persons aforesaid for any one offence.

How ex-
pences of
jury, &c.
shall be
paid.

And be it further enacted, That in case any jury shall give in and deliver a verdict or assessment for more money as a recompence for the right interest or property of any person or persons in any lands or hereditaments or for any loss or damage to be by him her or them sustained than what shall have been agreed to and offered by the said Trustees

tees before the summoning or returning of the jury, as a recompence or satisfaction for any such right interest or property or loss or damage as aforesaid, then and in such case the costs and expences of summoning and returning the jury and witnesses shall be ascertained and settled by some justice of the peace within whose jurisdiction such difference shall have arisen not interested in the matter in question (who is hereby required to examine and settle the same at a time and place to be by him appointed after summoning the parties interested to attend him for that purpose,) and shall be borne and paid by the treasurer or treasurers to the said Trustees out of any money arisen or to arise by virtue of this Act; and in default of payment thereof by the said treasurer within five days after the said costs shall be so settled, the same shall and may be levied by distress and sale of the goods and chattels of the said treasurer by warrant under the hand and seal of such justice, but if such jury shall give in and deliver a verdict or assessment for no more or for less money than shall have been agreed to and offered by the said Trustees before the summoning and returning of such jury, as a recompence or satisfaction for any such right interest or property, or loss or damage as aforesaid, then the full costs and expences of summoning and returning the said jury and witnesses and all other expences attending the hearing and determining of such differences shall be borne and paid by the person or persons with whom the said Trustees shall have such controversy or dispute, which said costs and expences having been ascertained and settled by some justice of the peace within whose jurisdiction such difference shall arise, not interested in the matter in question (who is hereby required to examine and settle the same) at a time and place to be by him appointed after summoning the parties interested therein to attend him for that purpose, shall and may be deducted out of the money so assessed and adjudged, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such monies shall be deemed and taken to all intents and purposes to be a payment or tender of the whole sum or sums so assessed and adjudged, or otherwise such costs and expences in case the same be not paid on demand after being so ascertained and settled as aforesaid, may be recovered by the clerk to the said Trustees by such ways and means as are hereinafter provided for the recovery of penalties and forfeitures; provided that where by reason of absence any person or persons shall have been prevented from treating with the said Trustees touching the matters aforesaid, the whole of such fees and expences shall be paid by the said Trustees.

Upon payment of the purchase-money the lands to be taken for the roads.

And be it further enacted, That every sum of money or recompence to be agreed for or assessed as aforesaid shall be paid by the treasurer or treasurers to the said Trustees, out of any money arisen or to arise by virtue of this Act, to the parties or persons respectively entitled thereto, or to his her or their agent or agents, and upon payment thereof in manner aforesaid or upon depositing the same in the Bank of *England* in manner by this Act directed, and after fourteen days' notice given to such parties or persons or to his her or their agent or agents, or left at his her or their place or places of abode, or with the tenant in possession of the lands or hereditaments so to be agreed for or purchased as aforesaid, such lands or hereditaments shall be used and taken for the purposes of this Act, in such manner as the said Trustees shall direct, and shall be sufficiently ditched and fenced off from the lands adjoining thereto, and shall to all intents and purposes become and be deemed a common highway, and shall thenceforth for ever be deemed part of the roads by this Act directed to be improved amended and kept in repair, and thenceforth all parties and persons whomsoever shall be divested of all right and title to such lands and hereditaments.

Trustees empowered to sell land not wanted for the purposes of the Act.

And whereas the Trustees for executing this Act may be seised of some piece or pieces of land over and above what may be necessary for effecting the purposes of this Act and of some toll-house or other buildings thereon, and it is expedient that they should have power to sell the same as well as any piece or pieces of old road which may be no longer of public utility; Be it therefore further enacted, that it shall and may be lawful for the said Trustees or any five or more of them from time to time to sell and dispose of such several pieces of land buildings or old road together or in parcels, either by public sale or private contract, as they shall find most advantageous and convenient to such person or persons as shall be willing to contract for and purchase the same.

First offer to whom to be made.

Provided always and be it further enacted, That in case the said Trustees shall think proper to sell or dispose of any piece or pieces of land not wanted for the purposes of this Act, they shall first offer the same for sale to the person or persons of whom the same shall have been purchased, or to the person or persons whose lands shall adjoin thereto; and if such person or persons respectively shall then and thereupon refuse or shall not agree (except with respect to or on account of the price thereof) to purchase the same respectively an affidavit to be made and sworn before a Master or Master Extraordinary of the High Court of Chancery, or before one of his

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Majesty's

Majesty's justices of the peace for the county division or place where such land or road shall lie (who is hereby respectively empowered to take such affidavit) by some person or persons no way interested in the said piece or pieces of land, stating that such offer was made by or on the behalf of the said Trustees, and that such offer was then and thereupon refused or was not agreed to by the person or persons to whom the same was made, shall in all Courts whatsoever be sufficient evidence and proof that such offer was made and was refused or not agreed to by the person or persons to whom such offer was made (as the case may be;) and in case such person or persons shall be desirous of purchasing such piece or pieces of land, and he she or they and the said Trustees shall differ or not agree with respect to the price thereof, then the price or prices thereof shall be ascertained by a jury in manner by this Act directed with respect to disputed value of premises to be purchased by the said Trustees in pursuance of this Act, and the expence of hearing and determining such difference shall be borne and paid in like manner as by this Act is directed with respect to such purchases made by the said Trustees *mutatis mutandis*, and the money to arise by the sale or sales which may be made by the said Trustees of such piece or pieces of land as aforesaid, shall be applied to the purposes of this Act, but the purchasers thereof shall not be answerable or accountable for any mis-application or non-application of such money.

And be it further enacted, That the money agreed or awarded to be paid for any lands tenements or hereditaments purchased taken or used by virtue of the powers of this Act, of any body politic corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, feoffees in trust guardians committees or other Trustees, or from any feme or femes covert or other incapacitated person or persons, or of any person or persons seised for life or lives or any other estate in strict or other settlement, shall in case the same shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the Bank of *England* in the name and with the privity of the Accountant-General of the High Court of Chancery to be placed to his account, *ex-parte* the Trustees for executing this Act, to the intent that such money shall be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said lands tenements or hereditaments, in the purchase of the land-tax or towards the discharge of any debt or debts or such other incumbrances or part thereof as the said Court shall authorize to be paid affecting the same lands tenements

Application of money when amounting to £200.

or