

CHAP. 91. named by the said justice in the said precept, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be 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, on the oaths or affirmations of the said persons, inquire whether the said roads, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made and certified under the hands of himself and a majority of the said persons; and if the road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to the judges of the county court, who shall thereupon cause to be brought before them the body or bodies of the person or persons intrusted by the company with the care and superintendance of such part of the said road as shall be found defective, and if the said person or persons intrusted by the company aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall fine the said person or persons, according to the nature and aggravation of the neglect, in their discretion, not exceeding one hundred dollars, for every week such place shall have been out of order and repair; and in case the said company should neglect to have the said place repaired within fifteen days after the aforesaid fine shall have been laid, then the said court shall proceed to fine the said president, managers and company, in their discretion, not exceeding two hundred dollars, for the use of the county under the direction of the levy court.

And for evading
payment of toll,
&c.

17. **AND BE IT ENACTED,** That if any person or persons whomsoever, riding in or driving any sulkey, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burthen or pleasure, riding or leading any horse, mare or gelding, or driving any sheep, hogs or cattle, shall therewith pass through any private gate or bars, or along or over any private passage, way, or other ground near to or adjoining any turnpike gate erected, or which shall be erected in pursuance of this act, with intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate or turnpike, or if any person or persons shall, with such intent, take off, or cause to be taken off, any horse, mare or gelding, or other cattle, from any wagon, or carriage of burthen or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such tolls or duty may be evaded or lessened, all and every person or persons, in all, every or any of the ways or manners aforesaid offending, shall, for every such offence respectively, forfeit and pay to the said president, managers and company, a sum not exceeding ten dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner as debts of a similar amount may be sued for and recovered; *Provided always,* that if any person or persons shall be prosecuted under this section, and the said prosecution shall not be sustained on the part of the prosecutor, then and in such case the person or persons prosecuted as aforesaid shall receive from the company the sum of twenty dollars, in lieu of damages from delay and vexatious prosecution, recoverable as other fines under this act; and if any toll-gatherer shall knowingly demand

Provisos.