



ANNO PRIMO

# GEORGII IV. REGIS.

\*\*\*\*\*

## *Cap. lxxiv.*

An Act for more effectually repairing and maintaining certain Roads in the Counties of *Dumfries* and *Roxburgh*. [8th July 1820.]

**W**HEREAS by an Act passed in the Thirty-ninth Year of the Reign of His late Majesty King George the Third, intituled *An Act for repairing several Roads in the Counties of Dumfries and Roxburgh, to continue in force for Twenty-one Years, and from thence to the End of the then next Session of Parliament*, certain Persons were appointed Trustees for carrying into effect the Powers and Authorities by the said Act granted in relation to the Roads therein mentioned: And whereas the said Trustees proceeded to put the said Act into Execution, and have in virtue thereof, and of the Tolls and Duties thereby granted borrowed certain Sums of Money and incurred certain Debts; and the said Sums of Money so borrowed cannot be repaid, and the said Debts discharged, nor the said Roads be effectually repaired and kept in repair, unless further Powers be granted for that Purpose; and unless Powers be given to levy increased Rates of Toll: And whereas it will be of Benefit to the Public, if Powers were given to repair and maintain a Continuation of a Road in the said Act mentioned, leading from *Limekiln Edge* to *Hawick* in the Parishes of *Hobkirk*, *Cavers*, *Kirkton*, and *Hawick*, in the said County of *Roxburgh*; and for making, repairing, and maintaining a Branch from another Road in the said Act mentioned, departing at *Abbotrule-burn Bridge*, and leading by *Fodderlee* and *Bedrule*, to join the *Teviot-water Turnpike Road*, in the Parishes of *Hobkirk* and *Bedrule*, in the County of *Roxburgh* aforesaid: And whereas it is expedient

[Local.]

24 N

39 G. 3. c. 22.

Former Act  
repealed.

pedient that the said Act should be repealed, and that further Powers should be granted for making, repairing, and maintaining the Roads therein mentioned, and the Roads aforesaid; but as these Purposes cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it 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 from and after the passing of this Act, the said recited Act of the Thirty-ninth Year of the Reign of His said late Majesty, and all the Powers and Authorities thereby granted, shall be and the same are hereby repealed, and instead thereof this Act shall commence and be put in Execution for and during the Term herein-after mentioned; and this Act and all the Tolls and Duties which are hereby authorized to be levied shall (under the Conditions and Provisions herein-after contained) be and the same are hereby made subject and liable to the Payment of all Sums of Money now due and owing on the Credit of the said Act hereby repealed, and of all Interest due or that may become due for the same,

Trustees.

II. And be it enacted, That every Person who is at present, or shall be at any Time after the Commencement of this Act, in his own Right, or in the Right of his Wife, in the actual Possession and Enjoyment as Proprietor or Life-renter of the *Dominium utile* of Lands lying in the several Parishes in which the Roads herein-after mentioned, or any Part thereof, are situated, valued in the Tax Rolls of the said Counties of *Dumfries* or *Roxburgh*, at the Sum of One hundred Pounds *Scots* and upwards; and all and every the eldest Sons of such Proprietors or Life-renters, and one Guardian or Tutor or Curator, or Trustee of every Minor, and of every fatuous or furious Person possessed of the foresaid Qualification; and the Commissioners, Chamberlain, and Master of Works on the Estate of his Grace the Duke of *Buccleuch* and *Queensberry*, for the Time being; and the eldest Bailie of *Hawick*, also for the Time being, shall be and they are hereby nominated and appointed Trustees for making, repairing, ordering, amending, and maintaining, and causing to be made, repaired, ordered, amended, and maintained the Roads in the said Act mentioned, *videlicet*, the Road leading from the East End of *Cannoby Bridge* to the *Mireburn* in the County of *Dumfries*, and from thence by the Village of *Castletown*, *Hermitage Bridge*, *Dinlabyre*, *Daston Ridge*, *Note of the Gate*, and *Woollee*, to the Junction of the Turnpike Road leading from *Abbotrule* to *Jedburgh* in the County of *Roxburgh*; and the Road leading from *Hermitage Bridge*, by *Milnburnholm* to *Limekiln Edge*, and from thence to the Junction of the abovementioned Road upon *Daston Ridge*; and the Road from the said Village of *Castletown*, by *Tinnishill* and *Middlemoss* to the Village of *Langholm* in the said County of *Dumfries*; and also the Continuation of the Road from *Limekiln Edge* to *Hawick* in the County of *Roxburgh* aforesaid, and the Branch of Road from *Abbotrule-burn Bridge* by *Fodderlee* and *Bedrule* to join the aforesaid *Teviot-water* Turnpike Road, and for building the necessary Bridges thereon, and for putting into Execution all the Powers and Authorities by this Act given and granted respecting the said Roads and the Bridges thereon.

III. Provided always, That no such Guardian, Trustee, Tutor or Curator, Commissioner, Chamberlain, Master of Works, or Baillie as aforesaid, shall be capable of acting as a Trustee in the Execution of this Act, unless he shall be possessed, either in his own Right, or in Right of his Wife, of Lands or Heritages of the clear yearly Value of Fifty Pounds Sterling, or possessed of or entitled to a Personal Estate alone, or a Real and Personal Estate together of the Amount or Value of Five hundred Pounds Sterling; nor shall any such Guardian, Trustee, Tutor or Curator, Commissioner, Chamberlain, Master of Works, or Baillie, be capable of acting in the Execution of this Act, until he shall have taken and subscribed the Oath following before any Two or more of the said Trustees, being Justices of the Peace, who are hereby authorized and required to administer the same; (that is to say);

Qualification of certain Trustees.

‘ I do swear, That I truly and *bonâ fide* am, in my own Right, (or, in Right of my Wife, as the Case may be), in the actual Possession and Enjoyment of Lands or Heritages of the clear yearly Value of Fifty Pounds Sterling, or possessed of or entitled to a Personal Estate alone, or Real and Personal Estate together, of the Amount or Value of Five hundred Pounds Sterling. ‘ So help me GOD.’

IV. And be it enacted, That if any Person not entitled or qualified to be a Trustee as aforesaid, shall nevertheless presume to act as a Trustee under this Act, he shall for every such acting forfeit and pay the Sum of Fifty Pounds Sterling over and above the Expence of Prosecution, to be recovered by any Trustee duly qualified, or by any Heritor of Lands, situated within any of the Parishes through which the said Roads shall or may pass, by summary Complaint before the Justices of the Peace, at their Quarter Sessions, or before the Sheriff Depute or Substitute of the County in which the Offender may reside; and the Money recovered shall be paid to the said Trustees, or their Clerk or Treasurer, and be applied towards repairing and keeping in Repair the said Roads.

Penalty on Persons acting not being qualified.

V. Provided always, and be it further enacted, That all Acts and Proceedings which shall have been done in any Meeting of Trustees, held under the Authority of this Act, by any such Person touching the Execution of this Act, previous to his being convicted of the Offence before mentioned, shall, notwithstanding such Conviction, be as valid and effectual as if such Person had been qualified according to the Directions of this Act.

Acts of unqualified Trustees previous to Conviction valid.

VI. And be it enacted, That at every Meeting of the Trustees appointed by this Act, Three shall be a Quorum; and at all their Meetings the Trustees assembled shall pay their own Expences.

Quorum of Trustees; to pay their own Expences.

VII. Provided always, and be it enacted and declared, That if any Person or Persons appointed or to be appointed by this Act, as a Trustee or Trustees for putting this Act into Execution, shall have or accept of any Place of Profit, or shall be concerned or interested in any Contract under this Act, such Person or Persons shall be incapable

Trustees not to hold Places of Profit.

incapable of acting as a Trustee or Trustees from the Time of accepting and during the Time of holding such Place of Profit, or being concerned or interested in such Contract as aforesaid; and no Person who shall keep a Public House for the selling or retailing of Beer, Ale, or Spirituous Liquors, shall be capable to act as a Trustee, or to hold or enjoy any Office or Situation of Trust or Profit under this Act.

Trustees may  
act as Jus-  
tices, &c.

VIII. Provided nevertheless, That any Trustee appointed to put this Act into Execution, who is or shall be Sheriff Depute or Substitute of or in the Commission of the Peace for the Counties of *Dumfries* or *Roxburgh*, shall and may act as such Sheriff Depute or Substitute, or as a Justice of the Peace within the same respectively, for the more effectually putting into Execution the several Authorities and Powers in this present Act mentioned and contained, notwithstanding such Sheriff Depute or Substitute, or Justice of the Peace, is or shall be a Trustee as aforesaid, or a Creditor upon the Tolls.

Meetings of  
Trustees.

IX. And be it enacted, That the said Trustees, or any Three or more of them, shall meet at the said Village of *Castletown*, in the County of *Roxburgh*, on the Fourth *Tuesday* after the passing of this Act, or as soon thereafter as conveniently may be, at the Hour of Twelve at Noon, and proceed to carry this Act into Execution, and shall have Power at such First General Meeting, and at all other Meetings, to choose One of their Number to be Preses of each Meeting; and the said Trustees shall in each and every Year posterior to the present, during the Continuance of this Act, hold a General Yearly Meeting at *Castletown* aforesaid, on the Third *Tuesday* of *April*, at the Hour of Twelve at Noon; and such General Meeting, or any subsequent Meeting of Trustees under this Act, may be adjourned from Time to Time as the Trustees present thereat shall judge necessary; and in the Event of a smaller Number of Trustees than Three or of only One Trustee attending at the First Meeting, or at any subsequent Meeting, it shall be in the Power of the said smaller Number of Trustees so assembled, or such One Trustee, to adjourn the said General Meeting to a Day not earlier than Fourteen Days, nor more distant than Thirty Days from and after such former Meeting as aforesaid; and the Trustees fewer in Number than Three, or One Trustee, (who shall so adjourn the Meeting as aforesaid), shall authorize the Clerk or Treasurer appointed as after mentioned, to subscribe an Advertisement announcing such Adjournment, which Advertisement and every succeeding one, relative to the after Proceedings of the said Trustees, shall be and they are hereby appointed to be published in any One of the Newspapers published in the Counties of *Dumfries* or *Roxburgh*; and if there shall be no Newspaper published in either of the said Counties, then in any One of the Newspapers published in *Edinburgh*; provided always, that a Space not less than Ten Days shall elapse between the Publication of each and every of the said Advertisements, and the Day or Days appointed for holding such Meeting or Meetings as aforesaid; and in default of such Space of Ten Days as aforesaid, not elapsing between the Publication of such Advertisements; and the actual Day or Days of Meeting, such Failure shall operate as a Nullity to all Proceedings at such Meeting or Meetings.

X. Provided

X. Provided, always, and be it enacted, That any Three or more Trustees may at any Time, by Writing under their Hands, authorize and require the Clerk or Treasurer of the said Trustees to call a Special Meeting of Trustees for the Purposes of this Act, and such Clerk or Treasurer, on such Authority and Requisition, is hereby required to call such Special Meeting accordingly upon Fourteen Days previous Notice at least being given in such Newspaper as aforesaid, of the Time and Place of such Meeting, and the Special Purpose or Purposes thereof; and in case of the Refusal or Neglect of such Clerk or Treasurer, to call such Meeting when so authorized and required, or in case of there being no Clerk or Treasurer at the Time, but not otherwise, it shall be lawful for any Three of the said Trustees to call such Special Meeting by such Advertisements as aforesaid.

For calling  
a Special  
Meeting.

XI. And be it enacted, That the said Trustees assembled at such First Meeting after the passing of this Act, or at any subsequent General Meeting, shall and may, and they are hereby empowered to choose and appoint fit Persons to be Clerk or Clerks, Treasurer or Treasurers, Receiver or Receivers, and Collector or Collectors to the said Trustees, for receiving the Tolls and Duties granted and made payable by this Act; and also One or more fit Person or Persons to be Surveyor or Surveyors of the said Roads, or such other Officers as they shall think proper, and from Time to Time to remove such Clerks, Treasurers, Collectors, Surveyors, or other Officers, or any of them, and to appoint new ones in case of the Death or Removal of them, or any of them; and all and every Person or Persons who is, are, or shall be liable by this Act to pay the Tolls and Duties by this Act granted is and are hereby required to pay the same to the said Collector or Collectors, Receiver or Receivers so from Time to Time to be appointed as aforesaid; and the said Trustees shall and may, and they are hereby authorized and empowered, out of the Money arising out of the said Tolls and Duties, to pay such Salaries and Allowances to the Officers so to be appointed by them, for and in Consideration of their Care and Pains in the Execution of their respective Offices, and to such other Person or Persons who shall have been or may be assisting in carrying this Act into Execution, by advancing or laying out Money, or otherwise as to them shall seem good, over and above the necessary Disbursements made by them.

Appointment  
of Officers.

XII. And be it further enacted, That the said Trustees shall cause to be provided and kept a proper Book or Books, and fair and regular Entries to be made therein of all their Acts, Orders, and Proceedings relative to the Execution of this Act, and of the Names of all such Trustees as shall be present at their several Meetings; and all Entries in such Book or Books, being signed by the Preses of such Meeting, shall be deemed Originals, and shall be allowed to be read as Evidence in all Cases, Suits, Actions, Prosecutions, and Proceedings, touching or concerning any thing done in pursuance of this Act; and that such Book or Books shall at all the said Meetings be open and liable to the Inspection of all and every the said Trustees, and of the Creditors on the Tolls hereby granted and made payable; and that any of the said Trustees and Creditors shall and may have and take Copies thereof, paying for every Copy, not exceeding One hundred Words, the Sum

Proceedings  
to be entered  
in a Book.

[Local.]

24 O

of

of Sixpence, and so in proportion for any greater Number of Words.

Accounts to be kept of Receipts and Disbursements, which shall be open to the Inspection of the Trustees and Creditors.

XIII. And be it further enacted, That the said Trustees shall, and they are hereby required from Time to Time, and at all Times during the Continuance of this Act, to order and direct a Book or Books to be provided and kept by their Clerk for the Time being, in which Book or Books such Clerk shall enter or cause to be entered, true and regular Accounts of all Sums of Money received, paid, laid out, and expended, for or on account of the said Roads, and of the several Articles, Matters, and Things, for which Sums of Money shall have been disbursed, laid out, and paid; which Book or Books shall at all the Meetings of the said Trustees be open to the Inspection of the said Trustees and any Creditor or Creditors on the Tolls hereby granted, without Fee or Reward; and the said Trustees and Creditors, or any of them, shall and may take Copies of or Extracts from the said Book or Books, or any Part or Parts thereof, without paying any Thing for the same; and in case the said Clerk shall refuse to permit, or shall not permit the said Trustees or such Creditors, or any of them to inspect the same, or take such Copies or Extracts as aforesaid, such Clerk shall forfeit and pay any Sum of Money not exceeding Five Pounds, to be levied and recovered in Manner herein-after mentioned.

Officers to account.

Proceedings against them in case of Neglect.

XIV. And be it further enacted, That all such Officers and Persons so to be chosen and appointed as aforesaid shall, from Time to Time, when thereunto required by the said Trustees, deliver to such Trustees, or to such Person or Persons as they shall for that Purpose appoint, true, exact, and perfect Accounts in Writing, under their respective Hands, of all Monies which they and every of them respectively shall have received to that Time by virtue of this Act, and how much thereof hath been paid and disbursed, and for what Purposes, together with the proper Vouchers for such Payments, and shall pay all such Monies as shall remain in their or any of their Hands to the said Trustees, or to such Person or Persons as they shall appoint to receive the same, and not otherwise; and if any such Officer or Person shall refuse or neglect to produce or deliver up such Accounts and the Vouchers relating to the same, or shall refuse or neglect to pay the Money due on such Accounts in Manner aforesaid, or if any such Officer or Person shall refuse or neglect to deliver up to the said Trustees, or to such Person or Persons as they shall appoint, within Ten Days after being thereunto required by the said Trustees, all the Books, Papers, and Writings in his Custody or Power relating to the Execution of this Act, then, in every or any of the said Cases, it shall be lawful for any Two or more Justices of the Peace for the County, Town, or Place, wherein such Officer or Person so refusing or neglecting shall be or reside, upon Complaint made to them by Two or more of the said Trustees, and such Justices are hereby authorized and required, by Warrant or Warrants under their Hands, to cause such Officer or Officers, Person or Persons, to be brought before them, and upon his, her, or their appearing, or not being found, to hear and determine the Matter of such Complaint in a summary Way, and to settle the

said Account or Accounts if produced; and if upon the Confession of the Officer or Officers, Person or Persons, against whom any such Complaint shall be made, or by the Oath or Oaths of any Witness or Witnesses, (which Oath or Oaths such Justices are hereby empowered and required to administer), or upon Inspection of the said Accounts, if produced, it shall appear to such Justices that any of the Monies which shall have been collected or received shall be in the Hands of such Officer or Officers, Person or Persons, such Justices may, and they are hereby authorized and required, upon Non-payment thereof, by Warrant or Warrants under their Hands, to cause such Money to be levied by Distress and Sale of the Goods and Effects of such Officer or Officers, Person or Persons respectively; and if no Goods or Effects can be found sufficient to answer and satisfy the said Money and the Charges of distraining and selling the same, or if such Officer or Officers, or other Person or Persons, shall not appear before the said Justices, unless for some sufficient Excuse alleged, at the Time and Place by them appointed for that Purpose; or if appearing, shall refuse or neglect to give and deliver to such Justices an Account or Accounts of all Receipts and Payments as aforesaid, or to produce and deliver up to the said Justices the several Vouchers and Receipts relating to such Accounts respectively, or the Books, Accounts, Papers, and Writings in his, her, or their Custody or Power relating to the Execution of this Act, or to the said Turnpike Roads, then, and in either of the Cases aforesaid, such Justices may, and they are hereby authorized and required, by Warrant or Warrants under their Hands, to commit such Officer or Officers, Person or Persons, to the Common Gaol or House of Correction of the County, Town, or Place where such Offender shall be or reside, there to remain until he shall have given and made a true and perfect Account and Payment as aforesaid, or until he shall have compounded and agreed with the said Trustees, and shall have paid such Composition in such Manner as the said Trustees shall appoint, and which Composition the said Trustees are hereby empowered to make, or until he shall have delivered up such Books, Papers, and Writings as aforesaid, or made Satisfaction in respect thereof to the said Trustees; provided always, that no Person who shall be so committed for want of sufficient Distress shall be detained in Prison, by virtue of this Act, for a longer Space of Time than Six Calendar Months.

XV. And be it further enacted, That the said Trustees shall be and they are hereby required to take such Security from the Treasurer or Treasurers, Collector or Collectors to be appointed for the Purposes of this Act, for the due Execution of their Offices, and for their faithfully accounting for all the Monies received by them in virtue of their said Offices, as to the said Trustees shall seem meet; or, failing to take any Security, the Trustees making such Appointment shall be individually responsible for the Default of the Persons by them so appointed.

Treasurers  
and Collec-  
tors to give  
Security.

XVI. Provided always, and be it further enacted, That it shall not be lawful for the said Trustees to appoint the Person who may be appointed to act as their Clerk in the Execution of this Act, or the Partner of any such Clerk, the Treasurer for the Purposes of this

Offices of  
Clerk and  
Treasurer not  
to be held by  
the same  
Person.

Act;

Act; or to appoint, the Person who may be appointed Treasurer, or the Partner of any such Treasurer, the Clerk to the said Trustees; and if any Person shall act in both the Capacities of Clerk and Treasurer by virtue of this Act, or if any Person, being the Partner of any such Clerk, shall act as Treasurer, or, being the Partner of any such Treasurer, shall act as Clerk in the Execution of this Act; every Person so offending shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person or Persons who shall sue for the same, to be recovered by summary Complaint before the Justices of the Peace at their Quarter Sessions of the County where the Offender may reside.

Trustees to  
sue and be  
sued in the  
Name of their  
Clerk.

XVII. And be it further enacted, That the said Trustees may sue and be sued for any Matter or Thing to be done in the Execution of this Act in the Name of their Clerk for the Time being; and no Action or Suit wherein the said Trustees shall be concerned as Pursuers or Defenders, in the Name of their Clerk, by virtue of this Act, shall abate by the Death or Removal of any such Clerk, but that the Clerk to the said Trustees for the Time being shall be deemed to be the Pursuer or Defender, as the Case may be, in every such Action.

Turnpikes  
to be con-  
tinued, &c.

XVIII. And be it enacted, That the said Trustees shall and may continue, or erect or cause to be erected, a Gate or Gates, Turnpike or Turnpikes, upon or across or on the Sides of any Part or Parts of the said Roads, or upon the End of any Lane or Way leading into or out of the same, and such Number of Toll Houses, with a Stable and Garden for each, as to them shall appear to be expedient; and from Time to Time shall and may alter the Situation of such Gates or Turnpikes, and Toll Houses, Stables, and Gardens; and the said Trustees, or some Person or Persons by them to be appointed, shall be and they are hereby authorized and empowered to demand and take, or cause to be demanded and taken at the several and respective Gates or Turnpikes erected or to be erected as aforesaid, a Sum not exceeding the Rates and Duties herein-after specified, before Passage be permitted; that is to say,

For every Horse, Mule, or other Beast whatsoever, drawing any Coach, Berlin, Barouche, Landau, Hearse, Chariot, Chaise, Calash, Chair, or other such Carriage, Nine-pence:

For every Horse, Mule, or other Beast whatsoever, drawing any Taxed Cart, Sixpence:

For every Horse, Mule, Ox, or other Beast whatsoever, if more than Three in Number, drawing any Waggon, Wain, Cart, or other such Carriage, Nine-pence:

For every Horse, Mule, Ox, or other Beast whatsoever, if not more than Three in Number, drawing any Waggon, Wain, Cart, or other such Carriage, Four-pence Halfpenny:

For every Horse, Mule, or Ass, whereon any Person shall ride, Four-pence Halfpenny:

For every Horse, Mule, or Ass, without a Rider, laden or unladen, and not drawing, Three-pence:

For every Score of Oxen or Neat Cattle, or Horses, Mules, or Asses unshod,



unshod, Two Shillings and Sixpence ; and so in proportion for any greater or less Number :

For every Score of Calves, Hogs, Sheep, Lambs, Goats or Kids, Tenpence ; and so in proportion for any greater or less Number.

XIX. Provided always, and be it enacted, That all Waggon, Wain, Cart, or other such Carriages which shall travel with Broad Wheels of the Description after specified, shall be liable to pay One Half only of the Tolls and Duties herein-before charged on such Waggon, Wain, Cart, and other Carriages respectively ; provided every such Waggon, Wain, Cart, or other Carriage with Two Wheels, shall have the Soles or Bottoms of the Fellies of all the Wheels thereof of the Breadth of Five Inches at least, and be cylindrical, that is to say, of the same Diameter on the Inside next the Carriage as on the Outside, and in every intermediate Part between the Inside and Outside, so that when such Wheels shall be rolling on a flat or level Surface the whole Breadth thereof shall bear equally on such flat or level Surface ; and provided that the opposite Ends of the Axletrees of such Waggon, Wain, Cart or other Carriage, so far as the same shall be inserted in the respective Naves of the Wheels thereof, shall be horizontal, and in Continuance of one straight Line, without forming any Angle with each other, and so that in each Pair of Wheels belonging to such Carriage, the lower Parts when resting on the Ground, shall be at the same Distance from each other as the upper Parts of such Pair of Wheels, and further, having the Nails sunk level with the Rings on the Wheels ; and provided every such Waggon, Wain, Cart, or Carriage with Four Wheels, the Wheels thereof being cylindrical as before-mentioned, shall have the Axletrees thereof of such different Lengths that the fore and hind Wheels shall roll only one single Surface or Path of Seven and a Half Inches wide at least on each Side of such Waggon, Wain, Cart, or Carriage ; provided also, that every Person claiming the Privilege so granted to Broad-wheeled Carriages shall permit the same to be examined and measured by any Person appointed by the said Trustees, or concerned in the Collection of the said Tolls or Duties.

Broad  
Wheels to  
pay a smaller  
Sum.

XX. And be it further enacted, That if any Person or Persons subject to the Payment of any of the said Tolls shall, after Demand thereof made by any Collector or Collectors to be appointed as aforesaid, or his or their Servant or Agent, neglect or refuse to pay the same, or any Part thereof, it shall be lawful for the Person or Persons appointed to collect the same, or other Person or Persons whom they or any of them shall take to their Assistance therein, to seize and distrain any Horse, Beast, or other Cattle, or any Carriage, upon which any such Tolls are by this Act imposed, or the Loading, Harness, or Accoutrements of the same respectively, (except the Bridle, Reins or Halter of any such Horse or other Beast separate from any such Horse or other Beast) ; and if such Tolls, and the reasonable Charges of such Seizure and Distress, and of detaining and keeping the same, shall not be paid within the Space of Four Days next after such Seizure and Distress made, the Person or Persons so seizing and distraining shall and may, under the Authority of a Warrant of One Justice of the Peace of the County in which such Person or

Recovery of  
Tolls.

[Local.]

21 P

Persons

Persons shall have so neglected or refused to pay Toll, (which Warrant any such Justice is hereby empowered to grant), sell the Horse, Beast or Cattle, and other Property, or any Part thereof so seized and distrained, rendering the Overplus (if any) on Demand to the Owner thereof, after such Tolls and all reasonable Charges shall have been deducted.

Tolls may be reduced and raised again.

XXI. And be it further enacted, That it shall be lawful for the said Trustees at their foresaid stated General Meetings assembled, to diminish and lessen any or all of the foresaid Tolls or Duties, as they shall see fit, with the Consent of Three-fourths in Value of the Créditors thereon for the Time, and from Time to Time to advance the same again, so as that the same shall not at any Time exceed the Tolls or Duties made payable by this Act.

Tickets to be provided denoting Payment of Tolls.

XXII. And be it further enacted, That upon Payment of the Tolls by this Act granted, the Collector or Receiver thereof shall, and he or she is hereby required to deliver *gratis* to the Person paying such Toll, a Note or Ticket denoting such Payment; which Note or Ticket shall be provided by the said Trustees, and there shall be printed and specified thereon the Name or Names of the Gate or Gates freed by such Payment.

Tolls to be paid but once a Day.

XXIII. And be it further enacted, That if any Person shall have paid the Toll hereby authorized to be taken for the passing of any Horse, Cattle, Beast, or Carriage through any of the said Toll Gates or Turnpikes continued or erected by virtue of this Act, such Person shall, upon producing a Note or Ticket denoting the Payment thereof on that Day, at some or one of the said Toll Gates or Turnpikes, be permitted to pass Toll-free with the same Horse, Cattle, Beast, and Carriage through such Toll Gate, and through any other Gate or Turnpike placed on the said Roads, not exceeding the Distance of Six Miles from the Turnpike where such Person or Persons received such Note or Ticket, Notes or Tickets, as aforesaid; without being liable or compelled to pay the said Tolls or Duties more than once, for passing through the said Gate or Turnpike, and returning the same Day, to be computed from Twelve of the Clock at Night to Twelve of the Clock of the succeeding Night; and no Note or Ticket, Notes or Tickets, obtained at Payment as aforesaid, shall exempt any Person or Persons from Payment of the Tolls at any Gate or Turnpike on the said Roads, at a greater Distance than Six Miles from the Gate or Turnpike where the Person or Persons received such Note or Ticket, Notes or Tickets, as aforesaid.

For settling Disputes concerning Tolls.

XXIV. And be it further enacted, That if any Dispute shall happen concerning any Tolls due or the Charges occasioned by any such Distress as aforesaid, it shall be lawful for the Collector or Person so distraining to retain such Distress, or the Money arising from the Sale thereof, until the Amount of the Tolls or the Charges of the Distress, as the Case may happen, be ascertained by some Justice of the Peace for the County wherein the Cause of Dispute shall arise; who, upon Application made to him for that Purpose, shall examine the Matter by Oath of the Parties, or of a Witness or Witnesses (which

(which Oath such Justice is hereby authorized to administer), and shall determine the Amount of the Tolls due, and shall assess and award such Costs to be paid by either Party to the other of them as to the said Justice shall appear just and reasonable; all which Costs and Charges shall and may be levied and recovered by Distress and Sale of the Goods and Effects of the Party liable to pay the same, by Warrant under the Hand of such Justice, rendering the Overplus (if any) on demand, after deducting the Costs and Charges of making such Distress and Sale, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold.

XXV. And be it enacted, That if any Person or Persons shall give to or receive from any Person or Persons, or forge or counterfeit any Note or Ticket, Notes or Tickets, by this Act directed to be given, with Intention to evade the Payment of the said Tolls, or any Part thereof; or if any Person or Persons shall fraudulently pass through any such Turnpike or Toll Gate, with any Horse, Beast, or other Cattle, without Payment of Toll; or shall take off, or cause to be taken off, any Horse, Beast, or other Cattle from any Carriage; or, having passed through any such Turnpike or Toll Gate, shall afterwards add or put an additional Horse or Horses, Beast or Beasts, to such Carriage, with Intent to evade the Payment of the said Tolls, every Person so offending shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds.

Penalty on disposing of Tickets.

XXVI. And be it enacted, That the Tolls and Duties hereby granted and made payable, and also all Sums of Money borrowed on the Security thereof, in Manner herein-after mentioned, together with the Right and Property of every Bridge, Gate, or Turnpike, Toll House, and Garden, Rail, Post, Fence, Milestone, and whole Premises erected on the said Roads, or to be erected and acquired, whether by Purchase, or in Feu or Lease, by Authority of this Act, as also all Materials for building or repairing the same, as also all Tools, Implements, Stones, Gravel, or Sand, gotten or had for making, amending, repairing, and improving the said Roads, are and shall be vested in the said Trustees.

Tolls and Toll Houses vested in Trustees.

XXVII. And be it enacted, That no Toll or Duty shall be demanded or taken for any Horse or other Cattle conveying any Materials for repairing or keeping in Repair the said Roads, or any of the Toll Houses, Gates, Bridges, Causeways, Fences, or other Works connected therewith, or for making or repairing any other Public Road, Toll House, Gate, Bridge, Causeway, Fence, or other Work connected therewith, within either of the said Counties of *Dumfries* or *Roxburgh*; nor shall any Toll or Duty be demanded or taken from any of the Surveyors or other Officers of the said Trustees, when travelling on the Business of the Trust; nor shall any Occupier or Occupiers of Land be charged with any of the Tolls or Duties aforesaid, for passing from one Part to another of the same Farm, nor the Inhabitants of the Villages of *Langholm* and *Castletown*, or the Town of *Hawick*, in passing to and from the Fields occupied by them, within One Mile from the said Villages of *Langholm* or *Castletown*, or Town of *Hawick*; nor shall any Toll or Duty be demanded or taken for any Horse

Exemptions from Tolls.

or

or other Cattle conveying Implements of Husbandry, Corn, Hay, Straw, Turnips, or other Crop or Dung to any Land or Field in the Occupation of the Person or Persons to whom such Corn, Hay, Straw, Turnips, or other Crop or Dung does belong; provided that such Corn, Hay, Straw, Turnips, or other Crop are the Produce of Lands in the Occupation of the Person claiming the Exemption; but such Exemption shall not extend to Corn, Hay, Straw, Meal, Turnips, Dung, or other Crop, carried for Sale, or which may have been previously sold; nor shall Toll or Duty be demanded for any Horse or other Cattle going to or from a Smith's Shop to be shod or farried, nor going to or returning from Water or Pasture, provided that the Smith's Shop or Water or Pasture respectively are not more than One *English* Mile distant from the Toll Gate at which the Exemption is claimed, and provided that the Horses and other Cattle return from the Smith's Shop, the Water or Pasture, within Fourteen Hours after passing to the same; nor for any Carriages or Horses carrying any Person or Persons to or from their Parochial Church or Chapel; or from any Person or Persons going to or returning from his, her, or their usual Place of Religious Worship tolerated by Law, on a *Sunday*, or on any other Day on which Divine Service is ordered by Public Authority to be celebrated; nor for any Carriages, Horses, or other Cattle passing to, from, or with the Funeral of any Person who is to be buried within the same Parish in which such Person died; nor for any Carriage, Horse, or other Cattle carrying any Clergyman upon his ministerial Duty within his own Parish; nor for any Horses or Carriages attending His Majesty, or any of the Royal Family; nor for any Horses or Carriages employed in conveying the Mails of Letters or Expresses, under the Authority of His Majesty's Postmaster-General, either when employed in conveying, or in returning after having conveyed the same, except in so far as such Horses or Carriages are specially made liable to the Payment of Tolls or Duties, by virtue of an Act made in the Fifty-third Year of the Reign of His late Majesty King George the Third, intituled *An Act to repeal the Exemption from Toll granted for or in respect of Carriages with more than Two Wheels, carrying the Mail in Scotland, and for granting a Rate for Postage as an Indemnity for the Loss which may arise to the Revenue of the Post-Office from the Payment of such Tolls*; nor shall any Toll be demanded for any Waggon, Wain, Cart, or other Carriage whatsoever, or the Horse or Horses, or other Cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack, or Commissariat or other Public Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces; nor for the Horses or Carriages of Officers or Soldiers upon their March, or upon Duty, nor for any Horses, Cattle, or Carriages employed in carrying and conveying the Arms or Baggage of any such Officers or Soldiers, or in carrying any sick, wounded, or disabled Officers or Soldiers, or returning from carrying or conveying the same; nor for any Horse or Horses furnished by or for any Person or Persons belonging to any Corps of Yeomanry or Volunteer Cavalry or Infantry, and rode by him or them in going to or returning from the Place appointed for and on the Days of Exercise; provided always, that such Persons shall be dressed in the Uniform of their Corps, and

and have their Arms, Furniture, and Accoutrements, according to the Regulations appointed for such Corps respectively; nor for Carts, Carriages, or Waggon travelling with and conveying Vagrants or Criminals, sent with legal Passes, or returning from conveying the same.

XXVIII. And be it further enacted, That no Person owning or driving or causing to be driven, any Waggon, Wain, Cart, or other Carriage, provided for the Service of His Majesty's Forces, or conveying any Ordnance, Barrack, or Commissariat or other Public Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces shall be subject to any Penalty or Forfeiture for Overweight, nor shall any such Waggon, Wain, Cart, or other Carriage be stopped or detained by reason of any Weight in any such Waggon, Wain, Cart, or other Carriage, or of being drawn by any Number of Horses or Oxen, but it shall be lawful for any Owner or Driver of such Waggon, Wain, Cart, or other Carriage, to put any Number of Horses or Oxen to such Waggon, Wain, Cart, or other Carriage, any thing in any Act or Acts of Parliament, relating to Highways or Turnpike Roads, or in this Act contained, to the contrary notwithstanding.

Exempting Carriages with Stores.

XXIX. Provided always, and be it enacted, That if any Person shall claim and take the Benefit of any of the Exemptions from Toll herein-before mentioned, not being legally entitled to the same, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Twenty Shillings Sterling.

Penalty on claiming Exemptions where not entitled thereto.

XXX. And be it further enacted, That if any Person or Persons, owning or occupying inclosed Lands, near to any Gate or Turnpike which shall be erected in pursuance of this Act, shall knowingly or wilfully permit any Person or Persons, not being of his, her, or their Family, or not being his, her, or their Servant or Servants, to pass through the same, or through any Gate, Passage, or Way, with any Coach, Cart, or other Carriage, or with any Horse, Ass, or Cattle, for the Purpose of evading the Payment of the said Tolls, every such Person so offending, and the Person or Persons riding or driving such Cart or other Carriage, Horse, Ass, or other Cattle, and every Person who for the Purpose of such Evasion, shall leave any of the said Roads and return thereto, after avoiding a Turnpike Gate, without a good and satisfactory Reason for so doing, shall each for every such Offence respectively forfeit and pay to the said Trustees a Sum not exceeding Forty Shillings Sterling, One Half thereof to be paid to the Informer, and the other Half to the said Trustees, and shall also pay all the Expence of prosecuting for the same.

Penalty for evading the Tolls.

XXXI. And be it enacted, That if any Person or Persons liable to pay the said Tolls shall in a fraudulent or forcible Manner pass through any of the Gates or Turnpikes on the said Roads, without paying Tolls thereat, or shall assault any Collector of Tolls, every Person so offending shall forfeit and pay a Sum not exceeding Forty Shillings Sterling, besides making Payment of the Tolls to which such Person was liable.

Penalty for forcible Evasion of the Tolls, or assaulting Officers.

Penalty for  
taking off  
Horses, &c.

XXXII. And be it enacted, That if any Person or Persons shall at any Time during the Continuance of this Act, unload or cause to be unloaded, any Sort of Goods or Merchandize or other Articles whatsoever; or shall take off or cause to be taken off, any Horse or Horses or any Beast of Draught, from any Coach, Berlin, Barouche, Landau, Hearse, Chariot, Chaise, Calash, Chair, or taxed Cart, or from any Waggon, Wain, Cart, or other Carriage, at or before the same shall come to any of the Gates or Turnpikes already erected or to be erected on the said Roads by virtue of this Act, with Intent to avoid paying any Tolls or Duties hereby imposed; each and every Person so offending in any of the Cases aforesaid, shall forfeit and pay a Sum not exceeding Forty Shillings Sterling; One Half thereof to be paid to the Informer, and the other Half to the said Trustees, to be applied to the Purposes of this Act; and shall also pay the Expences incurred in prosecuting for and recovering the same.

Tolls may be  
let.

XXXIII. And be it further enacted, That the said Trustees shall be and they are hereby authorized and empowered to levy and collect the said Tolls or Duties by such Collectors or Receivers as they shall appoint, or by Public Roup to let the said Tolls and Duties in Whole or in Parcels, from Time to Time, during the Continuance of this Act, by Lease or otherwise, for any Term not exceeding Three Years for the highest Rent or Rents they can get for the same, to such Person or Persons as shall from Time to Time give such good and sufficient Security for Payment thereof, as shall be approved of by the said Trustees at a General Meeting assembled.

Trustees may  
compound  
for the Tolls.

XXXIV. And be it enacted, That the said Trustees at a General Meeting assembled may and they are hereby authorized and empowered to compound and agree by the Year or otherwise, with any Person or Persons living near any Gate or Gates, Turnpike or Turnpikes erected or to be erected by virtue of this Act, for any reasonable Sum or Sums of Money, to be paid Quarterly in advance from Time to Time, in lieu of the Payment of the Tolls or Duties by this Act granted; and Copies of all such Compositions or Agreements to be made by the said Trustees, shall be entered at Length in a Book or Books to be kept for that Purpose, which shall be open to the Perusal of any Person or Persons whatsoever, at all seasonable Times, without Fee or Reward.

For borrow-  
ing Money.

XXXV. And be it enacted, That it shall and may be lawful for the said Trustees, at a Special Meeting called for the Purpose by Advertisement in Manner before mentioned, and they are hereby authorized and empowered to borrow, at legal Interest, upon the Credit of the Tolls and Duties to be levied and collected by virtue of this Act, any Sum or Sums of Money not exceeding upon the Whole at any Time the Sum of Five thousand Pounds; and if at any Time any Part of the Sums to be borrowed as aforesaid, with the Interest thereon, shall be paid off and discharged, it shall and may be lawful to and in the Power of the said Trustees to borrow other and further Sums of Money, and to burden the said Tolls and Duties with the Payment of the same: Provided always, that such after Loan or Loans shall not upon the Whole exceed the said Amount of Five thousand Pounds as aforesaid.

XXXVI. And

XXXVI. And be it enacted, That it shall be lawful to and in the Power of the said Trustees, at a General Meeting assembled, (and they are thereby authorized); to assign and make over the Whole or such Part of the Tolls and Duties to be levied and collected in Manner aforesaid as they shall think proper, for a Security to the Person or Persons who shall lend any Sum or Sums of Money to be borrowed under the Authority of this Act, or shall become Sureties for the Repayment of the same; and Copies of all such Assignments shall be enered by the Clerk to the said Trustees in a Book or Books directed to be kept by such Clerk in Manner herein-before mentioned.

Tolls to be assigned in Security.

XXXVII. Provided always, That no Trustee shall be held or adjudged to have rendered himself personally liable for the Repayment of any Money to be borrowed by virtue of this Act, or Interest thereof, by reason of having signed any Assignment of the Tolls for Money borrowed as aforesaid, or for Payment of any Sum which he shall not have bound himself to pay personally as an Individual, independent of his Office as a Trustee under this Act.

Trustees not personally liable.

XXXVIII. And be it enacted, That the Money so to be raised, levied, collected, or borrowed as aforesaid, and declared to be vested in the said Trustees, shall be strictly applied, after defraying the Expences of applying for, procuring, and passing this Act in Manner herein-after mentioned, the Payment of Interest due on Money already borrowed or to be borrowed, and the necessary Expences of Management, in making, amending, altering, repairing, and keeping in Repair the said Roads, Bridges, and Toll Houses, and for the other Uses and Purposes directed by this Act, and for paying off by Instalments any Debt which may have been contracted under the said recited Act, or for carrying this Act into Execution; nor shall any Portions thereof be expended without their Orders, or the Orders of their Committees herein-after mentioned, or other Person or Persons regularly authorized by them.

Application of Tolls.

XXXIX. And be it further enacted, That in case of any Misapplication of the Money collected, received, or borrowed by virtue of this Act, all and every Person or Persons who shall so misapply the same, or by whose Authority the same shall be so misapplied, shall forfeit and pay Double the Sum or Sums so misapplied, to be recovered against him or them at the Suit of any Three or more Heritors within the aforesaid Counties possessed of One hundred Pounds Scots, each of valued Rent in Property, who are hereby authorized to sue for and recover the same in any Action summarily before the Lords of Council and Session, without abiding the Course of any Roll, with full Costs of Suit, One Half of which Forfeiture shall belong to the Persons who sue for the same, and the other Half shall be paid to the said Trustees, to be applied by them for the Purposes of this Act; but if any such Prosecution shall, after Trial, be found to have been vexatious and groundless, the Prosecutors shall be liable to pay Double Costs.

Preventing Misapplication of Money.

XL. And be it enacted, That if the Trustees at any General or Committee Meeting shall determine in any Matter in Execution of

Determination of a former Meeting the

ing not to be altered but by a Special Meeting.

the Powers committed to them by this Act, such Determination shall not be annulled or altered, nor any Order contrary thereto be issued by any subsequent Meeting, unless such subsequent Meeting be called upon Twenty-one Days Notice by Advertisement Three Times at least in One of the Newspapers, published in one or other of the said Counties, as the Case may be, or, if there shall be no Newspaper published in either of the said Counties, in some one Newspaper published in *Edinburgh*, signifying the Time and Place of such Meeting, as well as the Purpose for which it is called.

Power to appoint Committees.

XLI. And be it enacted, That the said Trustees may appoint Committees of their own Number, to take the Care and Management of particular Parts or Branches of the said Roads, according to such Instructions, Rules, and Regulations as shall be given and laid down by the said Trustees, in a General Meeting assembled consistent with this Act; and the said Trustees may, if it shall appear to them necessary, appoint a Clerk, Treasurer, and Surveyor, or Clerks, Treasurers, and Surveyors, for such particular Parts or Branches of the said Roads, with proper Salaries, or authorize their Committees to make such Appointments; and the said Committees and Surveyors may direct the making, repairing, and keeping in Repair such Part or Parts, Branch or Branches of the said Roads, and other Works connected therewith, as shall be entrusted to their Care; but such Committees, and their Treasurers, Clerks, Surveyors, and other Officers, shall always be accountable for the Money which they shall draw or receive from such Part or Parts of the said Roads as shall be entrusted to their Management, according to the Instructions, Rules, and Regulations so to be made by the said Trustees at their General Meetings; and if any such Committee, or any such Treasurer, Clerk, Surveyor, or other Officer, shall misapply any Part of the Money which they shall respectively so draw or receive, such Persons shall forfeit and pay to the said Trustees, or to any Person having their Authority to prosecute for the same, Double the Sum so misapplied, to be levied, recovered, and applied in Manner hereinafter mentioned.

Conversion of Statute Labour may be applied to Roads in certain Cases.

XLII. And be it enacted, That nothing in this Act contained shall prevent, or be construed to prevent, the Trustees for the Conversion of Statute Labour in the said Counties of *Dumfries* or *Roxburgh*, from making and levying Annual Assessments, and appropriating the same, should they deem it expedient so to do for the Repair and Maintenance of any of the aforesaid Roads, in the same Manner as they might have done if the said Roads had not been included in this present Act: Provided always, that no Assessments shall be so made or appropriated for the Repair or Maintenance of any of the aforesaid Roads, on which Tolls shall have been levied under the Authority of this Act, unless with the Consent of the Majority of such of the Heritors of the Parish so to be assessed as may be present at the Meeting held for the Purpose of such Assessment and Appropriation: Provided also, that when any Parish shall be so assessed for the Repair and Maintenance of any of the aforesaid Turnpike Roads upon which Tolls are levied, the Funds arising from such Assessment shall be exclusively applied to the Repair



Repair and Maintenance of such Parts only of the aforesaid Turnpike Roads as lie within the Parish so assessed.

XLIII. And be it enacted, That it shall be lawful to and for the said Trustees to cause Foot Paths to be made on the Side or Sides of the said Roads, and to erect Posts to prevent any Person from riding or driving Horses, Carriages, or Cattle on the same; and if any Person shall ride or drive, or cause any Horse or Carriage to be ridden or driven along any of such Foot Paths, such Person or Persons shall for each Offence forfeit and pay any Sum not exceeding Forty Shillings; and it shall be lawful for the said Trustees to cause to be built or erected Arches or Bridges of Stone, Brick, Iron, or Timber, and to repair and maintain the same, or to take down unnecessary and decayed Bridges, and to dispose of the Materials thereof, and to apply the Produce thereof to the Purposes of this Act; and to cause Conduits and Drains to be made through any Grounds adjoining to the said Roads, not being a Garden, Orchard, Yard, Paddock, planted Walk, or Avenue to a House; and in all Time subsequent to the making of the said Conduits and Drains, it shall be lawful for any Person or Persons appointed by the said Trustees in Manner aforesaid to have Access to and repair, secure and preserve the said Conduits and Drains without any Impediment or Obstacle whatsoever.

Foot Paths  
may be made,  
and Bridges  
and Drains.

XLIV. And be it enacted, That in case the said Trustees shall think proper to widen, turn, or alter any Part or Parts of the said Roads for the better Accommodation of the Public, it shall be lawful to 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 of any Lands, Grounds, or Heritages that may be necessary for these Purposes, and for the Loss or Damage which the Owners or Occupiers thereof or any of them shall or may in any wise sustain by such widening, turning, 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 Sums of Money as shall be agreed upon between the said Trustees, and such Owners or Occupiers as aforesaid, which Roads, when widened, turned, or altered by virtue of this Act, shall not be more than Forty Feet in Width, exclusive of the Foot Paths and Ditches; 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 the said Roads, in such Manner as the said Trustees shall see expedient, with proper Drains, Ditches, and Fences, and shall from thenceforth be deemed and taken as Part or Parts of the Roads to be repaired by virtue of this Act.

Trustees may  
widen or  
alter the  
Roads, &c.

XLV. And whereas a Map or Plan of the said Road from *Abbotrule-burn Bridge*, by *Todderlee* and *Bedrule*, to the *Teviot-water* Turnpike Road, and the Lands through which the same leads, together with a Book of Reference containing Lists of the Names of the Owners and Occupiers of such Lands, have been deposited with the Clerk of the Peace of the said County of *Roxburgh*; be it therefore enacted, That the said Map or Plan and Book of Reference shall remain in the Custody of the Clerk of the Peace of the said County; to the end that all Persons may at all seasonable

Maps, &c. to  
remain with  
the Clerks of  
the Peace.

Times have Liberty to inspect and peruse the same, and obtain Copies or Extracts thereof, paying the said Clerk at the Rate of One Shilling for every Two hundred Words of such Copies or Extracts:

Misnomers not to prevent the Execution of the Work.

XLVI. Provided always, and be it enacted, That it shall and may be lawful to and for the said Trustees to make the said Road, or alter the same into, through, across, or over the several Lands or Grounds of the Person or Persons who is or are, or may be Owner or Owners of Lands over which the same is set out and described in the said Map or Plan as aforesaid, although the Name or Names of such Person or Persons may happen to be mistaken or omitted in the said Book of Reference, in case it shall be made to appear to Two or more Justices of the Peace for the said County of *Roxburgh*, and be certified by Writing under their Hands that such Error or Omission proceeded from Mistake.

Restraining Trustees from deviating more than 100 Yards from the Line of the Road without Consent, &c.

XLVII. And be it further enacted, That it shall not be lawful for the said Trustees in diverting, turning, varying, or altering the Course or Path of any Part of the said Roads, to deviate more than One hundred Yards from the present Line or Course thereof, or the Line of the said Road from *Abbotrule-burn Bridge*, by *Todderlee* and *Bedrule*, to the *Teviot-water* Turnpike Road, as described in the said Map or Plan herein-before mentioned, without the Consent of the Owners or reputed Owners and Occupiers for the Time being, of the Lands and Grounds which may be affected by any such Diversion or Alteration.

Compensation to be made for Ground taken, or Heritages damaged.

XLVIII. Provided always, and be it further enacted, That in making the said Roads or Alterations thereof, full Compensation shall be made to the Owners and Occupiers of all Lands, Grounds, Houses, or other Buildings and Fences taken for the Use of the same, and for all Damage done to the same; and for that Purpose the Trustees shall before entering on any such Lands, Grounds, Houses, Buildings, or Fences, or injuring the same, give Notice, in Manner herein-after mentioned, to the Owners and Occupiers thereof, and make an Offer to them of what the Trustees consider to be the Value or a just Compensation for the same, unless such Owners or Occupiers shall renounce all Claim for Damages or Compensation in Manner herein-after mentioned.

In case of not agreeing, Sheriff to summon a Jury to fix Value of Lands and Houses.

XLIX. And be it further enacted, That if in making, widening, turning, or altering the said Roads, the said Trustees shall not come to an Agreement with the respective Owner or Owners, and Occupier or Occupiers of the Lands, Grounds, Houses, Buildings, and Fences, taken for the Use of such Roads, or for the Damage done to the same respectively, or in case such Owners or Occupiers shall refuse to treat with the said Trustees or Committees for the same, or in case the Claim of Damages which may be thence incurred shall not have been renounced in Manner herein-after mentioned, Application shall be made to the Sheriff Depute of the said County of *Dumfries* or of *Roxburgh*, as the Case may require, or his Substitute, to summon a Jury, to consist of not fewer than Nine Persons, in order to value the Ground necessary to be taken and used, or Houses, or Parts of Houses, or other

other Buildings necessary to be taken down as aforesaid, and the Loss or Damage ensuing from the altering or removing of Fences; and the said Sheriff Depute, or his Substitute, is hereby empowered and required, upon such Application, to order Notice thereof to be given to the Owner or Owners, and Occupier or Occupiers of such Lands, Houses, or Premises, and afterwards to issue a Summons in the usual Manner for calling together a Jury, who being duly sworn, the said Sheriff Depute or his Substitute shall proceed to examine upon Oath in his Presence (which Oath such Sheriff Depute or Substitute is hereby authorized and empowered to administer) such Witnesses as shall be summoned by either Party, and upon their Depositions, or other competent Evidence, such Jury shall determine the Price or Damages to be paid by the said Trustees; and in estimating the Sums to be paid to the Owners and Occupiers of Lands, Houses, and Premises as aforesaid, and in making up their Verdict, the said Jury shall have Right and they are hereby empowered to take under their Consideration all Circumstances, particularly the Advantages arising to the Owners and Occupiers by new or altered Roads; and in ascertaining the Value of the Fences which it may be necessary to pull down, the Jury shall also have Power to direct such Fences as may thereby become useless to be taken down and removed by the said Trustees, upon Payment of such Allowance for the same as the said Jury may determine; and it shall be optional to the Owners and Occupiers either to accept of the Allowance so awarded, or to retain the Materials of the said Fences to their own private Use; and after a Verdict is pronounced as aforesaid, the said Sheriff Depute or his Substitute is hereby required to adjudge Payment of the Value and Amount of the Loss or Damage thereby awarded to the Persons having a Right thereto; and upon Payment being made by the said Trustees out of the Money raised by virtue of this Act, of the Sum awarded to the Party or Parties interested, or Consignation of the said Sum in the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British Linen Company of Scotland*, in Manner by this Act directed, the said Trustees shall from thenceforth have a Right to take and use the Ground, and to take down the Houses and other Buildings and Fences, or Parts of Houses and other Buildings and Fences so valued, as fully and effectually ever after, to all Intents and Purposes, as if the Owner or Owners, and Occupier or Occupiers of the Lands, Houses, and other Buildings and Fences, had executed regular Dispositions of the same, and thereupon Infeftment had followed; and the said Proceedings and Orders of the said Sheriff Depute or his Substitute shall be final and not removable by Bills or Letters of Advocation or Suspension, or by Reduction, to or by any Court whatever; any Law or Usage to the contrary notwithstanding.

Sheriff to  
adjudge Pay-  
ment of the  
Sum awarded  
by the Jury.

L. Provided always, and be it enacted; That in the event that such Jury shall award a greater Compensation than the Trustees shall have offered, but less than the Owner or Owners, Occupier or Occupiers shall have required, the Expence of the Proceedings shall be defrayed and borne by the said Trustees; and the said Owner or Owners, Occupier or Occupiers equally; but in case the said Jury shall award to such Owner or Owners, Occupier or Occupiers, the Sum so required

Expences of  
the Proceed-  
ings how to  
be paid.

or

Any War-  
rant for stop-  
ping the  
Work to be  
recalled on  
Caution  
found.

or any greater Sum, the Whole of the said Expence shall be paid by the said Trustees; and, on the other Hand, if the said Jury shall award the Sum offered by the said Trustees, or a less Sum, the Whole of the said Expence shall be paid by the said Owner or Owners, Occupier or Occupiers: Provided always, that in all Cases where any Person or Persons shall, by reason of Absence, be prevented from treating with the said Trustees, such Expence as aforesaid shall be borne and paid by the said Trustees: Provided also, that after having paid or offered to the Owner or Owners, Occupier or Occupiers of any Lands, Houses, or Premises, such Sum as the said Trustees shall think reasonable, or which shall have been awarded in Manner aforesaid; or if in case of his, her, or their Refusal to accept of such Sum, (the Offer being instructed by an Instrument under the Hands of a Notary Public and Witnesses), the Money shall be afterwards lodged in the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British Linen Company of Scotland*, in Manner by this Act directed, there to remain at such Interest as the said Banks may allow, at the Peril of such Owner or Owners, Occupier or Occupiers; that thereupon it shall and may be lawful for the said Trustees to enter into or upon such Lands, Houses, or Premises for the Purposes of this Act, and no Stop shall in the meantime be put to the Operations of the said Trustees, on Pretence of settling the said Damages, or that they have not been satisfied and paid; and in case any Person interested shall apply for and obtain from any Judge competent a Warrant for stopping the Execution of the Purposes aforesaid, the said Judge is hereby directed to recal such Warrant, and remove any Sist obtained as aforesaid, provided sufficient Caution shall be found by the Trustees therein named for the Amount of such Damages as may be ultimately awarded to the Person suing for the same, to be ascertained in Manner herein-before mentioned.

Penalty if  
Jurymen,  
&c. refuse to  
act.

LI. And be it enacted, That if any Person summoned as a Jurymen or Witness under the Authority of the said Sheriff Depute or his Substitute, in any Matter arising out of this Act, shall neglect or fail to appear, or shall refuse to act as a Jurymen, or shall refuse to give Evidence after having been paid or tendered a reasonable Sum for his, her, or their Costs, Charges, and Expences, such Sheriff Depute or his Substitute is hereby empowered to fine every such Person for every such Offence in any Sum not exceeding Five Pounds Sterling.

Trustees, &c.  
empowered  
to take Ma-  
terials.

LII. And be it enacted, That it shall and may be lawful for the said Trustees, or their Committees, and any Person or Persons having an Order from them, to open Quarries, and dig, gather, take and carry away any Stones or Gravel, or other Materials, out of any Waste or Common, Burn or River, within any Parish or Place in which any Part of any of the said Roads do lie, or in any adjoining Parish or Place, for making and repairing, altering or widening the said Roads, and the Bridges thereon, or any of them, or Toll Houses, or other Buildings connected therewith, without paying for the same; and to dig, gather, take, and carry away all such Materials from Quarries already opened, and from any Grounds within any Parish or Place in which any Part of any of the said Roads do lie, provided the same can be done with Safety to the Passage of the said Roads, and without  
injuring

injuring any Public Building, the said Trustees paying such Damages for the same, and for the Value of the Materials to the Owner or Occupier thereof, as the said Trustees shall judge reasonable, or in case of Difference, as shall be ascertained by any Two Justices of the Peace of the County, within which such Quarries or Grounds are situated, with Power to the said Owner or Occupier to appeal from the Decision of such Justices to the next Quarter Sessions, which Decision shall be final; and in all Cases the said Trustees, or Persons acting under them, shall be bound and obliged, if required by the Owner or Occupier of the Ground, to level such Pits and Quarries, when no longer required for the Use of the said Roads and Bridges; and in the meantime, where necessary, to surround such Pits and Quarries with sufficient Fences while they are kept open.

LIII. Provided nevertheless, and be it further enacted, That no Surveyor, or any other Person or Persons acting under the Authority of this Act, shall begin to dig, gather, take, or carry away any Materials for making or repairing the said Roads, out of or from any inclosed Land, until Notice in Writing, signed by the said Surveyor or other Person or Persons, shall have been first given to the Owner, or his known Agent, or to the Occupier of the Land from which such Materials are intended to be taken, or left at such Owner's or Occupier's usual Place of Residence, to appear before any Two Justices of the Peace acting for the County in which the same shall be situated, at any Time, not sooner than Ten Days after giving such Notice, to shew Cause why such Materials shall not be had therefrom; and in case such Owner, Agent, or Occupier, shall attend pursuant to such Notice, and shall not shew sufficient Cause to the contrary, such Justices shall, if they think proper, authorize such Surveyor, or other Person or Persons, to dig, get, gather, take, and carry away such Materials, at such Time or Times as to such Trustees or to such Justices shall seem proper; and if such Owner or Occupier shall neglect or refuse to appear by himself, or herself, or his or her Agent, such Justices shall and may make such Order therein as they shall think fit, as fully and effectually to all Intents and Purposes as if such Owner or Occupier, or his or her Agent, had attended; and the Order of such Justices shall be final and conclusive to and upon all Parties.

LIV. Provided always, That in altering, widening, or making any of the said Roads, or digging or taking Materials as aforesaid, no House or Building shall be prejudiced of which the Side Walls are above Twenty Feet in Height from the Surface of the adjoining Ground, nor any Orchard, Garden, Yard, planted Walk, Avenue, Lawn, or Pleasure Ground, or Plantation of Trees, without the Consent in Writing of the Owner or Owners thereof first had and obtained; and that no Dwelling House shall be pulled down or removed without Notice in Writing given to the Owner or Occupier of such Dwelling House Six Months previous to the then next Term of *Whitsuntide*, nor any Outhouse, without Three Months Notice in Writing given to the Owner or Occupier thereof, previous to the then next Term of *Whitsuntide*; nor shall any Lands, inclosed or uninclosed be entered upon or taken Possession of, without Four

[Local.]

24 S

Months

Notices to be given before Materials are taken.

No House or Orchard, &c. to be prejudiced.

Months such Notice previous to the putting in of the then next Crop, if under Culture; and if in Grass, Three Months previous to the then First Day of *March*, to the Owners or Occupiers of such Lands.

Toll Houses, Places for depositing Materials, &c. to be provided.

LV. And be it further enacted, That it shall and may be lawful for the said Trustees to give Orders for purchasing or taking in Feu or Lease, such Pieces of Ground adjacent to the said Roads (each not exceeding One Eighth Part of an Acre in enclosed Grounds, or One Fourth Part of an Acre in any open or unenclosed Ground, except with the Consent of the Owner or Owners of such Ground) as shall be judged most convenient for erecting Toll Houses with Stables and Gardens to the same, or for Repositories wherein the Mud that may be raked off the Roads may be deposited, and the Stones or other Materials for repairing the said Roads may be broken or kept, so as to be laid as little as possible upon the said Roads until they are immediately to be used for repairing or amending the same, and each such Repository not exceeding Thirty Square Yards in extent; and in case the said Trustees or their Surveyor cannot agree with the Owner or Occupier as to the Price, Feu Duty, Rent, or Damages, to be paid for the same, such Price, Feu Duty, Rent or Damages, shall be settled and determined by a Jury in Manner as herein-before mentioned.

Proprietors under Entail or not may renounce Claims of Damage.

LVI. Provided always, That it shall be in the Power of all Owners and Occupiers of Land, as well entailed as unentailed, Husbands, Trustees, Tutors, and Curators, and all and every Person and Persons whatsoever, though under any legal Disability or Incapacity, to give up and renounce every Claim of Damage or otherwise competent to them in regard to the whole Matters aforesaid, which shall not amount in Value to the Sum of Twenty Pounds; and that such Renunciation is and shall be equally binding on the Heirs of such Persons,

Incorporated Persons, &c. empowered to convey.

LVII. And be it further enacted, That the said Trustees shall be and they are hereby empowered to take and acquire, and all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Husbands, Trustees, Tutors, and Curators, and all and every Person and Persons whatsoever, though under any legal Disability or Incapacity, are hereby empowered to sell, feu, let, and convey all such Lands and Houses as the said Trustees are by this Act enabled to purchase, take, or make use of for the making, altering, or widening the said Roads, or any of them, and erecting any Gate or Turnpike or Toll House, with a Stable and Garden adjoining thereto, or for storing Materials, or otherwise, where Ground is necessary for the Purposes of this Act, upon such Satisfaction being made to the Owner or Owners, and Occupier or Occupiers, as shall be agreed upon by and between the said Trustees and such Owner or Owners, Occupier or Occupiers, or as shall be awarded in Manner aforesaid.

How Lands are to be

LVIII. And be it further enacted, That all Lands, Tenements, or Heritages, which may be acquired by the said Trustees in pursuance of this

this Act, shall be vested in the said Trustees by the simple Discharge for the agreed Price or appraised Value thereof, or by Consignation of the said Price or Value in the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company of *Scotland*, in Manner herein directed, with regard to Consignations, as the Case may be; and it shall be sufficient to record the Discharge, or the Voucher of Consignation, in the Sheriff's Court Books of the said County of *Dumfries*, or of the said County of *Roxburgh*, in whichever County such Lands, Tenements, or Heritages are situated, whereupon the said Trustees shall be entitled to take and use the said Lands, Tenements, or Heritages, and shall hold the same as validly and effectually to all Intents and Purposes as if the respective Owners thereof had executed in their Favour regular Dispositions of the same and Infeftments had followed thereupon.

vested in  
Trustees.

LIX. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Heritages, purchased, taken, or used, by virtue of the Powers of this Act, for the Purposes thereof, which are held under Entail, or are subject to Life-rents, Annuities, or other Incumbrances, or shall belong to any Corporation, Married Woman, Infant, Lunatic, or Person or Persons under any Disability or Incapacity, such Money shall, in case the same shall amount to Two hundred Pounds, under the Direction and by the Authority of the Court of Session, be with all convenient Speed paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company of *Scotland*, 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 Heritages, in the Redemption or Purchase of the Land Tax, or Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Heritages, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, and Heritages, which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing, undetermined, and capable of taking Effect; and in the meantime, and until such Purchase shall be made, the Interest or Annual Produce of such Money shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands, Tenements, or Heritages so hereby directed to be purchased, in case such Purchase or Settlement were made.

Application  
of Compensation  
when  
amounting  
to 200l.

LX. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Heritages

Application  
where the  
Compensa-

tion shall be less than 200l. and not less than 20l.

tages so purchased, taken, or used for the Purposes aforesaid, and belonging to any Incorporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds Sterling, and not less than the Sum of Twenty Pounds Sterling, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Heritages so purchased, taken, or used, or of his, her, or their Tutors or Curators, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, under the like Direction and Authority, be paid into either of the said Banks, and be placed to his or their Account as aforesaid, in order to be applied in Manner herein-before directed; or otherwise the same shall be paid at the like Option to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Three or more of the said Trustees, (such Nomination and Approbation to be signified in Writing, under the Hands of the nominating and approving Parties), in order that such Principal Money, and the Interest arising therefrom, may be applied in any Manner herein-before directed, so far as the Case may be applicable.

Application where the Money is less than 20l.

LXI. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as last before mentioned shall be less than Twenty Pounds Sterling, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Heritages, so purchased, taken, or used for the Purposes of this Act, in such Manner as the said Trustees or any Three or more of them shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Tutors or Curators, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not making out Titles, &c.

LXII. And be it further enacted, That in case any Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or Heritages by virtue of this Act, shall refuse to accept the same, or shall not be able to make out a good Title to the Premises, to the Satisfaction of the said Trustees; or in case such Person or Persons to whom such Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Heritages, be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Trustees, or any Three or more of them; to order the said Sum of Money so awarded as aforesaid to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British Linen Company of Scotland*, to the Credit of the Parties interested in the said Lands, Tenements, or Heritages (describing them), subject to the Order, Controul, and Disposition of the Court of Session; which said Court, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Petition, shall be and is hereby empowered in a summary Way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Public Funds, and to order Distribution thereof, or Payment of the Dividends thereof,

Purchase Money to be paid into the Bank, subject to the Order of the Court of Session.



thereof, according to the respective Estate or Estates, Title or Interest of the Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British Linen Company of Scotland*, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Banks aforeaid.

LXIII. And be it further enacted, That where any Question shall arise touching the Right or Title of any Person to any Money to be paid into the said Banks in pursuance of this Act, for the Purchase of any Lands, Tenements, or Heritages, or of any Estate, Right, or Interest in any Lands, Tenements, or Heritages, to be purchased in pursuance thereof, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Heritages at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Heritages, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Session, and such Money, and the Interest thereof, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court, that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Heritages, or to some Estate or Interest therein.

Where any Question shall arise touching the Right to such Money.

LXIV. Provided always, and be it further enacted, That where by reason of any Disability or Incapacity of the Person or Persons or Corporation entitled to any Lands, Tenements, or Heritages to be purchased under the Authority of this Act, the Purchase Money for the same shall be required to be paid into the said Banks, and to be applied to the Purchase of other Lands, Tenements, or Heritages to be settled to the like Uses in pursuance of this Act, it shall be lawful for the said Court to order the Expences of all Purchases from Time to Time to be made in pursuance of this Act, or so much of such Expences as the Court shall deem reasonable, together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Trustees, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

The Court may order the Expences of Purchases to be paid by the Trustees.

LXV. And be it enacted, That when the Direction of any Part or Parts of the said Roads shall be altered as aforeaid, it shall be lawful to and for the said Trustees to shut up and also to sell and dispose of such Part or Parts of the said Roads, and the Materials of such Bridges as shall, in consequence of such Alteration, be no longer of Use, or whereby any Gate or Turnpike may be avoided; and in case any Owner or Owners, Occupier or Occupiers, or Inhabitants of the adjacent Lands, shall be deprived of any necessary Passage or Communication, or shall be prejudiced by the shutting up and disuse of such Part or Parts of the said Roads, it shall be lawful to and for the

For shutting up Roads.

[Local.]

24 T

said

said Trustees, and they are hereby directed to give new and convenient Passages to and from the aforesaid Roads to such Owners, Occupiers, or Inhabitants, and for that Purpose to purchase such Pieces of Ground as they shall judge most proper.

Old Road to  
be allotted to  
Owner of  
adjoining  
Lands.

LXVI. And be it further enacted, That in case the Road so altered as aforesaid, or new Road, and the Road to be shut up, or old Road, shall both pass through the Grounds of the same Proprietor, and that the Ground occupied by the new Road is of equal or greater Value than the Ground occupied by the old Road, the said Ground occupied by the old Road shall be allotted to the said Proprietor, and its Value shall be deducted from the Value of the Ground occupied by the new Road, in making Payment for the same; and in case the new Road and the old Road do not both pass through the Grounds of the same Proprietor, the said Trustees are hereby empowered to sell such old Road for the best Price that can be got for the same, giving the Proprietor or Proprietors of the Ground through which the old Road passed, the first Offer of the same; and Oath shall be made by the Clerk to the said Trustees, or by some other fit Person, of such Offer of Preference having been made; and if any Dispute shall arise about the Value of the Ground occupied by the old Road, the same shall be determined by a Jury, to be summoned in Manner before mentioned; and if the Situation of any Toll Gate, Toll House, and Premises or Place for depositing Materials, or any of them, shall be changed, and the same be no longer requisite for the Purposes of the Trust, the said Trustees are hereby empowered in like Manner to sell the same, giving the Proprietor or Proprietors of the Grounds from which such Piece or Pieces of Ground have been originally taken the first Offer of the same; and failing of any Agreement about the Value of such Ground, the same shall be determined in Manner as before mentioned with regard to Places of Deposit, and the Money arising from such Sales shall be applied to the Purposes of this Act; and the Sales and Conveyances to be made of the Ground comprized in the said old Roads, Situations of old Toll Gates, Toll Houses, and Premises and Places for depositing Materials, being executed by a Quorum of the said Trustees, shall be good and effectual in the Law to all Intents and Purposes.

Ground  
taken not to  
diminish va-  
lued Rent,  
&c.

LXVII. Provided always, and be it enacted, That in every Case where it may be necessary to exchange or take Ground as herein-before allowed for the Purposes of this Act, the same shall not affect, alter, or diminish the valued Rent or old Extent of the Land from which such Grounds shall be taken.

Houses not  
to be built  
within a cer-  
tain Distance  
of the Centre  
of the Road.

LXVIII. And be it enacted, That it shall not be in the Power of any Person or Persons to erect, or cause to be erected, any Dwelling House or other Building nearer to the Centre of any Part of the said Roads than Twenty Feet; and in case any Person or Persons shall nevertheless presume so to build any Dwelling House, or other Building, nearer to the Centre of any Part of the said Roads, it shall be lawful to or for any Two Justices of the County wherein such House or Building shall be situated, and they are hereby authorized and required, on the Application of any Two of the said Trustees,

to order such Houses or Buildings to be removed, and to fine or amerciate such Offender or Offenders, when convicted as aforesaid, in a Sum not exceeding Forty Shillings Sterling (as the Case may be) over and above the Expence of removing such Houses or Buildings as aforesaid.

LXIX. And be it enacted, That the said Trustees shall, as far as not already done, cause the said Roads to be measured, and Mile Stones to be erected, as also Guide or Direction Posts to be placed at the Cross Roads or Lanes branching from the main Roads; and in case any Person or Persons shall break or deface the said Mile Stones, or pull down, or break, or deface any of the said Guide or Direction Posts, such Person or Persons shall be adjudged to pay a Sum not exceeding Ten Pounds Sterling, besides the Expence of repairing the Damages, and of the Procedure; and in default of making Satisfaction for the Damages, and paying the Fine as aforesaid, shall be imprisoned in the Bridewell or Gaol of the County in which such Person or Persons shall have been convicted of any such Offence, for such Time not exceeding Three Calendar Months, as to the Justice or Justices before whom such Conviction shall be made shall appear proper.

Roads to be measured, and Mile Stones to be erected and preserved.

LXX. And be it further enacted, That if any Person or Persons shall wilfully or negligently injure, destroy, break down, or otherwise damage, or shall ride on, or drive or lead any Horse, Beast, Cattle or Carriage, over or upon any Footpath or Causeway made or to be made on the Side or Sides of the said Road, or any Part thereof; or shall wilfully or negligently damage or destroy any of the Fences, Walls, or Gates on the Sides of the said Roads and belonging thereto; or if any Driver of any Waggon or other Carriage shall wilfully or carelessly damage or break any of the Posts or Stones which may be erected for the Security of the Footpaths or Causeways belonging thereto; or if any Person or Persons shall plough over or drag any Plough upon any Part of the said Roads, or in ploughing shall turn any Horse or other Beast drawing any Plough upon any Part of the said Roads to the Prejudice or Injury thereof; or if any Person or Persons shall scrape off any Mud, Soil, or other Matter or Thing which shall be or lie upon any Part of the said Roads, so as wilfully to damage the said Roads, or any Part thereof; or if any Person or Persons shall haul or draw, or cause to be hauled or drawn, upon any Part of the said Roads, any Tree or Piece of Timber, or any Stone, (otherwise than upon wheeled Carriages), or shall suffer any Part of any Tree or Piece of Timber or Stone which shall be carried upon a wheeled Carriage to drag upon any Part of the said Roads to the Prejudice or Injury thereof; or if any Person or Persons shall allow Timber or other solid Matter (excepting Machinery framed or put together, or any Article of Metal cast in One Piece,) to project or extend more than One Foot over the Wheels of the Waggon, Cart, or other Carriage whereon the same shall be drawn and transported, or shall draw or transport on any Part of the said Roads, upon any Cart or other Carriage with less than Four Wheels, any Timber or other Matter exceeding Twenty-four Feet in Length; or if any Person shall, after having blocked or stopped any Waggon,  
Cart,

For Prevention of Nuisances.

Cart, or other Carriage whatsoever, in going up any Hill or rising Ground, leave and suffer or permit to be and remain on any Part of the said Roads, the Stone or other Thing used in such blocking or stopping; or if any Person driving any Pigs or Swine upon the said Roads, shall suffer the same to root up or damage the said Roads or any Part thereof, or the Fences or Hedges on either Side thereof; or if any Person or Persons shall leave, or suffer any Horse, Cattle, Sheep, Beast, Pig, or Swine to graze, or to be and remain loose on the said Roads; or if any Person driving any Coach, Chaise, or Waggon, Cart, or other Carriage upon the said Roads, and meeting another Coach, Chaise, Waggon, Cart, or other Carriage, shall not keep his Carriage on the Left or Near Side of the said Roads; or if any Person or Persons shall in any Manner wilfully prevent any other Person from passing him, her, or them upon the said Roads, or the Coach, Chaise, Waggon, Cart, or other Carriage under his or their Care; or if any Person shall erect any Limekiln, Brick Kiln, Windmill, or Water Mill; or shall make, or assist in making any Fire or Fires whatsoever; or shall set fire to, or let off, or throw any Squib, Rocket, Serpent, or Firework whatsoever within Sixty Yards of the Centre of the said Roads; or play at Football, or any other Game or Games whatsoever on any Part of the said Roads to the Annoyance of Persons travelling thereon; or if any Person or Persons shall leave upon any Part of the said Roads any Waggon, Wain, Cart, or other Carriage, or any Plough, Harrow, or other Implement of Husbandry, without some reasonable Cause to be allowed by the Justice of the Peace before whom the Person so offending shall be summoned or conveyed in order to his or their Conviction; and save and except with regard to such Waggon, Wain, Cart, or other Carriage, during such reasonable Time as the same shall be loading or unloading, and standing as near to the Side of the Road as conveniently may be, in, upon, or on the Side of the Road, either with or without any Horse or Beast of Draught harnessed or yoked thereto; or if any Person or Persons shall lay any Piece of Timber, or any Stones, Bricks, Hay, Straw, Lime, Coal, Dung, Manure, Soil, Rubbish, or other Matter or Thing whatsoever, or make any Pit or Hole on any Part of the said Roads, or on the Side or Sides thereof, to the Prejudice or Injury thereof, or to the Annoyance, Hindrance, or Prejudice of any Person or Persons travelling thereon, or shall do any other Damage or Injury to the said Roads, or any Part thereof; every Person so offending shall, besides removing the Nuisance, for every such Offence forfeit and pay any Sum not exceeding Forty Shillings Sterling.

Names of  
Owners to be  
affixed on  
Waggons, &c.

LXXI. And be it further enacted, That from and after the passing of this Act, no Person whatsoever shall use or drive any Waggon, Wain, Cart, or other Carriage of the like Nature on any of the said Roads, unless there shall be affixed or inscribed on some conspicuous Part on the Front, or on the Right or Off Side of the same, in distinct Characters or Letters of at least Half an Inch in Length, the Name or Names, and Place or Places of Residence of the Owner or Owners of such Waggon, Wain, Cart, or other Carriage of the like Nature, or of the House or Farm where the same is generally used and kept; and every Person who shall drive any such Waggon, Wain,  
Cart,

Cart, or other Carriage of the like Nature, upon any of the said Roads, without such Name and Place of Residence being so affixed or inscribed thereon, shall for each Offence forfeit and pay a Sum not exceeding Forty Shillings Sterling, reserving to every such Person his Relief against the Owner or Owners of such Waggon, Wain, Cart, or other Carriage of the like Nature, if the Want of such Name or Place of Residence shall have arisen from the Fault or Neglect of such Owner or Owners, and not from the Fault or Neglect of the Driver; and every Time that the Property of such Waggon, Wain, Cart, or other Carriage of a similar Nature shall be altered, the succeeding Owner or Owners shall always, within Six Days next after he, she, or they shall have become Owner or Owners thereof, and shall have used the same, cause the Name or Names and Residence of the former Owner or Owners, and the Name or Names and Place of Residence of such succeeding Owner or Owners, to be affixed and inscribed in Manner before directed, under a similar Penalty of Forty Shillings Sterling, on the Person driving the same, without such Name or Place of Residence, to be applied in a similar Manner, reserving to such Driver his Relief in a similar Manner against the Owner or Owners of such Waggon, Wain, Cart, or other Carriage of the like Nature; and if any Person or Persons shall affix or inscribe a false Name or Place of Residence upon any such Waggon, Wain, Cart, or other Carriage of the like Nature, driven by or belonging to him, her, or them, the Person or Persons so offending, shall for every such Offence forfeit and pay a Sum not exceeding Forty Shillings Sterling.

LXXII. And be it enacted, That if any Person or Persons shall break down, damage, or destroy, or attempt to break down, damage, or destroy any Turnpike Gate, Toll House, Stable, or Garden thereto belonging, or any Post, Chain, Bar, Wall, Fence, or any of the Bridges, Parapets, or Ledges, or other Appurtenances whatsoever erected or to be erected on the said Roads, or connected therewith, or vested in the said Trustees, or any Part or Parts thereof; or shall strike, maltreat, or threaten any of the Toll Gatherers, or any Person or Persons of their Family employed in levying the said Tolls and Duties, or otherwise exercising the Duties of his Office; or shall rescue or attempt to rescue any Person guilty of any of the Offences aforesaid, such Person or Persons offending as aforesaid shall be obliged to pay for all Damages incurred, and shall also forfeit and pay a Sum not exceeding Ten Pounds Sterling; and in Default of making Satisfaction for the said Damages, and paying the Fine as aforesaid, such Person or Persons shall be imprisoned in the common Bridewell or Gaol of the County in which he shall have been found guilty of any such Offence, for any Time not exceeding Three Calendar Months.

Punishing  
Persons de-  
stroying the  
Turnpikes,  
Ledges of  
Bridges, &c.

LXXIII. And be it enacted, That from and after the passing of this Act, every Person who shall inclose Land upon the Sides of the said Roads with Hedge and Ditch, shall make the Ditch and plant the Thorns towards the Field to be inclosed, and lay the Soil or Mould taken out of the Ditch towards the Road, leaving sufficient Breadth of Ground between the Bank and Road for a Conduit, to convey Water along the Sides of the Road and into the Ditch; and that where Dikes and Ditches are now, or shall be made hereafter on the Sides of the said Roads by

Inclosures on  
the Sides of  
the Roads.

[Local.]

24 U

the

the Owners or Occupiers of Lands adjacent thereto, such Owners or Occupiers shall be obliged to repair and keep up such Dikes, and to cleanse such Ditches regularly when required by the Trustees, or by any other Person acting under their Authority; and if any Trees, Bushes, or Hedges shall hurt or injure any Part of the said Roads, or other Works vested in the said Trustees, the said Trustees or any Person acting under their Authority, shall require the Owners or Occupiers, as the Case may be, to lop and prune the same, and if such Owners or Occupiers, when required in Writing, and at the proper Seasons for such Operations, shall refuse or neglect to repair such Dikes, or to cleanse such Hedges, or to lop or prune such Trees, Bushes, or Hedges, it shall be lawful to the Trustees to employ proper Persons for repairing, cleansing, lopping, and pruning as aforesaid, the Expence whereof shall be recovered from the said Owners or Occupiers, at the Instance of the Trustees or Persons acting under their Orders before any Two or more Justices of the Peace of the County in which such Owners and Occupiers shall reside, and such Justices of the Peace, are authorized and required to enforce and give Effect to the Orders of the Trustees in all these Points.

Drains may be made through adjoining Lands.

LXXIV. And be it enacted, That it shall and may be lawful for the Surveyor or Surveyors of the said Trustees, and for such Person or Persons as they shall appoint, by Order of the said Trustees or any Three or more of them, to make such Trenches, Ditches, or Drains, with proper Passages and Outlets for the same, through any Lands contiguous to the said Roads not being a Garden, Orchard, Yard, Paddock, planted Walk, or Avenue to a House, as they shall judge necessary for the better repairing and upholding the said Roads, and for conveying away the Water from Ditches which are or hereafter shall be made along the Sides of the said Roads, and after such Trenches, Ditches or Drains, Passages or Outlets have been so made by the Trustees, the same shall afterwards be maintained and kept clear by them, as far as they shall from Time to Time deem necessary; and where the Owner or Occupier of Lands contiguous to the said Roads already has made, or hereafter shall, for the Benefit of the Lands, make such Ditches or Drains contiguous to the Roads, such Owner or Occupier shall be obliged in all Time thereafter to keep clear such Ditches and Drains from Time to Time as they shall be required by the said Trustees, or any Three or more of them, so as the Outlets may not be stopped, or the Water be prevented from flowing, but may have free Passage through the said Grounds; and in case of such Owner or Occupier neglecting or refusing to clear and cleanse such Ditches and Drains when thereto required by the Surveyor or Surveyors of the said Roads, or any Person duly authorized by the said Trustees, then and in such Case such Trustees shall have Power to clear and cleanse such Ditches and Drains, and to charge and levy the Expence thereof on the Owner or Occupier in Manner herein-after mentioned; and any Person or Persons filling up or otherwise impeding any Trenches, Ditches, or Drains, Passages or Outlets so made by the said Trustees, or by any such Owner or Occupier as aforesaid, and required by the said Trustees to be kept open for the Benefit of the said Roads, every such

such Person shall for every such Offence forfeit and pay a Sum not exceeding Forty Shillings.

LXXV. And be it enacted, That the Owners or Occupiers of all Houses built or to be built on the Sides of the said Roads, shall be obliged to keep the Drains in Front of such Houses at all Times properly cleaned and cleared out, and failing thereof after Two Days Notice given them for that Purpose, it shall be in the Power of the Trustees to cause such Drains to be cleaned and cleared out, at the Expence of the Occupiers of such Houses, the Amount of which shall be recovered as herein-after mentioned.

Drains in Front of Houses to be kept clear.

LXXVI. And be it enacted, That from and after the passing of this Act every Person ploughing any uninclosed Land contiguous to any of the said Roads, shall make Headridges along the Sides of the said Roads of the Breadth of Twelve Feet at least; and every Person neglecting or failing so to do, shall, for every such Neglect or Failure, forfeit and pay a Sum not exceeding Five Shillings for each Yard in Length along the Sides of the said Roads; of the Land so ploughed without Headridges having been made, to be levied, recovered, and applied in Manner herein-after directed; and opposite to any Gate or Entry communicating with the said Roads, there shall be laid by the Owner or Occupier of the Grounds into which any such Gate or Entry shall lead, a covered Way, or Bridge of Stones, or other proper Materials, over the Drain on the Side of the Road, which covered Way or Bridge shall by such Owner or Occupier be constantly kept free and clear, so that the Water may pass through below the same; and in case any Owner or Occupier of Ground adjacent to the said Roads, shall omit or fail to perform any of the Matters above mentioned, it shall be competent for any Two of the Trustees, by an Order subscribed by them, to ordain the same to be performed at the Expence of such Owner or Occupier as aforesaid, such Expence to be recovered by Application to and Warrant of any One of His Majesty's Justices of the Peace, who shall also award against the Offender a Penalty not exceeding Twenty Shillings, together with the Expences of the Application: Provided always, that no Occupier of Land shall turn any Water upon the Side of any of the said Roads, nor conduct any Water across any of the said Roads, for the meliorating of his Fields, or other Purposes, until he shall have applied for and obtained the Consent of the said Trustees; at a General Meeting assembled for such Purpose; and every such Occupier shall be obliged to carry the Water across the Road in a covered Drain of such Depth and Construction as that the Water may not prejudice the Road, and shall thereafter be bound to keep up and maintain all such covered Drains as aforesaid.

Headridges to be made, and Gates on the Sides of the Roads to open inwards.

LXXVII. And be it further enacted, That all Gates to be hereafter made and placed in any Field or Ground adjoining any Part of the said Roads, shall be made and hung to open and swing inwards towards such Field or Ground, and not towards the Road; and that it shall be lawful for the said Trustees to order all such Gates as are now erected, or may hereafter be erected, to open and swing outwards towards the said Roads, to be altered and made to open and swing

Gates not to swing into the Road.

swing inwards, as they the said Trustees shall think proper; and if any Occupier or Occupiers of the Lands upon which any Gate, or Gates is or are or shall be constructed, so as to open and swing outwards towards the said Roads, shall (after Ten Days Notice from the Surveyor of the said Roads, requiring him, her, or them to alter any such Gate or Gates, and to make the same to open and swing inwards), refuse or neglect to make such Alterations, or after such Alterations shall have been once made, shall again alter the same, every such Occupier or Occupiers shall, for every such Offence, forfeit and pay any Sum not exceeding Forty Shillings.

Power to  
suppress un-  
necessary  
Bye Roads,  
Drove Roads,  
or Fords.

LXXVIII. And be it enacted, That it shall be in the Power of any Three or more Justices of the Peace for the said respective Counties of *Dumfries* or *Roxburgh*, upon the Application of a Quorum of the Trustees hereby appointed, to cause any unnecessary Bye Roads, or Drove Roads, or Fords, or such as shall be useless to the Public, to be shut up, Fourteen Days previous Notice being always given of the Intention to make such Application by Publication at the Church Doors of the Parish or Parishes in which such Bye Roads, Drove Roads, or Fords shall be situated on a *Sunday* at dismissing of the Congregation from Divine Service, thereby intimating to every Person interested that they may be heard why the said Bye Roads, Drove Roads, or Fords should not be shut up or stopped; and in case any Person or Persons shall think himself, herself, or themselves aggrieved by the shutting up of any such Bye Road, Drove Road or Ford, it shall and may be lawful for him, her, or them to apply to the Justices of the Peace for the said respective Counties of *Dumfries* and *Roxburgh*, in General Quarter Sessions assembled, who shall hear and determine the Matters in Dispute, and whose Judgment shall be final and conclusive.

Compelling  
Payment of  
Subscrip-  
tions.

LXXIX. And be it further enacted, That if any Person or Persons who hath or have become Subscribers towards defraying the Expence of passing this Act, and carrying the Purposes thereof, or any of them into Execution, shall neglect or refuse to pay the Whole or any Part of such Subscription Money, when required, so to do by a written Notice subscribed by the Clerk or Treasurer of the said Trustees, delivered to such Subscriber or Subscribers, or left at the Dwelling House or ordinary Residence of such Subscriber or Subscribers aforesaid, and that within Three Calendar Months from and after the Notice to be left as aforesaid, then and in every such Case it shall be competent for the said Trustees to cause to be brought, in the Name of their Clerk aforesaid, an Action or Actions for Recovery thereof, in any Court competent within that Part of *Great Britain* called *Scotland*; provided nevertheless, that the Money so subscribed and paid as aforesaid shall be repaid with the legal Interest thereof, out of the Monies allowed to be borrowed in virtue of this Act, or out of the Tolls and Duties allowed to be levied and collected by Authority of the same; and until such Repayment as aforesaid, the Monies so advanced by the Subscriber, with the legal Interest thereof, shall be a Lien and Burden on such Tolls and Duties.

LXXX. And



LXXX. And be it enacted, That in Cases where any Dispute, Suit, or Litigation shall arise, touching or in any Ways relating to the said Tolls and Duties, the Person or Persons appointed to collect the same, or any other Person or Persons acting by or under the Authority of the said Trustees, shall not by reason thereof be disqualified from giving Evidence in any Dispute, Suit, or Litigation.

Toll Gatherers may give Evidence.

LXXXI. And be it enacted, That all Penalties and Forfeitures by this Act imposed, the Recovery whereof is not otherwise herein provided for, may be recovered by summary Complaint, at the Instance of any of the said Trustees, or of any Person acting by their Orders, or of any Person whomsoever, before any One or more of the Justices of the Peace for the County in which the Penalties or Forfeitures shall have been incurred, or in which the Offender can first be apprehended; and the Fact or Facts being verified or proved by the Confession of the Party, or by the Oath or Oaths of One or more credible Witness or Witnesses, (which Oath or Oaths such Justice or Justices is and are hereby authorized to administer), or by other satisfactory Evidence, the said Justice or Justices is and are hereby authorized and required to grant a Warrant for distraining the readiest moveable Goods or Effects of the Defaulter or Offender, and the Persons distraining the same are hereby authorized and empowered to sell the Goods and Effects so distrained, and to return the Overplus Money, (if any there be), upon Demand, to the Owner of such Goods or Effects, after such Penalties and Forfeitures, the Expence of the Warrant, and the reasonable Charges of distraining, keeping, and selling such Goods or Effects, shall be deducted and paid; and all Penalties and Forfeitures, if not otherwise directed to be applied by this Act, shall be paid to the said Trustees, and shall be laid out for the Purposes of this Act; and in case sufficient Distress cannot be found, or such Penalties and Forfeitures shall not be forthwith paid, it shall be lawful for such Justice or Justices, and he and they is and are hereby authorized and required, by Warrant under his or their Hand or Hands, to cause such Defaulter or Defaulters, Offender or Offenders to be committed to the Common Gaol of the County within which he, she, or they may reside, there to remain for any Time not exceeding Three Calendar Months unless the said Penalties, and all reasonable Charges be sooner paid and satisfied.

Recovery of Penalties, &c.

LXXXII. And be it enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by the Sentence of any Justice or Justices not assembled in Quarter Sessions in any of the Matters aforesaid, it shall and may be lawful for him, her, or them to appeal to the Justices of the Peace for the said County for which such Justice or Justices shall act, in their General Quarter Sessions assembled, within Six Calendar Months of the Date of the said Sentence; and such Justices, at their General Quarter Sessions assembled, are hereby authorized and empowered to hear and determine the Matters in Dispute; and their Decision shall be final and conclusive; and the Proceedings of the Justices so in Quarter Sessions assembled shall not be subject to Review in any Court, by Advocation, Suspension, Reduction, or otherwise.

Appeal.

[Local.]

24 X

LXXXIII. Pro-

Limitation of  
Actions.

LXXXIII. Provided always, That all Actions for all and every the Penalties and Forfeitures imposed by this Act, or for any Thing done in the Execution thereof, shall be commenced within Six Calendar Months after the Fact was done or committed, and not afterwards.

Expences of  
the Act.

LXXXIV. And be it enacted, That the Expences of procuring and passing this Act shall be paid out of the first Monies subscribed, levied, or borrowed by virtue of this Act.

Public Act.

LXXXV. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.

Continuance  
of Act.

LXXXVI. And be it enacted, That the Powers by this Act granted shall commence from and after the passing of this Act, and shall continue from thence during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

---

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1820.