

C H A P.
XXXVIII

persons as they shall from time to time deem necessary, to assemble at such place within their respective limits as the said overseers shall severally appoint, with sufficient implements, and thereupon to proceed in the execution of such work upon the said roads, for the improvement and repair thereof, as the respective overseers shall order and direct; and the said overseers shall also have power to hire and employ carts and teams for the carrying and removing all such stones, dirt, gravel and timber, as may be deemed requisite for repairing and completing the said roads and bridges, and the expence of such carts and teams shall be levied upon the county.

Take a list of
names, &c.

XI. AND BE IT ENACTED, That within one month after the receipt of their respective warrants, the several overseers aforesaid, under the direction of the said justices, shall take down a proper list of the names of all and singular the able bodied free male inhabitants residing therein, above the age of twenty-one years and under the age of fifty years, and of all the able bodied male servants and slaves above the age of sixteen years and under the age of fifty years; and the said overseers shall justly and impartially call for and require the labour of all and singular the persons aforesaid, alternately, and in such convenient numbers and classes as to place the burden of their service equally upon all; provided nevertheless, that the labour of the said persons shall not be called forth for the purposes of this act during the season of wheat harvest, nor in such manner as to take more than half the number of persons aforesaid belonging to one family at the same time.

Summon the
class arranged,
&c.

XII. AND BE IT ENACTED, That as often as the said overseers shall judge it necessary to call upon the said inhabitants for their labour in and upon the said roads, they shall summon, or cause to be summoned, the number and class which they shall have previously arranged, having had regard to the quantity and quality of work necessary to be done upon the said roads, giving each free person liable to work upon the same, and the master, mistress or overseer of each servant or slave aforesaid, two days notice at the least of the time and place appointed for their labour, except in such extraordinary cases as may require a shorter notice, and every free person liable to work upon the roads so summoned shall be obliged to attend in person, or to provide a sufficient substitute; and if any person, being so summoned, shall neglect or refuse to attend, or to provide a sufficient substitute, he shall forfeit and pay the sum of one dollar for each offence; and if any person shall attend, and not perform the reasonable labour required of him by the overseer of the road, according to his ability, he shall be adjudged a defaulter, and shall incur the same penalty as if he had neglected to attend; and in case the master, mistress or overseer, of any servant or slave, upon being notified as aforesaid, shall refuse or neglect to send such servant or slave, or if such servant or slave, after being sent, shall neglect to perform his reasonable labour as aforesaid, such master, mistress or overseer, shall forfeit and pay the sum of one dollar for every servant or slave so refused or neglected to be sent, or when sent refusing to work as aforesaid.

And keep a list
of all default-
ers, &c.

XIII. AND BE IT ENACTED, That it shall be the duty of the said overseers to keep a true and proper list of all and every person or defaulter, who, being summoned as aforesaid, shall neglect or refuse to attend at the times and places appointed as aforesaid, or if attending, shall not perform his reasonable labour, and of every master, mistress or overseer of servants and slaves, who shall incur the penalty aforesaid; and the said overseers of roads shall, once in every six months, call upon each and every of the said persons liable to a fine or fines, and demand the payment of all and singular the sums of money by them so forfeited, and on refusal or neglect to pay the same, the said overseers shall proceed to recover the same before a single magistrate, by due course of law; and the said overseers shall annually render their respective accounts of all fines and forfeitures received by them respectively in virtue of this act to the justices of the levy court, upon oath, or affirmation, and pay the amount thereof in such manner as the said justices shall order and appoint.

How vacancies
are to be filled.

XIV. AND BE IT ENACTED, That if any of the overseers so to be appointed shall refuse to act, remove, become disqualified, or die, it shall and may be lawful for any two of the neighbouring justices of the peace to supply every vacancy so happening, by the appointment of another person, and they shall certify every such appointment, under their hands, to the clerk of the county, who shall record the same, and within ten days thereafter shall issue a warrant to the person so appointed, and deliver the same to the sheriff, to be served upon the party as herein before directed.

Overseer's al-
lowance.

XV. AND BE IT ENACTED, That every overseer so to be appointed by virtue of this act shall respectively be allowed a sum, not exceeding ten dollars by the year, for the performance of the several duties required of them by this act, which allowance shall be paid to them by the justices of the levy court out of the fines and forfeitures imposed and levied by this act, and if found to be insufficient for this purpose at the expiration of every year, the deficiency shall be assessed and levied upon the county in the same manner as other public charges.

Justice may is-
sue his warrant
in certain cases,
&c.

XVI. AND BE IT ENACTED, That any of the justices of the peace of the said county, who, upon his own view, or on the information, oath or affirmation, of one or more credible witnesses, shall discover or be satisfied that any bridge, road or causeway, is out of repair, from the neglect of duty of the overseer within whose limits the same shall be, except in time of wheat harvest, shall be authorized to issue his warrant, in the name of the state, against such overseer, directed to the constable of the hundred, and returnable before himself, or some other justice of the peace, who shall proceed to give judgment according to the merits of the case, and if judgment shall be rendered against him for the fine or forfeiture imposed by this act, and if he shall not pay the same, the said justice of the peace may thereupon issue process of execution for the recovery thereof, and the same shall be accounted for and paid to the order of the levy court; provided nevertheless, that nothing herein contained shall prevent any of the said overseers of-

fending