

CHAP. 45. double the tolls herein before mentioned upon each article herein before mentioned.

Penalty for neglecting to keep road in repair.

12. AND BE IT ENACTED; That if, at any time after the said road shall be completed, the said company shall neglect to keep the same in good and perfect order and repair for the space of ten days, and information shall be given to the justice of the peace of the neighbourhood, such justice shall issue a precept, directed to any constable, commanding him to summon three freeholders, to meet, at a certain time to be mentioned in the said precept, on the place in the said road which shall have been complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oaths or affirmation of the said freeholders, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall certify and send one copy of the said inquisition to each of the keepers of the gates or turnpikes, and from thenceforth the toll hereby granted to be collected at such turnpike or gates shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put in good and perfect order and repair before the next Allegany county court, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, who shall thereupon cause process to issue, returnable at any time during the said court, or on the first day of the ensuing court, as the justices may think proper, to summon the person or persons intrusted by the said company with the care and superintendence of the said road, which process being returned "executed," the person or persons summoned thereby shall immediately thereafter plead to issue to the inquisition aforesaid, and a jury shall immediately be empannelled to try the same, who, if they shall find the facts contained in the inquisition to be true, shall fine the said person or persons so having the superintendence of the said road, according to the nature and degree of neglect; which fine, together with the costs accruing by the prosecution of the said person or persons, shall be recovered in the same manner as fines are usually recovered in courts of justice, and shall be applied to the reduction of the county levy; and in case the said person or persons fined as aforesaid shall be insolvent for the whole or any part of the said fine and costs, the company shall be responsible for the same, to be recovered in the name of the state, by action of debt, in said court; *Provided*, that if any person or persons should be impeded, obstructed or injured, in consequence of the said road not being in good and sufficient order and repair, after having been completed as aforesaid, according to the true intent and meaning of this act, he, she or they, shall and may have and maintain an action on the case against the said company, to recover damages therefor.

Proviso.