



ANNO TRICESIMO NONO & QUADRAGESIMO

GEORGI II. REGIS.

Cap. 17.

An Act for making and repairing the Road from the Town of *Stonehaven*, through the *Slug-mount*, to the new Bridge over the River *Dee* at *Coblebeugh*, in the County of *Kincardine*. [24th April 1800.]

WHEREAS the Road from the Harbour and Town of *Stonehaven*, through the *Slug-mount* or *Slug-mouth*, to the Bridge over the River *Dee* at *Coblebeugh*, which passes through the Parishes of *Fetteressoe*, *Durris*, and *Banchory-Trinity*, or *Ternan*, in the County of *Kincardine*, is in bad Repair, and inconvenient to Travellers, and the Publick would be much benefited if a new Road was made; and as it cannot be effectually made and kept in proper Repair by the Funds and Means afforded by the present Laws, and unless further Powers are given and Regulations made by 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 every Person who is or shall be an Heritor of Lands in the Parishes of *Fetteressoe*, *Durris*, *Strachan*, and *Banchory-Trinity*, or *Ternan*, within the County of *Kincardine*, and valued in the Cess Books thereof at Four hundred Pounds Scots or upwards; and every Tacksmen of Lands in any of the said Parishes, paying a yearly Rent of Five hundred Pounds Sterling; the Factor, Trustee, Agent, or Commissioner

Preamble.

Nomination of Trustees.

[Loc. & Per.]

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tioner of every unmarried Woman or Widow who is or shall be Proprietrix or Tenant of Lands so situated and valued, or rented, and duly authorized to act for her; the lawful Husband of every Woman who is or shall be Proprietrix or Tenant of such Lands so valued or rented during the Marriage; the eldest Son or Heir apparent of every such Heiritor, Tacksman, or Woman being of Age at the Time; One Guardian, Trustee, Agent, or Commissioner of every Minor or other incapacitated Person, who is or shall be Proprietor, or Tacksman of Lands situated, valued, or rented as aforesaid, duly authorized to act for such Person; and every Person who has subscribed, or who may subscribe and advance One hundred Pounds Sterling towards the making and repairing the Road after mentioned, shall be, and they are hereby appointed Trustees for surveying, opening, making, altering, repairing, and keeping in Repair, a Road from the Harbour and Town of *Stonehaven*, or near the same, by or near the Bridge over *Carron* through the Hollow, Westward of the Links of *Arduchie*, and a little to the Eastward of the present Road as it leads towards *Ury*, and by the Bridge of *Finlaystone*, through the *Slugmount* or *Slug-mouth*, the Farms of *Darnsford*, *Balaárum*, *Auchwynach*, and *Balbudies*, and along or near the present Road on the South Side of the *Dee*, through the Farms of *Maryfield*, *Baldcraigs*, and *Minonie*, by the lower Bridge over the River *Feugh* to the said Bridge over the *Dee* at *Cobleburgh*; and for executing all the Powers by this Act given and granted; and Three of the said Trustees shall be a Quorum for executing the Powers hereby committed to them, and shall be competent to act in all Cases.

Quorum appointed:

Trustees may act as Justices of the Peace:

II. And be it enacted and declared, That any Trustees who are or may be in the Commission of the Peace for the said County of *Kincardine*, may nevertheless act as Justices of the Peace for the more effectually putting in Execution the several Powers and Matters in this Act contained and mentioned.

Trustees cannot hold Places of Profit.

III. Provided always, and be it enacted, That if any Person or Persons appointed Trustee or Trustees for putting this Act in Execution, shall have or accept any Place of Profit arising from Monies subscribed or borrowed, or from Tolls, Duties, or Forfeitures hereby granted or imposed, such Person or Persons shall be incapable of acting as a Trustee or Trustees during the Enjoyment of his or their Place of Profit.

Penalty on unqualified Persons acting as Trustees.

IV. Provided also, and be it enacted, That if any Person not qualified as above-mentioned, shall presume to act as a Trustee, contrary to the true Intent and Meaning of this Act, such Person for every Offence shall forfeit the Sum of Twenty Pounds Sterling, to be recovered and applied as herein-after appointed.

First and subsequent Meetings of the Trustees.

V. And be it enacted, That the said Trustees shall meet at *Stonehaven*, on the Fourth *Monday* which shall be after the passing of this Act, or as soon after as is convenient; and at such Meeting shall and may proceed to the Execution of this Act, and shall and may then and afterwards, from Time to Time, adjourn to meet at such Times and at such Places as the said Trustees shall think proper to appoint, without Prejudice to their meeting sooner, or at any other Time, if there be Occasion, upon Notice from the Clerk of the last Meeting, advertised

advertised at least Once in some One Newspaper published at *Aberdeen*, if any be, and in One of the Newspapers published in *Edinburgh* Ten Days at least before the Time fixed for such Meeting.

VI. Provided always, and be it enacted, That the said Trustees may at their First Meeting, or at any stated General Meeting after mentioned, from Time to Time authorize and appoint from their own Number a Committee or Committees, consisting each of Five, of whom Three shall be an effective Quorum, to superintend and direct the making, repairing, and keeping in Repair, the Whole or any Part of the said Road, and building, upholding, and keeping in Repair, each and every Bridge in the Course thereof; and the said Trustees so appointed shall be, and are hereby authorized and empowered to give such Orders and Directions concerning the Parts of the said Road, and the particular Bridges under their Superintendance, as to them or their Quorum assembled at any Meeting for that Purpose shall seem reasonable, for the more effectually carrying this Act into Execution; and the said Trustees so appointed shall be accountable to the stated General Meetings.

Trustees may
appoint Com-
mittees.

VII. And be it enacted, That, from and after the Commencement of this Act, the said Trustees shall hold Two General Meetings yearly, the First on the First *Monday* of *June*, and the Second on the First *Monday* of *December*, and both at *West Boat of Durris*, for the Application of the Monies subscribed, borrowed, or arising from the several Tolls, Duties, and Forfeitures imposed by this Act, after mentioned; at which Meetings only all Calls on Subscribers to pay their Subscriptions, each Direction for borrowing or issuing Money, and every Order for erecting Gates, Turnpikes, Side Bars, and Toll-houses, or assigning the Tolls or Duties in Security of the Money subscribed and borrowed, shall be made and given; and at which likewise the Proceedings of the Trustees, or their Committees between these General Meetings, shall be approved of, revised, altered, or amended, with Power to the said Trustees, at every such stated General Meeting, to adjourn their next Meeting for the Execution of this Act to any Place they shall think proper, within the Distance of One Mile and no farther, from some Part of the said Road directed to be made and repaired; and if a sufficient Number of Trustees shall happen not to appear at the first or any subsequent General Meeting, then and in that Case the next subsequent General Meeting, for the Purposes above-mentioned, shall be held at the Place where the last effective Meeting was held for the same Purpose; and farther, the Clerk of the General Meetings shall advertise in the said *Aberdeen* Newspaper, Notice of such General Meeting Fourteen Days before the Day appointed for holding such General Meeting.

Two General
Meetings
yearly.

VIII. Provided always, and be it enacted, That the Resolutions and Proceedings of the said Trustees, in any General Committee or other Meeting, shall be reviewed, reversed, or altered by the next stated General Meeting, and no other, and then only, on Two or more Trustees signifying their Intention to move for an Alteration of any Resolution or Proceeding by a Writing under their Hands, lodged with the Clerk of the General Meetings, who shall advertize the Particulars of their Intimation in the said Newspaper published at *Aberdeen*, Fourteen Days previous to such stated

Provisions
concerning
altering Pro-
ceedings.

stated General Meeting; and Three-fourths of the Trustees assembled in such Meetings shall concur in making every Alteration of any Resolution or Proceeding.

Proceedings
irreversible
after the First
stated General
Meeting.

IX. Provided also, and be it further enacted, That the Resolutions and Proceedings of the Trustees, or their Committees, which shall not be disapproved of expressly at the first subsequent General Meeting, held at one of the said stated Periods, shall be held as virtually approved of and irreversible; and it shall not be competent to any Number of the Trustees to require a Review or Alteration of such Proceedings, or a second Review or Alteration of any Proceedings of the Trustees, or their Committees.

Trustees shall
enter their
Proceedings
in a Book or
Books,
which may be
inspected;
and in order
that they may
be complete,
Committees
shall furnish
Details of their
Proceedings.

X. Provided likewise, and be it further enacted, That every Act, Deed, Order, or Proceeding of the Trustees assembled in any General Committee, or other Meeting whatever, at any Time, shall be entered regularly in a Book or Books, which the Clerk of the General Meetings shall keep, and the Preses of every stated General Meeting sign at such Meeting; and the said Book or Books shall and may be inspected at all reasonable Times by every Trustee, without Fee or Reward; and in order that the said Book or Books may, at all Times, exhibit a faithful Account of the whole Proceedings of the Trustees, every Committee that shall be appointed as aforelaid, shall, Fourteen Days previous to every stated General Meeting, give in to the Clerk of the General Meeting, a particular Detail of the whole Proceedings and Accounts of such Committee, to be entered by him in the said Book or Books; and in case of Failure or Neglect, the said Clerk of the General Meetings shall and may apply to the Sheriff Depute of the County, or his Substitute, who shall be, and are hereby required and empowered to grant Warrant for summoning the Person or Persons to whom the Failure or Neglect shall be imputed; and on Proof thereof, shall and may fine every Person found guilty, in any Sum not exceeding Twenty Pounds Sterling, besides appointing him to lodge with the said Clerk of the General Meetings such particular Detail of Proceedings and Accounts, on Oath, within a certain Time, and granting Warrant, on his failing or neglecting to lodge the same within the limited Time, to imprison him in the County or other Gaol until the Detail is lodged as appointed, and also awarding against such Person the Expences of the Prosecution, which, together with the Fine, shall be recovered and levied, and the Fine applied as herein-after directed; and the Clerk of the General Meetings shall report the Situation of all such Prosecutions to every stated General Meeting.

Trustees to
defray their
own Charges.

XI. Provided also, and be it enacted, That the said Trustees shall at every Meeting, and on all Occasions, defray their own Charges.

Trustees may
appoint
Officers,
remove them,
and allow
them Salaries.

XII. And be it enacted, That it shall and may be lawful to the said Trustees at any General Meeting assembled, and they shall be and are hereby authorized and empowered to chuse and appoint a fit Person or Persons to be Treasurer or Treasurers, Collector or Collectors, and Clerk or Clerks to the said Trustees; and also One or more fit Person or Persons to be Surveyor or Surveyors of the said Road, or such other Officers as they shall think proper, and from Time to Time to remove such Treasurers, Collectors, Clerks, Surveyors, or other Officers, or any of them,

them, and to appoint new ones in case of Death or Removal; and the said Trustees at any General Meeting assembled shall be, and they are hereby authorized and empowered, out of the Monies subscribed, borrowed, or levied in virtue of this Act, to make such Allowances to their Treasurers, Collectors, Clerks, Surveyors; or other Officers appointed by them, for and in consideration of the Time and Pains taken in the Execution of their respective Offices, and to such other Person or Persons who shall be or may be assisting in making and repairing the said Road, by advancing or laying out Monies, or otherwise relating thereunto, as to the said Trustees shall seem proper, over and above the necessary Disbursements made by such Officers or Persons.

XIII. Provided always, and be it enacted, That no Victualler, or Retailer of Ale, Beer, or Spirituous Liquors, shall be capable of holding any Place of Profit under this Act.

No Victualler, or Retailer of Ale, &c. shall be an Officer.

XIV. Provided also, and be it further enacted, That the said Trustees, at any stated General Meeting assembled, shall take such Security from the Person or Persons who shall be, from Time to Time, appointed Treasurers, Collectors, or Officers of Trust, to execute this Act, for the due Execution of their respective Offices, as the said Trustees so assembled shall think necessary.

Trustees shall take Security from their Officers.

XV. And be it enacted, That it shall and may be lawful to the said Trustees to sue or defend all Actions, Suits, or other Procces, relative to the Powers and Matters in this Act contained, in the Name of their Treasurer or Clerk, whom they shall be, and are hereby declared bound to relieve of the Consequences of such Action, Suit, or other Procces; and no Action, Suit, or other Procces, wherein the said Trustees shall be concerned as Pursuers or Defenders in the Name of their Treasurers or Clerks, shall cease or stop by the Death or Removal of any such Treasurer or Clerk, but that the Treasurer or 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 Action, Suit, or other Procces.

Trustees may sue or defend in Name of their Treasurer or Clerks.

XVI. Provided always, and be it enacted, That it shall and may be lawful to the said Trustees, and they are hereby authorized and required to cause to be built necessary and sufficient Bridges and Drains of Stone and Lime in the Line of the said Road, and to keep such Bridges, when built, and those on the Rivers *Feugh* and *Dee* above-mentioned, in proper Repair, as Parts of the said Road, as well as all other Bridges or Drains which may be built in the Line thereof in virtue of this Act.

Power to build Bridges or Drains.

XVII. Provided also, and be it enacted, That it shall and may be lawful to the said Trustees, and they shall be and are hereby authorized and empowered to cause build and erect, Arches or Bridges of Stone, Brick, or Timber, and to cause make Ditches, Drains, or Conduits through any Ground adjoining to the said Road; and at all Times subsequent to the making thereof it shall and may be lawful to any Person or Persons, appointed by the said Trustees, to clean, scour, or repair the said Ditches, Drains, or Conduits, without any Impediment; and further, the said Trustees shall be and they are hereby authorized and empowered, at any stated General Meeting, to widen the said Road, Bridges, or Drains, or any Part

Power to build Drains, make Conduits, and widen the Road.

of either; provided always, that neither of them shall be less in any Place than Twenty Feet, or more than Forty Feet in Breadth exclusive of Ditches and Drains.

Trustees may
make Foot-
paths.

XVIII. Provided always, and be it further enacted, That it shall and may be lawful to the said Trustees, and they shall be, and are hereby authorized and empowered at any stated General Meeting assembled, to order Foot-paths to be made upon the Sides of the said Road, and where Foot-paths shall be so made along any Part of the said Road, no Person or Persons shall ride or drive, or cause any Beast or Carriage of whatever Kind to travel along such Foot-paths, under a Penalty, not exceeding Ten Shillings Sterling, nor less than Five Shillings Sterling, for each Offence, to be recovered, levied, and applied, in Manner herein-after directed.

Power to erect
Mile Stones
and Guide
Posts.

XIX. And be it enacted, That it shall and may be lawful to the said Trustees, and they shall be, and are hereby authorized and empowered at any stated General Meeting, to cause the said Road to be measured, and Stones or Posts to be erected on the Sides of the said Road, denoting the Distance of each Mile, or such other Distance as they shall judge adviseable for directing and guiding Passengers.

Trustees to
erect Gates or
Turnpikes
and build
Toll-houses.

XX. And be it also enacted, That the said Trustees shall and may order to be built and erected Gates or Turnpikes on or across any Part of the said Road, and on the Sides of the said Road across any Lane, Way, or Passage leading into or from the same, and at or near every such Gate or Turnpike so erected, to build such Toll-houses as they shall think proper.

Power to erect
weighing
Machines.

XXI. And be it further enacted, That it shall and may be lawful to the said Trustees, at any stated General Meeting assembled, and they shall be, and are hereby authorized and empowered to cause to be built and erected on or across the said Road, or at such Distance therefrom as they shall think proper, Cranes or Steelyards, Machines or Engines, fit for weighing Carts, Waggons, or other Carriages of whatever Description, loaded or unloaded, with any Goods, Merchandize, Corn ground or unground, Coal, Lime, Stones, Wood, or any other Matter or Thing whatever.

Each Gate,
House, and
Weighing
Machine to
occupy One-
fourth of an
Acre.

XXII. Provided always, and be it enacted, That each Gate or Turnpike with the Toll-houses and Cranes or Steelyards, or other Weighing Engines or Machines, erected at each Gate or Turnpike, shall and may occupy One-fourth Part of an Acre of Ground, Scots Measure, and no more.

Trustees may
contract for
making the
Road.

XXIII. And be it enacted, That it shall and may be lawful to the said Trustees, and they shall be, and are hereby authorized and empowered, from Time to Time, to contract and agree with able, skilful, and responsible Persons, for the making and keeping in Repair the Whole or any Part of the said Road; or building and upholding the said Bridges and Drains, or making, cleansing, and scouring the Ditches, Drains, and Conduits, along, through, and adjoining the said Road; or making and keeping in Repair the said Foot-paths; or erecting and keeping in good Order and Condition the said Gates, Turnpikes, Toll-houses, and Weighing Machines; or repairing and keeping in Repair the said Bridges already built;

built; or for executing and performing any other Matter or Thing connected with the said Road by this Act directed to be made as aforesaid.

XXIV. And be it enacted; That it shall and may be lawful to the said Trustees, and they shall be, and are hereby authorized and empowered, at any stated General Meeting, to order the said Road to be made, widened, and repaired; the said Bridges and Drains to be built, repaired, and altered; the said Ditches, Drains, and Conduits, along or through the said Road, and adjoining the same, to be made, cleansed, scoured, and repaired; the said Foot-paths to be made, repaired, or altered; the said Gates, Turnpikes, Toll Houses, and Weighing Machines, to be erected and repaired; and every Matter and Thing in this Act mentioned, and requiring Ground, to be executed and performed, through, in, or on any heathy Common or waste Ground, Rivers, Waters, or Burns, without giving or making any Compensation for such Ground or Water; and through, in, or on any private Lands or Hereditaments, on making Satisfaction to the Proprietors thereof and Persons interested therein, for the Damage they may sustain thereby; and it shall and may be lawful to the said Trustees at any General Meeting assembled, from Time to Time, to contract and agree with the Proprietors of, and Persons interested in, any Lands and Hereditaments, for the Purchase or Exchange thereof, or for the Loss and Damage such Proprietors and Persons may sustain, by the Execution of the Powers and Matters in this Act contained and mentioned.

Road may be made through Waste Grounds without making Compensation.

XXV. Provided always, and be it enacted; That it shall be lawful to all Bodies Politick, Corporate or Collegiate, married Women, Trustees, Commissioners, Heirs of Entail, Tutors or Curators for Infants, Minors, Ideots, furious or other Persons, and to every Person whomsoever, who are or shall be seised, possessed of, or interested in any Lands or Hereditaments, or any Part thereof, to sell, dispose, or exchange the same, for the Purposes of this Act; and that all Contracts, Conveyances, or other Deeds, that shall be so made, shall be valid to all Intents and Purposes, any Law, Statute, Usage, or other Matter or Thing whatsoever to the contrary notwithstanding; and that all Trustees, Commissioners, Heirs of Entail, Tutors, or Curators, Corporations, Proprietors, or Incumbrancers, shall be indemnified for what they shall do in pursuance of this Act.

Persons fettered, empowered to treat.

XXVI. Provided also, and be it enacted, That if any Proprietor of, or Person interested in, such Lands or Hereditaments as aforesaid, upon Notice to him, her, or them, given or left in Writing by the Clerk of the General Meetings, at the Dwelling-house or other Place of Residence of such Proprietor or interested Person, or at the House of the Tenant in Possession of the Lands or Hereditaments, shall, for the Space of Fourteen Days next after such Notice given or left, neglect or refuse to treat, or shall not agree in the Premises, for the Value, Loss, or Damage of the Lands or Hereditaments occupied or to be used for the Purposes of this Act, then and in every such Case, the said Trustees, at any stated General Meeting assembled, may order such Value, Loss, or Damage to be ascertained by a Jury of indifferent Men of the County, (it being hereby declared that this Act shall not extend to the taking down any Dwelling-house or other House, whose Walls are built Twelve Feet high with Stone and Lime, nor to the using any Land of a Garden, Orchard, or Avenue

Juries to determine in certain Cases.

Sheriff to
summon and
return the
Jury.

Procedure
thereafter.

Verdict of the
Jury final.

Avenue adjoining any Dwelling-house, or any Part of them; without the Consent of the Proprietor or Person interested respectively); and the said Trustees shall be, and are hereby empowered to issue their Warrant to the Sheriff Depute of the County, or his Substitute, requiring them to summon and return Thirty Persons qualified to serve upon Juries, to appear before the said Trustees at such Time and Place as in such Warrant shall be appointed; and the said Sheriff Depute, or his Substitute, is hereby required to summon and return such Persons without Fee or Reward accordingly; and out of the Persons so summoned and returned, the said Trustees are hereby required and empowered to draw by Ballot, and to cause to be sworn and impannelled Fifteen Men, who shall be a Jury for the Purposes aforesaid; and in case a sufficient Number of the Persons summoned and returned shall not attend, the said Sheriff Depute, or his Substitute, shall return such other indifferent Men as can be speedily procured to attend that Service, to make up the Number of Fifteen, and all Persons concerned shall have their lawful Challenges against the said Jurymen, before taking the Oath, to be determined by the Judge or Justice of the Peace attending to administer such Oath; and the said Trustees shall be, and are hereby required and empowered, from Time to Time, as Occasion shall be, to summon before such Jury, and examine upon Oath, any Person or Persons whomsoever (which Oath, any Justice of the Peace for the County is hereby empowered to administer), and to use all other Ways and Means as well for their own as for the Jury's better Information; and the Verdict, Judgement, or Determination of such Jury, or in case of Difference in Opinion of the Majority thereof, shall be final; binding, and conclusive, to all Intents and Purposes, against all Parties and Persons whomsoever; and the said Sheriff Depute or his Substitute, may and shall impose a reasonable Fine or Fines on any Person summoned and returned for a Jurymen, who shall not appear, or shall not alledge some just and reasonable Excuse for not appearing, or appearing, shall refuse to be sworn on the Jury, or being sworn, shall decline to give or shall not give a Verdict, or shall in any Way neglect their Duty, and on every Person required to give Evidence before any Jury, who shall refuse or neglect to appear, or for whom a reasonable Excuse for not appearing, shall not be assigned, or appearing, shall refuse to be sworn and examined, or to give Evidence, so that no such Fine shall be more than Ten Pounds Sterling, nor less than Forty Shillings Sterling, on any Person for each Offence, to be recovered, levied, and applied as herein-after appointed.

How the Ex-
pence of the
Juries shall be
defrayed.

XXVII. Provided also, and be it enacted, That in case any Jury shall give in a Verdict for more Money, or a greater Recompence to the Proprietor or Person interested in the Lands or Hereditaments as aforesaid, for the Part of the same used for the Purposes of this Act, or in Consideration of the Loss or Damages sustained, or to be sustained by them thereby, than what shall have been offered by the said Trustees, before summoning the Jury, then and in that Case the Expences of the Jury and Witnesses shall be paid by such Trustees out of the Monies under their Management; but if the Jury shall give in a Verdict for the exact Money or Recompence offered, or less than what shall have been offered to such Proprietor or interested Person, before the Jury was summoned, then and in that Case the Expence of the Jury and Witnesses shall be paid by such Proprietor or interested Person; and in either Case the Sheriff Depute of the County, or his

his Substitute, shall be and is hereby required and empowered, on Production of the Verdict and Account of the Expences, with an Oath on the Justness and Fairness thereof by the Deburser, to decern the Expences to be paid to those appearing from the Verdict to be entitled to the same, and for that Purpose all Verdicts shall specify the Offer or Offers which shall have been made, before the Jury shall be summoned as aforesaid.

XXVIII. Provided always, and be it enacted, That the said Trustees shall and may order and adjudge the Sum or Sums of Money found due by such Juries as aforesaid, to be paid out of the Monies subscribed, borrowed, or levied, in virtue of this Act, to the Proprietors or interested Persons aforesaid, and the Appointments or Obligations imposed by them on either Party, to be fulfilled and implemented in Terms of the Verdict; and in case such Proprietors or interested Persons be absent, or shall refuse to receive the Money, it shall and may be lawful to the said Trustees, and they shall be and are hereby authorized and empowered, to consign the Money in the Royal Bank of *Scotland*, at the Risk and for the Behoof of such Proprietors or interested Persons, and upon the Clerk of the General Meetings, intimating to them, in the Form aforesaid, the Consignation and the Readiness of the Trustees to obey and implement the Verdict, to proceed in the Execution of this Act, as if the Proprietors or interested Persons had received the Money and obeyed the Verdict.

Trustees may order the Value of Lands to be paid.

XXIX. Provided also, and be it enacted, That any Question or Difference about any Lands or Hereditaments, or the Value, Loss, or Damage to be given or paid the Proprietors thereof or Persons interested therein, in consequence of the Powers or Matters contained in this Act, shall not prevent or stop the said Road being made and repaired, and the Bridges and Drains built and maintained, or the other Purposes of this Act being attained.

No Question or Difference shall stop the Execution of this Act.

XXX. And be it enacted, That all Lands or Hereditaments which shall be made a Part or Parts of the said Road, Bridges, or Drains, in virtue of this Act, shall be for ever after deemed a Common Highway, and repaired as such; and all Lands or Hereditaments, which shall be procured, purchased, or exchanged for the other Purposes of this Act, shall be vested in the Trustees, and all Persons whomsoever shall be divested of all Right or Title in the whole Lands or Hereditaments used for the Purposes of this Act after being so used, excepting the Trustees; and when the said new Road shall be opened, or when the Trustees shall have more Ground than they find necessary for any Purpose, the aforesaid old Road may be stopped and shut, and the Ground of the same, or any such unnecessary Ground, shall and may be sold, disposed of, or exchanged, in Whole or Parts, by the said Trustees from Time to Time, to such Person or Persons as shall give the best Prices or Values for the same, with or without the Aid or Assistance of the Juries aforesaid; and the Monies or Values received in consequence of such Sales or Exchanges shall be applied and appropriated in executing the Purposes of this Act, and all Deeds of Conveyance or Exchange executed by the said Trustees, shall be good and effectual.

Lands made a Part of the Road, Bridges, or Drains, declared a Highway, &c.

Old Road may be sold or exchanged.

XXXI. And be it enacted, That in case the Lands, Tenements, Houses, or other Hereditaments, taken or used for the Purposes of this Act, are

[*Loc. & Per.*]

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Re-investing Purchase Money of Lands.

held under Entail, or are subject to Life-rents, Annuities, Jointures, or other Incumbrances, or shall belong to any Corporation, married Woman, Infant, Lunatick, or Person or Persons under any other Disability or Incapacity, the Purchase-Money or Recompence to be paid for the same, if not exceeding Twenty Pounds Sterling, shall be disposed of as the said Trustees shall think fit and equitable, but the said Purchase Money or Recompence, if exceeding the Sum of Twenty Pounds Sterling, shall be laid out and invested, by the Authority and under the Direction of the Court of Session, in the Purchase of other Lands, Tenements, Houses, or other Hereditaments, and the Rights, Titles, and Securities thereof, shall be devised and taken to the same Person or Persons, and to the same Series of Heirs, and for the Benefit of the same Person or Persons, and for the same Uses and Purposes, and under the same Conditions, Provisions, and Limitations, as are mentioned and contained in the Title Deeds of the Lands, Tenements, Houses, or other Hereditaments, taken or used for the Purposes of this Act, or such of them as shall be then existing or capable of taking Effect; and in the mean Time, until such Purchase can be made, such Money shall, under Direction and by the Authority of the Court of Session, be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, at the highest Rate of Interest that can be obtained for the same; and the Interest arising thereon shall go and be applied to or for the Use of the respective Person or Persons who would be entitled to the Rents and Profits of the Lands, Tenements, Houses, or other Hereditaments, so to be purchased with such Money, in case such Purchase had actually been made and completed; and it shall be lawful to and for the said Court to make such Order or Orders in a summary Way, touching the Payment or Application of the Monies so to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, and the Interest that from Time to Time may arise thereon, as the said Court shall think fit.

Trustees and those employed by them, may enter on any Grounds to execute this Act.

XXXII. And be it enacted, That it shall and may be lawful for the said Trustees, and for their Officers and Workmen, with or without Carriages or Cattle, to enter from Time to Time upon any Lands or Subjects, for executing the whole Purposes, or any One or more of them, in this Act mentioned, as they shall think proper, without being deemed Trespassers, or liable to any Fine or Punishment, making Satisfaction to the Occupiers of such Lands or Subjects, for any Damage that shall be done to their Lands or Subjects; and in case of Difference as to the Extent, according to the Verdict of a Jury; and if any Person or Persons shall remove or destroy any Stakes or Marks, lining out Lands or Hereditaments, for the Purposes of this Act, or remove, destroy, or abstract any Materials or Instruments for executing the same; or shall do any Thing to impede, obstruct, or prevent the said Road being made and repaired, Bridges and Drains built and maintained, and the said Gates, Turnpikes, Toll-houses, and Weighing Machines being erected and preserved, or any Subject or Matter connected with either of them, being appropriated or executed according to this Act, every Person so offending shall forfeit and pay for each Offence any Sum not exceeding Five Pounds, or less than Five Shillings Sterling, to be recovered, levied, and applied as herein-after directed.

XXXIII. And

XXXIII. And be it enacted, That when any Passage for Cattle or Carriages across any Side of the said Road, Bridges, and Drains, is made for the Convenience of the Proprietor or Occupier of the adjoining Grounds, he shall always cover the Passage crossing the same with sufficient Stones; in such Manner as the Course of the Water in the Ditches or Drains may not be interrupted, or the said Road, Bridges, or Drains thereby prejudiced; and that every Proprietor or Occupier of Land shall, previous to turning any Water across the said Road, Bridges, or Drains, for the ameliorating his Fields, or for other Purposes, apply for and obtain the Consent of the said Trustees; and every such Proprietor or Occupier shall be obliged to carry the Water so across in a covered Drain of such Construction as that the Water shall not prejudice the Road, Bridges, and other Drains; and every Proprietor or Occupier of Lands shall scour and cleanse such Drains made for their own Convenience and Advantage, and shall always keep them in good Repair on their own Charges and Expences.

Passages into the Road to be covered.

Manner of carrying Water across the Road.

XXXIV. And be it enacted, That in future no Trees shall be planted, nor any House or Houses be built where there was no House before, within Twenty-five Feet from the said Road, nor shall any Proprietor or Occupier of Land along the Sides thereof be allowed to come with Cattle or Ploughs, or other Beasts or Instruments used for Tillage upon the said Road, Bridges, or Drains, but shall be obliged to make Headriggs on each Side of the said Road Eighteen Feet in Breadth at least; and where Fences shall be made in Time coming on either Side of the said Road, the Ditch and Hedge shall be on the Inside next the Field, and the plain Face of the Fence or Bank shall be next the Road, and proper Conduits shall be made in different Places for carrying the Water from the Road, Bridges, and Drains, under the Fence or Bank into the Ditch; and all Gates upon Inclosures on the Sides of the said Road shall open inwards to the Field; and it shall be lawful to the said Trustees to stop the planting of such Trees, and the building of such Houses as they shall apprehend to be within the Distance aforesaid, or the making of such Fences, Hedges, or Ditches, or the erecting of such Gates, as they shall deem not according to the Provisions of this Act, by an Order in Writing under their Hands delivered to the Proprietor or Occupier of the Lands by their Clerk, till such Time as sufficient Security shall be found before them, that such Trees, Houses, Fences, Hedges, Ditches, or Gates, shall be situated, made, or erected as by this Act directed; and if such Security shall not be found within the Time specified in the Writing delivered, or if the Work shall be completed without the Knowledge of the Trustees, it shall and may be lawful to the said Trustees to cause such Trees, Houses, Fences, Hedges, Ditches, or Gates, to be removed at the Expence of the Proprietor or Occupier of the Land, to be recovered, levied, and applied, as herein-after directed.

No Trees shall be planted, or Houses built within 25 Feet of the Road; nor shall Ploughs turn on the Road; but Headriggs shall be made; and the Face of Fences shall be next the Road.

Gates shall open to the Fields.

XXXV. And be it enacted, That it shall be lawful to the said Trustees to order the Surveyor or Surveyors of the said Road to require from Time to Time, by a Writing under his Hand or their Hands, every Proprietor or Occupier of Land through which the Road passes, at a proper Season of the Year, to open, widen, deepen, turn, scour, or cleanse, any Ditches, Drains, or Conduits, in such Manner as the said Trustees shall think necessary, to repair such Fences or Dykes, and alter such

Drains to be cleaned.

Fences to be repaired and Gates altered.

such Gates as shall appear to injure or encumber the said Road, Bridges, or Drains, or to lop and prune such Trees or Bushes as overhang any Part of the said Road, Bridges, or Drains, or to cut and dress the Hedges on the Sides of the Road and Drains to Four Feet of perpendicular Height from the Surface at the Bottom; and if the Proprietor or Occupier of the Land shall refuse or neglect to comply with the Requisition within Ten Days after the Delivery of the same, it shall and may be lawful to the said Trustees to order the Ditches, Drains, or Conduits to be opened, widened, deepened, turned, scoured, or cleansed, or the Fences and Dykes to be repaired and the Gates to be altered, or the Trees and Bushes to be lopped and pruned, or the Hedges to be cut and dressed, by Persons appointed by them, on the Expence of such Proprietor or Occupier, who shall also for their Refusal or Neglect forfeit and pay any Sum not exceeding Five Pounds, nor less than Ten Shillings Sterling, to be recovered, levied, and applied, as herein-after directed.

Lime Kilns,
&c. not to be
erected near
the Road.

XXXVI. And be it enacted, That if any Person or Persons shall erect or cause to be erected, any Lime Kiln, Brick Kiln, or Tan Pit, or cause any Nuisance by Fire or Smoak, within Twenty-five Yards of the Sides of the said Road, Bridges, or Drains, or shall make Trenches, Pits, or other Excavations of any Sort upon the Sides of them, or within Five Yards thereof, every such Person or Persons shall, for each Offence, forfeit and pay any Sum not exceeding Five Pounds, nor less than Ten Shillings Sterling, besides paying the Expences of demolishing the Works, to be recovered, levied, and applied, as herein-after directed.

No Cattle to
graze on the
Road.

XXXVII. And be it enacted, That if any Person or Persons shall graze, or allow their Horses, Cows, or other Cattle, to graze upon the Sides or any other Parts of the said Road, Bridges, and Drains, such Person or Persons shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds, nor less than Five Shillings Sterling, to be recovered, levied, and applied as herein-after directed.

For prevent-
ing Accidents
or Annoy-
ances.

XXXVIII. And be it further enacted, That if any Person or Persons shall hawl or draw, or cause to be hawled or drawn, any Tree or Stone, or Piece of Timber, or any other Matter or Thing whatever, otherwise than upon a Wheel Carriage; or if any Person or Persons shall allow any Timber, Stone, or other Matter, to project or extend over the Sides of the Cart, Waggon, or other Carriage, whereon the same shall be drawn and transported, or occupy more of the said Road, Bridges, and Drains, in Breadth than is occupied by such Cart, Waggon, or other Wheel Carriage, or allow the Timber, Stone, or other Matter to drag or trail upon any Part of the said Road, Bridges, or Drains, or if any Person or Persons shall draw or transport on the said Road upon any Cart or other Carriage, any Timber, Stone, or other Matter, exceeding Twenty Feet in Length, unless such Cart or other Carriage has Four Wheels; or if any Person or Persons shall leave any Horse or other Beast, yoked or unyoked, or any Cart or other Carriage, loaded or unloaded, standing upon the said Road, Bridges, or Drains; or if any Person or Persons shall lay down or leave on the said Road, Bridges, or Drains, any Lime, Dung, Timber, Stone, Hay, Straw, Manure, Soil, Rubbish, or other Matter, or within Five Yards thereof, unless the same be sufficiently

ficiently fenced off from the Road, Bridges, and Drains; or if any Person or Persons shall kill, slaughter, singe, scald, or dress any Horse, Swine, Calf, Sheep, Lamb, or other Beast, in or upon the said Road, Bridges, or Drains, or hew or saw any Piece of Stone or Timber, or flake, mix, or wet any Lime, or mix up any Mortar in or upon any Part of the said Road, Bridges, or Drains, to the Prejudice of the said Road, Bridges, or Drains, or the Annoyance of the Passengers; or if any Person or Persons shall make any Saw Pit or other Pits, Holes, or Hovels, or shall do any Thing whereby the Road, Bridges, or Drains may be damaged or unnecessarily incumbered, or the Passengers annoyed, every Person offending in any Case aforesaid, shall, for each Offence, forfeit and pay any Sum not exceeding Five Pounds, and not less than Five Shillings Sterling, besides removing the Matter of Nuisance or Annoyance, and repairing the Damage done to the Road, Bridges, or Drains, within a certain Time, at his or her own Expences; and in case of Failure or Neglect to do so, forfeiting the Matter of Value causing the Nuisance or Annoyance, and paying the Expence of removing what are of no Value, and the Charges of repairing the Damage done the said Road, Bridges, or Drains; which Matters of Nuisance and Annoyance the said Trustees shall be and are hereby authorized and empowered to cause to be removed on such Failure or Neglect, and the forfeited Matters to be sold; and the said Forfeitures and Expences shall be recovered and levied, and the same, with the Price of the forfeited Articles, applied as herein-after directed.

XXXIX. And be it enacted, That if any Person or Persons shall maliciously break down, or attempt to break down, damage or otherwise destroy, any Mile Stone, Guide Post, Gate, Turnpike, Posts, Chains, Bars, or other Works whatever, or the Toll or other Houses erected, for the Use of such Gates and Turnpikes or Weighing Machines, every Person so offending shall for each Offence forfeit and pay any Sum not exceeding Five Pounds, nor less than Five Shillings Sterling, besides the Value of the Damages, to be recovered, levied, and applied as herein-after directed.

Destroyers of
Turnpikes
fined.

XL. And be it enacted and declared, That it shall and may be lawful to the said Trustees, and they shall be and are hereby authorized and empowered to receive Subscriptions, for such Sum or Sums of Money as may be offered and procured, for making and repairing the Whole, or any Six Miles of the said Road, and building and maintaining the Bridges and Drains thereon, and for the other Purposes of this Act, such Subscriptions to be secured and paid as after-mentioned.

Power to
receive Sub-
scriptions.

XLI. Provided always, and be it enacted, That every Person who has subscribed, or who shall subscribe, any Sum or Sums of Money, for executing the whole Purposes or any Purpose of this Act, shall be liable, subject, and compellable to pay to the Treasurer or Treasurers, to be appointed by the said Trustees, the Sum or Sums of Money so subscribed according to the Purport of the Subscription Paper or other Writing, and in such Portions, and at such Times, as the said Trustees at any stated General Meeting assembled, shall direct, on a Receipt signed by the said Trustees, declaring the Money a Lien and preferable Charge on the Tolls or Duties after-mentioned, next and subsequent to the Monies that may be borrowed thereon; and in case the Money shall not be paid as directed,

How Sub-
scriptions shall
be paid.

it shall and may be lawful to the said Trustees, after Ten Days Notice given in Writing or published once in each of the said *Aberdeen* and *Edinburgh* Newspapers, by the Clerk of the General Meetings, to sue for and recover the Sums so subscribed, or any Part thereof, and the Expences disbursed in the Name of the Treasurer or Clerk of the General Meetings in any Court of Record.

Trustees may borrow Money.

XLII. And for the more speedy and effectual Execution of the Purposes in this Act contained, be it enacted, That it shall and may be lawful, to the said Trustees, at any stated General Meeting assembled, and they are hereby authorized and empowered, from Time to Time, to borrow upon the Securities of the Tolls or Duties after-mentioned, any Sum or Sums of Money, not exceeding the Sum of One hundred and Fifty Pounds Sterling for each Statute Mile of the said Road; and if at any Time a Part or the Whole of the Monies borrowed shall be paid, it shall and may be lawful to the said Trustees assembled as aforesaid, from Time to Time, to borrow again, upon the like Securities, such Sums of Money for the like Purposes, so as that the whole Sums of Money borrowed and resting due do not exceed, at any Time, the original Sum allowed to be borrowed.

Notice of borrowing Money to be published.

XLIII. Provided always, and it is hereby declared, That no Money shall be borrowed by the said Trustees on the Credit of the Tolls or Duties after-mentioned, after their First Meeting, unless Notice for that Purpose shall be published Once in the said *Aberdeen* Newspaper, and Once in One of the Newspapers published at *Edinburgh*, and most commonly circulated, at least Fourteen Days before borrowing such Money.

Borrowed Money to be paid to the Treasurer.

XLIV. Provided also, and be it enacted, That the Money borrowed for the Purposes and Execution of this Act, shall be paid to the Treasurer or Treasurers by the said Trustees appointed, upon a Receipt for the same, signed by the Preses, and any Two or more Trustees assembled in any stated General Meeting, and bearing that the Tolls or Duties shall be assigned in Security thereof as after mentioned.

Power to receive Tolls.

XLV. And be it further enacted, That it shall and may be lawful to the said Trustees, and the Persons authorized by them, and they are hereby authorized and empowered, at every Gate or Turnpike which shall be erected in virtue of this Act, upon the Road hereby directed to be made and repaired, or upon or across any Road or Lane leading into or from the said main Road, before Passage be allowed through the same, to demand, take, and receive the respective Tolls and Duties following:

For every Coach, Berlin, Landau, Chariot, Chaise, Calash, or other such Carriage with Four Wheels, drawn by Six or more Horses, Mares, Geldings, Asses, Mules, or other Beasts of Draught, the Sum of Six Shillings Sterling; and drawn by Four Horses, Mares, Geldings, Asses, Mules, or other Beasts of Draught, the Sum of Three Shillings Sterling; and drawn by Two Horses, Mares, Geldings, Asses, Mules, or other Beasts of Draught, the Sum of One Shilling and Sixpence Sterling; and drawn by One Horse, Mare, Gelding, Ass, Mule, or other Beast of Draught, the Sum of Eight-pence Sterling:

For every Chaise, Calash, Chair, or other such Carriage with Two Wheels, and drawn by Two Horses, Mares, Geldings, Mules, or other Beasts,

Beasts, the Sum of One Shilling Sterling; and drawn by One Horse, Mare, Gelding, Ass, Mule, or other Beast, the Sum of Sixpence Sterling:

For every Waggon, Wain, Cart, or other such Carriage, drawn by Six or more Horses, Oxen, or other Beasts, the Sum of Seven Shillings Sterling; and drawn by Five Horses, Oxen, or other Beasts, the Sum of Five Shillings Sterling; and drawn by Four Horses, Oxen, or other Beasts, the Sum of Three Shillings Sterling; and drawn by Three Horses, Oxen, or other Beasts, the Sum of Two Shillings Sterling; and drawn by Two Horses, Oxen, or other Beasts, the Sum of One Shilling Sterling; and drawn by One Horse, Ox, or other Beast, the Sum of Sixpence Sterling:

For every Horse, Mare, Gelding, Mule, or other Beast, loaden or unloaden, with or without a Rider, and not drawing, the Sum of Three-pence Sterling:

For Oxen or Neat Cattle, Horses, Fillies, or Asses, unshod, the Sum of Ten-pence Sterling *per* Score; and so in Proportion for any greater or lesser Number:

For Calves, Hogs, Sheep, and Lambs or Goats, the Sum of Five-pence Sterling *per* Score; and so in Proportion for any greater or lesser Number.

XLVI. Provided always, and be it enacted, That in case the said Trustees shall erect, or cause to be erected, Gates or Turnpikes on the said main Road, within Six Miles of one another, Travellers paying at any Gate shall be entitled to receive a Ticket, entitling them to pass Toll-free at the next Gate, if such Gate is within Six Statute Miles of the Gate at which they paid; and if a Traveller pays at a Side Gate, he shall be entitled to pass the next Gate on the main Road, Toll-free, if it is within Six Statute Miles of such Side Gate.

Travellers not to pay more than once in Six Miles.

XLVII. And be it further enacted, That every Person who shall travel on the *Lord's Day*, or on any Day appointed by Authority for a publick and general Fast, with any Horse or other Beast, Chaise or other Carriage of any Description, shall pay at every Gate or Turnpike on or at the said Road, before they are allowed to pass, double the Tolls or Duties hereby authorized to be taken, except when going to and returning from their Parish Church, or other Place of religious Worship.

Double Tolls, or Duties on Sunday.

XLVIII. And be it enacted, That it shall and may be lawful to and for the said Trustees to levy, over and above the Tolls hereby granted, the following Sums of Money:

Trustees may take additional Tolls for extra Weight of Carriages and Loading.

For every Hundred Weight (of One hundred and twelve Pounds to the Hundred), which any Waggon, Cart, or Carriage, together with the Loading thereof, shall weigh at any of the Weighing Engines erected as aforesaid, over and above the Weight which such Waggon, Cart, or Carriage is, as herein-after expressed, allowed to weigh without paying additional Toll, that is to say:

For the First and Second Hundred, the Sum of Three-pence Sterling for each Hundred:

For every Hundred of such Over-weight, above Two hundred and not exceeding Five hundred, the Sum of Sixpence Sterling:

For

For every Hundred of such Over-weight, above Five hundred and not exceeding One thousand, the Sum of Two Shillings and Sixpence Sterling :

For every Hundred of such Over-weight, above One thousand and not exceeding Fifteen hundred, the Sum of Five Shillings Sterling :

And for every Hundred of such Over-weight, above Fifteen hundred, the Sum of Twenty Shillings Sterling :

Persons ob-
struſting the
weighing of
ſuch Car-
riages, to for-
feit a Penalty.

And that before they reſpectively ſhall be permitted to paſs through ſuch Gate or Turnpike ; and the ſame ſhall be applied as the other Tolls are by this Act directed to be applied ; and in caſe any Perſon or Perſons ſhall hinder or obſtruet the weighing of any ſuch Carriage as aforeſaid, ſuch Perſon or Perſons ſhall, for every ſuch Offence, forfeit any Sum not exceeding Five Pounds Sterling, nor leſs than Ten Shillings Sterling.

Carriages of
a certain
Weight and
Dimensions of
Wheels, not
ſubject to ad-
ditional Toll.

XLIX. And be it further enacted, That every Waggon, Cart, or Carriage, ſhall be allowed to paſs without paying additional Toll, provided ſuch Waggon, Cart, or Carriage, with its Loading, does not weigh more than the Weights following, *videlicet* ;

Every Waggon or Four-wheeled Carriage, having the Fellies or Rollers of the Wheels of the Breadth of Sixteen Inches, Eight Tons in Summer, and Seven Tons in Winter :

Every Waggon or Wain, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Nine Inches, Six Tons in Summer, and Five Tons and a Half in Winter :

Every Cart, having the Fellies of the Wheels of the Breadth of Nine Inches, Three Tons in Summer, and Two Tons Fifteen hundred Weight in Winter :

Every Waggon, having the Fellies of the Wheels of the Breadth of Six Inches, Four Tons and a Quarter in Summer, and Three Tons Three Quarters in Winter :

Every Cart, having the Fellies of the Wheels of the Breadth of Six Inches, Two Tons Twelve hundred Weight in Summer, and Two Tons Seven hundred Weight in Winter :

Every Waggon, having the Fellies of the Wheels of a Breadth leſs than Six Inches, Three Tons and a Half in Summer, and Three Tons in Winter :

Every Cart, having the Fellies of the Wheels of a Breadth leſs than Six Inches, and drawn by Two or more Horſes, One Ton and a Half in Summer, and One Ton Seven hundred Weight in Winter :

And for the aforeſaid Purpoſes, it ſhall be deemed Summer from *May* the Firſt to *October* the Thirty-ſiſt ; and Winter from *November* the Firſt to *April* the Thirtieth, both incluſive.

Power to
leſſen and
raiſe the Tolls
or Duties.

L. Provided always, and be it enacted and declared, That the ſaid Truſtees at any ſtated General Meeting, regularly convened to conſider the State of the Funds ariſing by this Act, and Expediency of diminishing the Tolls or Duties, may, and they are hereby authorized and empowered from Time to Time, with Conſent of the Perſon or Perſons who ſhall have advanced or lent Money on the Credit of the Tolls or Duties, to leſſen the ſeveral Tolls or Duties hereby granted and made payable, and to order and direct the ſame ſo leſſened to be demanded, taken, and received in ſuch Manner, Parts, and Portions, as they ſhall think fit, and

to raise the same again from Time to Time, so as not to exceed the Tolls or Duties hereby granted.

LI. Provided also, and be it enacted and declared, That no Person or Persons shall be charged with any of the Tolls or Duties aforesaid, for passing through any Gate or Turnpike which shall be erected in virtue of this Act, and carrying any Quantities of Stones, Wood, or other Matter, for making, repairing, or altering the said Road, or building and maintaining the said Bridges and Drains; nor for carrying through any Gate or Turnpike, from one Part of a Farm, to another Part of the same Farm, Dung or other Manure, Ploughs, Harrows, or other Implements of Husbandry, (which shall not be trailed upon the Ground), Carts, Wains, or other Carriages, laden with Hay, Corn, or Straw, or other Produce of the Ground; nor for Horses, Geldings, or Cattle, passing from one Part of the Farm to another Part thereof, or going to or returning from watering Places within a Quarter of a Mile of the Owner's House; nor for any Horses, Mares, or Carriages of whatever Description, which shall be employed in carrying the Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying, fetching, or guarding such Mails or Expresses, or in returning back from conveying the same; nor for the Horses of Soldiers who are upon their March or on Duty, or the Carriages attending upon them; nor for Carts, Carriages, or Waggons travelling with Vagrants sent with legal Passes, or returning therefrom, if empty; nor shall any Toll or Duty be demanded or taken from any Person or Persons, who shall pass through any Gate or Turnpike to their own Parish Church, or to their Place of Divine Worship upon *Sundays* and *Fast Days*, nor any other Day on which Divine Worship is ordered by Authority to be celebrated, nor for Persons attending the Funeral of any Person, who shall die and be buried in his or her own Parish.

LII. Provided likewise, and be it enacted, That no Carriage of whatever Description loaded with Articles or Commodities, exempted and claiming Exemption from Tolls or Duties as before-mentioned (except Carriages with the Mail, or with the Baggage of Soldiers upon their March) shall exceed One thousand eight hundred Weight, including the Weight of the Carriage, unless such Articles and Commodities are carried and transported in Carriages, the Fellies of whose Wheels shall be Six Inches broad, otherwise the Owner of such Carriage shall forfeit and lose the Loading thereof, or any Sum not exceeding Five Pounds, nor less than Five Shillings Sterling in the Option of the said Trustees, to be recovered, levied, and applied as herein-after directed.

LIII. And be it enacted, That it shall not be lawful to the said Trustees to erect any Gate or Turnpike, nor to demand, take, or receive any Toll or Duty upon the said Road, until Three Miles of the said Road adjacent to the Place where such Tolls or Duties are to be collected, shall be made and completed; neither shall any Person or Persons, having paid the Tolls or Duties by this Act imposed, at any Gate or Turnpike, and being possessed of a Ticket or Tickets to prove such Payment, be subject or liable on the same Day (computing from Twelve of the Clock at Night to Twelve of the Clock the succeeding Night) to pay the said Tolls or Duties again at any such Gate or Turnpike, through which they shall pass, for the

[*Loc. & Per.*]

5 D

same

Exemptions.

Weight of
exempted
Carriages.

No Tolls to be
levied, till
Three Miles
of the Road
be made;

unless passing
Twice same
Day with new
Loading, &c.

same Coach, Cart, or other Carriage, or for the same Horse, Mare, Gelding, Mule, or other Beasts or Cattle, for which Tolls or Duties shall have been paid; but in case the same Coach, Cart, or other Carriage, Horse, Mare, Gelding, Mule, or other Beast or Cattle, shall pass through the Gate or Turnpike, with a new Loading or Fare, a second Time, or more Times in the same Day, they shall in that Case be subjected to the Payment of Tolls or Duties for each Time they shall so pass, in the same Manner as the first Time.

Trustees may
compound
with Tra-
vellers.

LIV. And be it enacted, That it shall and may be lawful to the said Trustees, at any General Meeting assembled, and they shall be and are hereby authorized and empowered, from Time to Time, to agree by the Year, or otherwise, with any Person or Persons for any reasonable Sum or Sums of Money, to be paid quarterly in Advance, from Time to Time, in lieu of the Payment of any Tolls or Duties by this Act granted.

How Com-
positions may
be recovered.

LV. Provided always, and be it enacted, That in case any Composition agreed to be paid for passing through the said Gates or Turnpikes to be erected by virtue of this Act, shall not be paid within Fourteen Days next after the same shall become due or payable according to such Composition or Agreement, that then it shall be lawful to the said Trustees, or their Treasurer, Collector, or Tacksmen, making Oath to the Compositions being demanded, and remaining due, to obtain a Warrant, and levy the same by Distress or otherwise, as herein-after directed.

Tolls or
Duties may be
levied by
Distress.

LVI. And be it enacted, That if any Person or Persons shall neglect or refuse to pay the Tolls or Duties by this Act granted, the said Trustees shall be, and are hereby authorized and empowered by themselves, or such other Person or Persons as shall be Collectors or Tacksmen of the Tolls or Duties for the Time being, to seize every Horse, Ox, or other Beast, so passing through the Gate or Turnpike without Payment, and to detain them till Payment of the Toll or Duty, and failing its being paid within Two Hours thereafter, to apply to the nearest Justice of the Peace in the County, who is hereby authorized to grant summary Warrant to sell the Horse, Ox, or other Beast, at the nearest Village or Kirktown, for Payment of the Toll or Duty, and all other necessary Charges, rendering the Overplus (if any be) to the Owner when required, Intimation of the Sale being always made at the said Village or Kirktown, Three Hours previous to the Sale.

Penalty on
Offenders,
and Evaders
of Tolls.

LVII. And, for preventing Frauds or Abuses in the Payment of the said Tolls or Duties by this Act granted, be it enacted, That if any Person or Persons having paid the Toll or Duty by this Act imposed, and having a Note or Ticket, or Notes or Tickets, signifying the Payment of such Toll or Duty, shall give or dispose of the same to any other Person or Persons, in order to avoid the Payment of the said Toll or Duty; or if any Person or Persons occupying Lands near any Gate or Turnpike to be erected in pursuance of this Act, shall knowingly permit or suffer any Person or Persons to pass through the same, or through any Gate, Passage, or Way, with any Coach, Cart, or other Carriage, or with any Horse, Ox, or other Beast, whereby the Payment of the Toll or Duty by this Act imposed shall be avoided; or if any Person or Persons shall,

at

at any Time, take off, or cause to be taken off, any Horse or Horses, Mares, or other Beasts, from any Coach, Cart, or other Carriage, or shall put and leave in any House or Place, any Coach, Cart, or other Carriage, Horse, Mare, or other Beast, at or before the same shall come to any Gate or Turnpike, with an Intent to evade the Tolls or Duties; every Person offending in any particular Case aforesaid, or being concerned in the Offence, shall forfeit and pay any Sum not exceeding Five Pounds Sterling, nor less than Five Shillings Sterling, to be recovered, levied, and applied as herein-after directed.

LVIII. And be it enacted, That it shall and may be lawful to the said Trustees, at any stated General Meeting assembled, and they are hereby authorized and empowered, from Time to Time, either to chuse and appoint a Collector or Collectors during their Pleasure, to demand, take, and receive the Tolls or Duties by this Act granted and made payable; or to let these Tolls or Duties, in Whole or in Parcels, by Publick Roup, to any Person or Persons during any Period not exceeding Three Years at any One Time, for the highest Rate or Rates that can be got for the same.

Trustees may employ Collectors to levy Tolls, or let these Tolls by Roup.

LIX. Provided also, and be it enacted, That every Person who shall be appointed Collector, to demand, take, and receive the said Tolls or Duties as aforesaid; and every Surveyor or other Person entrusted with the Receipt and Application of Money concerning the Matters in this Act mentioned, shall, on the First *Tuesday* of every Month, or at any other Time to be appointed by the said Trustees, during the Continuance of this Act, give in to the Treasurer or Treasurers who shall be appointed as above-mentioned, a true, particular, exact, and perfect Account, in Writing, under their respective Hands, with their respective Vouchers, of all Money which they, or either of them, have received, disbursed, or paid, by reason of their respective Offices, and verify the same upon Oath; and in case any Money so received shall remain in either of their Hands, they shall pay the same on Receipt to the Treasurer, or other Person having Authority from the Trustees to receive the same; and if any Collector, Surveyor, or other Person, who shall be so employed to receive and disburse Money, shall refuse or neglect to render and give such Accounts, or to produce and deliver up the Vouchers and Receipts relating to the same, or to verify the Articles thereof upon Oath, or to pay the Balance in their Hands when required, every Person so refusing or neglecting shall forfeit and pay any Sum not exceeding Ten Pounds Sterling, nor less than Ten Shillings Sterling, besides rendering Accounts, Vouchers, and Receipts, and paying such Balance as directed and required; such Forfeiture to be recovered, levied, and applied as herein-after directed.

Collectors, &c. to account.

LX. Provided likewise, and be it enacted, That if any Person or Persons who shall be employed as Collector or Collectors to demand, take, and receive the said Tolls or Duties as aforesaid, shall permit any Coach, Cart, or other Carriage, or any Horse, Mare, Ox, or other Beast, to pass through any Gate or Turnpike to be erected as above-mentioned, without receiving the Tolls or Duties by this Act made payable, (unless exempted as aforesaid), or if they, or either of them, shall dispose of or give away Notes or Tickets, or a Note or Ticket, to prevent the said Tolls

Penalty on Collectors disposing of Tickets, etc.

or

or Duties being received, paid, or exacted, every Person so offending shall, for each Offence, forfeit and pay any Sum not exceeding Five Pounds Sterling, nor less than Five Shillings Sterling, to be recovered, levied, and applied, as herein-after directed.

Tolls, &c.
vested in the
Trustees.

LXI. And be it enacted, That every Gate, Turnpike, Toll House, or Weighing Machine, to be erected by virtue of this Act, as well as the Premises whereon they shall be erected, and also the said Tolls or Duties, Fines, Forfeitures, and Penalties by this Act granted and imposed, shall be, and are hereby vested in the said Trustees, and the same and every Part thereof shall and may be disposed of, assigned, applied, and paid to and for the several Uses and Purposes in this Act mentioned.

Monies to be
paid to the
Treasurer.

LXII. And be it enacted, That the Money already subscribed, or which may be subscribed or borrowed for the Purposes and the Execution of this Act, the said Tolls or Duties, Fines, Forfeitures, Penalties, and every Sum of Money by this Act made payable, shall be paid to the Treasurer or Treasurers, or other Persons who shall be appointed by the said Trustees, to be applied in making, repairing, and keeping in Repair, the said Road, building and maintaining the said Bridges and Drains, and for the other Purposes of this Act.

Expences of
the Act.

LXIII. Provided always, and be it enacted, That the Expences incurred in obtaining this Act, shall be first defrayed and paid out of the Monies subscribed or borrowed, or levied, as aforesaid.

Application
of Monies.

LXIV. And be it enacted, That the Money borrowed on the Credit of the said Tolls or Duties, shall be repaid out of the Monies arising from the said Tolls or Duties which shall continue burdened, until the Money borrowed is so repaid.

Trustees may
assign the
Tolls.

LXV. And be it enacted, That the said Trustees, at any stated General Meeting assembled, shall be, and they are hereby authorized and empowered to assign and make over the Whole or any Part of the said Tolls or Duties by this Act imposed, and every Matter or Article connected with the Collection of them, to any Person or Persons who shall lend or advance Money as aforesaid, in Security, for Repayment of the Sum or Sums of Money so lent by them, and the Interest thereof, by the following Words of Assignment, under the Hands of the said Trustees so assembled, or by any other proper Words for that Purpose; that is to say,

BY virtue of an Act made in the Fortieth Year of the Reign of His Majesty King George the Third, intituled, *An Act* [here insert the Title of the Act], We, Trustees for putting the said Act in Execution, at a stated General Meeting held agreeable to the aforesaid Act; in Consideration of the Sum of _____ Sterling, lent for executing the Purposes of the said Act, do assign unto *A. B.* his Executors and Assigns, such Proportion of the Tolls or Duties arising in virtue of the said Act, and every Matter or Article connected with the Collection of them, upon that Part of the Road therein mentioned, leading from _____ to _____ as the said Sum of _____ shall be to the whole Sum lent on the Credit of the same, to hold the said *A. B.* his Executors and Assigns, from this _____ Day of _____ in

Trustees may
pay off
Creditors.

LXVI. And be it enacted, That it shall and may be lawful to the said Trustees, at any stated General Meeting assembled, upon such respective Assignments being produced by the respective Proprietors thereof, to direct the Clerk of the General Meetings to give Notice to him, her, or them respectively, that the Money received by such Assignments respectively, or any of them, will be paid and discharged at the Time limited in such Notice, not less than Six Months being allowed for the Time of such Payment; and on such Notice being given to such Proprietors respectively, the Interest of the Money contained in such Security shall cease, from the End of such Notice, in case such respective Proprietors shall not attend to receive, or give proper Authority for receiving his, her, or their principal Sum and Interest, pursuant to such Notice.

Creditors
may receive
Tolls, etc.

LXVII. And be it enacted, That in case any Person who shall lend or advance Money on the Credit of the said Tolls or Duties, or the Possessor of any Assignment, shall be desirous of being repaid the Money due, and shall deliver a Notice in Writing signed by them, signifying such Desire to the Clerk of the General Meetings of the said Trustees at any stated General Meeting, then and in such Case, unless the Principal Sum and Interest due and to become due to them on the Security of the said Tolls or Duties shall be fully paid unto, or tendered unto, and refused to be accepted by such Creditors signing such Notice within Six Calendar Months after the Delivery thereof, it shall and may be lawful to the said Creditors to receive and collect, or cause to be received and collected, the Tolls and Duties by this Act granted, and to apply the same rateably and proportionably, in Payment of the Principal Sum and Interest of their respective Debts, until the same shall be discharged.

Penalty on
misapplying
Money.

LXVIII. And be it enacted, That every Person who shall misapply, or cause to be misapplied, any Money subscribed, borrowed, or levied, in virtue of this Act, shall forfeit and pay any Sum not exceeding Ten Pounds Sterling, nor less than Ten Shillings Sterling, besides paying the Money so misapplied, to be recovered, levied, and applied, as herein-after directed; but if any Prosecution for the same shall after Trial be found vexatious and groundless, the Prosecutors or Prosecutor shall be liable to pay Triple Costs of Suit, if the Court before whom such Offence shall be tried, shall think fit.

How Penalties
are to be re-
covered, etc.

LXIX. And be it enacted, That all Fines, Forfeitures, and Penalties by this Act authorized to be imposed, shall, upon Proof of the Offences respectively before the Sheriff Depute of the County or his Substitute, or any One or more Justices of the Peace in the said County, either by Confession of the Persons offending, or by the Oath of One or more credible Witnesses, (which Oath such Sheriff or Justice or Justices of the Peace are hereby empowered and required to administer), be levied by Distress and Sale of the Goods and Chattels of the Persons offending, by Warrant under the Hands of the Sheriffs, or any Justice of the Peace (which Warrant they or he are hereby empowered and required to grant for these Purposes), and the Overplus (if any be), after such Fines, Forfeitures, Penalties, and the necessary Charges of such Distress and Sale are recovered and deducted, shall be returned, on Demand, to the Owners; and the Fines, Forfeitures, and Penalties, when paid or levied, shall be, from Time to Time, paid to the Treasurer or Treasurers of the
said

faid Trustees, and applied in giving One Third to the Informers, and the other Two Thirds in making and repairing the faid Road, and building and maintaining the faid Bridges and Drains; and the whole Goods and Effects, declared forfeited as aforesaid, shall be sold, and the Produce applied in the same Manner, and the Money or Expences which shall become due and payable by reason of this Act as aforesaid, shall be recovered by an Action in the usual Manner, either before the Sheriff of the County, or the Court of Session, whose Decision shall be final, and by Distress and Sale of the Goods and Chattels of the Persons found liable in such Money or Expences as aforesaid, and the Money or Expences when paid or levied, shall be applied as other Monies in the Execution of this Act; and in case sufficient Distress shall not be found, or such Penalties, Forfeitures, Fines, Money, or Expences shall not be paid or levied forthwith, it shall and may be lawful to the Judges who shall grant the Warrants of Distress, and they are hereby empowered and required, on Report of Effects not being found to satisfy and pay the Sums contained in such Warrants, to grant a Warrant for committing the Offender or Debtor to the common Gaol in the County, for any Time not exceeding Two Calendar Months, nor less than Fourteen Days, unless the Penalties, Forfeitures, Fines, and necessary Charges, shall be sooner satisfied; but in the Case of Money or Expences still remaining due, until such Money or Expences shall be paid or satisfied, or until the Offender shall show that he is unable to pay the same.

LXX. Provided always, and be it enacted, That every Officer or Person who shall be employed by the faid Trustees in the Execution of this Act, shall be received as competent and unexceptionable Witnesses, in every Action raised in virtue of this Act, unless where they are the Pursuers of the Action.

Officers
competent
Witnesses.

LXXI. Provided also, and be it enacted, That if any Person shall think himself or herself aggrieved by any Order, Sentence, or Proceeding of the faid Trustees, or by the Order or Sentence of one Justice or more Justices of the Peace, every such Person may appeal to the Justices of the Peace at any General Quarter Sessions assembled, on giving Ten Days Notice, in Writing, of his or her Intention to make such Appeal, and of the Matter thereof, to the Clerk of the General Meetings, and within Three Days after such Notice finding sufficient Caution, to the Satisfaction of any Justice of the Peace in the County, to try such Appeal, and abide by the Order of, and pay such Costs as shall be awarded by the faid Justices of the Peace at such Quarter Sessions; and the faid Justices, at such Sessions, on due Proof of such Notice being given, and Caution being found as aforesaid, shall hear and finally determine the Causes and Matters of such Appeal in a summary Way, and award such Costs to either Party, as the faid Justices shall think proper; and the Determination of such Justices shall be final, binding, and conclusive, to all Intents and Purposes.

Appeals.

LXXII. And be it enacted, That every Action, Suit, or Information, for any Penalty, Forfeiture, or Fine, by this Act imposed, shall be brought within the Space of Six Calendar Months after the Offence or Trespas shall be done or committed, and not afterwards.

Limitation
of Actions.

LXXIII. And

Publick Act.

LXXIII. And be it further enacted, That this Act shall be deemed, adjudged, and taken to be a Publick Act; and shall be judicially taken Notice of as such, by all Judges, Justices, and other Persons, without specially pleading the same.

Commence-
ment and
Continuance
of the Act.

LXXIV. And be it enacted, That this Act shall take place and commence upon the Fourth *Monday* after passing the same; and shall continue in force for the Space of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

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