



ANNO QUARTO & QUINTO

# VICTORIÆ REGINÆ.

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*Cap. xcvi.*

An Act for further and more effectually repairing and maintaining certain Turnpike Roads in the Counties of *Roxburgh* and *Dumfries*.

[21st June 1841.]

**W**HEREAS an Act passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for more effectually repairing and maintaining certain Roads in the Counties of Dumfries and Roxburgh*: And whereas another Act was passed in the First and Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for amending and making more effectual the Laws concerning Turnpike Roads in Scotland*: And whereas, in pursuance of the said first-recited Act, the Trustees acting by virtue thereof have proceeded to put the same into execution, and have repaired and maintained the several Roads thereby authorized to be repaired and maintained, and considerable Sums of Money have been advanced upon the Credit of the Tolls authorized to be taken by the said Act, which Money still remains owing, together with an Arrear of Interest thereon; and such Money cannot be paid off, or the Interest thereof discharged, nor can the Roads mentioned and described in the said Act be effectually improved and kept in repair, unless further Powers are granted, and the Term of the said Act be further continued: And whereas it is

[Local.] 25 A expedient

1 G. 4. c. 74.

1 & 2 W. 4. c. 43.

First recited Act repealed, and this Act to be put in execution.

expedient that the said Act should be repealed, and that further and more effectual Powers should be granted for making, repairing, improving, and maintaining the several Roads therein and herein after mentioned and described; but the Purposes aforesaid 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 Queen'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of this Act the said recited Act of the First Year of the Reign of His Majesty King *George* the Fourth shall be repealed, and that this Act shall thereafter be put into execution during the Term and for the Purposes herein-after mentioned.

All Arrears of Toll and Monies due under said Act vested in the Trustees under this Act.

II. And be it enacted, That all Monies due to and all Property and all Rights of Action vested in the Trustees under the Act hereby repealed shall, immediately on the Commencement of this Act, be vested in the Trustees for executing this Act; and such last-mentioned Trustees may sue for and recover the same, and act in respect thereof as effectually as if the same had been vested in them under the said recited Act; and they shall be liable to all the Debts and Engagements to which the Trustees under the said Act were liable at the Repeal thereof.

Appointment of Trustees.

III. 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 Liferenter 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 *Roxburgh* or *Dumfries* at the Sum of One hundred Pounds *Scots* and upwards; and all and every the eldest Sons of such Proprietors or Liferenters; and One Guardian or Tutor or Curator or Trustee of every Minor, and of every fatuous or furious Person, possessed of the aforesaid Qualification; and the Commissioner or Chamberlain on the Estates of his Grace the Duke of *Buccleuch* and *Queensberry* in the District of *Liddisdale*, or in the Absence of such Commissioner or Chamberlain the Commissioner or Chamberlain on the Estates of the said Duke in the District of *Hawick* for the Time being; the Factor or Chamberlain for the Right Honourable Lord *Douglas* over his Lordship's Estates in the District of *Jedburgh* for the Time being; and the eldest Baillie, or in his Absence the second Baillie of *Hawick* for the Time being, shall be and they are hereby nominated and appointed Trustees for putting this Act into execution.

Qualification of certain Trustees.

IV. Provided always, That no such Guardian, Trustee, Tutor or Curator, Commissioner, Chamberlain, Factor 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

of Fifty Pounds Sterling, or possessed of a Personal Estate alone, or a Real and Personal Estate together, of the Amount or Value of Five hundred Pounds Sterling; 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.

V. And be it enacted, That no Commissioner, Chamberlain, or Factor, unless when otherwise duly qualified, shall be entitled to vote in Presence of his Constituent; and that no Person claiming as a Trustee under this Act shall have more than One Vote on any Pretence whatsoever, except the Preses of any Meeting, who shall, in case of an equal Number of Votes, in addition to his original Vote, have a casting Vote.

No Trustee to have more than One Vote.

VI. And be it enacted, That all Powers of this Act may be exercised by any Three or more of the Trustees present at any Meeting holden in pursuance of this Act; and no Business shall be transacted at any Meeting of the Trustees unless Three or more Trustees shall be present at such Meeting.

Quorum of Trustees.

VII. And be it enacted, That the said Trustees shall hold their First General Meeting under this Act at the Village of *Newcastletown* in the County of *Roxburgh* on the Fourth *Tuesday* after the passing of this Act, or as soon thereafter as conveniently may be, between the Hours of Ten of the Clock in the Forenoon and Four of the Clock in the Afternoon, and proceed to put this Act into execution; and a General Meeting of the Trustees shall be held on the Third *Tuesday* of *April* annually, at the Place and between the Hours aforesaid, unless some other Place shall be appointed by the said Trustees; and it shall be lawful for the Trustees present at such First or any subsequent Meeting from Time to Time to adjourn such Meeting to the same or any other Place within the said County of *Roxburgh*; and if at any such Meeting there shall not be Three Trustees present within One Hour after the Time appointed for such Meeting, then it shall be lawful for the Trustees present, or the major Part of them, or any One Trustee if only One be present, or the Clerk of the said Trustees in the Absence of any Trustee, to adjourn such Meeting to another Day, not earlier than Fourteen Days nor more distant than Thirty Days from and after such Adjournment; and in that Case Notice shall be given of the Day, Place, and Purpose of such adjourned Meeting once in any Newspaper published in the County of *Roxburgh* or *Dumfries* at least Ten Days before such adjourned Meeting.

First and other Meetings.

VIII. And be it enacted, That it shall be lawful for the said Trustees to hold Special Meetings, and any Two or more of the Trustees may call such Special Meeting, or may require the Clerk to call such Special Meeting to be held; but no such Meeting shall be held unless Ten Days Notice thereof shall be given.

Special Meetings.

IX. And

How Notices  
of Special  
Meetings are  
to be given.

IX. And be it enacted, That all Notices of any Special Meeting to be held under the Authority of this Act shall be advertised at least twice in some Newspaper published in the County of *Roxburgh* or *Dumfries* Ten Days at least previous to such Meeting; and every Notice shall be signed by the Clerk of the Trustees, or by any Two or more of the Trustees calling such Meeting, and shall specify the Time and Place of Meeting, and the Object thereof; and no Business shall be transacted at any Special Meeting except such as is stated in the Notice thereof.

Roads to  
which this  
Act are ap-  
plicable.

X. And be it enacted, That this Act shall be put in execution, in the first place, for the Purpose of more effectually improving, maintaining, and keeping in repair the following Turnpike Roads in the said first-recited Act mentioned and described; (*videlicet,*) the Road leading from the East End of *Cannoby Bridge* to the *Mireburn* in the Parish of *Cannoby* and County of *Dumfries*, and from thence by the Village of *Newcastletown*, *Hermitage Bridge*, *Dinlabyre*, and *Daston Ridge* to the Note of the Gate in the Parish of *Castletown* and County of *Roxburgh*; and the Road leading from *Hermitage Bridge* by *Milburnholm* to *Limekiln Edge* in the said Parish of *Castletown* and County of *Roxburgh*; and in the second place, if the said Trustees shall think it fit, at such Times and in such Manner as they shall determine, for the Purpose of more effectually making, improving, maintaining, and keeping in repair as Turnpike Roads the following Lines of Road, also mentioned and described in the said first-recited Act; (*videlicet,*) the Road from the said Village of *Newcastletown* in the said Parish of *Castletown*, by *Tinnishill* and *Middlemoss*, to the Village of *Langholm* in the Parish of *Langholm* and County of *Dumfries*; also the Line of Road from *Limekiln Edge* aforesaid to the Junction of the above-mentioned Road upon *Daston Ridge* lying in the said Parish of *Castletown* and County of *Roxburgh*; and also the Continuation of the Road from the Note of the Gate by *Woollee* to the Junction of the Turnpike Road leading from *Carterfell* to *Hawick*, and the Road from the said last-mentioned Turnpike Road near *Bonchester Bridge* to the Junction of the Turnpike Road leading from *Abbotrule* to *Jedburgh*, all in the Parishes of *Hobkirk*, *Southdean*, and *Bedrule*, and County of *Roxburgh*; also the Branch of Road from *Abbotrule Burn Bridge*, leading by *Fodderlie* and *Bedrule*, to the Road leading from the *Teviot Water* Turnpike Road by the *Dunion* to *Jedburgh*; as also the Continuation of the Road from *Limekiln Edge* to *Hawick*; and of building and maintaining Toll Houses and Toll Gates, and the necessary Bridges thereon, and generally for putting into execution all the Powers and Authorities by this Act given and granted respecting the said several Roads, and the Bridges thereon, in manner herein-after mentioned.

Present Tolls  
continued  
until Whit-  
sunday 1842.

XI. And be it enacted, That notwithstanding the Repeal of the said first-recited Act the several Tolls thereby granted and made payable shall continue to be paid at the Toll Gates or Toll Bars to be continued or erected on or on the Sides of the said Roads

Roads until the Term of *Whitsunday* in the Year One thousand eight hundred and forty-two, unless previously altered by the said Trustees.

XII. And be it enacted, That all Persons who have been employed or who shall have received any Tolls or other Money by virtue or in pursuance of the said first-recited Act hereby repealed, or who shall have in their Custody or Possession any Books, Accounts, Papers, Writings, or Things relating to the said Roads, shall account for, pay, and deliver over the same to the Trustees acting under the Authority of this Act, in like Manner as is directed and under the like Penalties as are imposed by the said recited Act of the First and Second Year of the Reign of His said late Majesty King *William* the Fourth, and this Act, or either of them, in respect of Persons receiving any Monies, or having the Possession of any Books, Writings, or other Things, by virtue of the said Act or this Act.

Officers under former Act to account.

XIII. And be it enacted, That the whole of the Tolls and Duties by this Act granted and imposed shall be charged with and made subject to the Payment of all Monies heretofore borrowed or advanced and now due or owing upon the Credit or on account of the said first-recited Act of the First Year of the Reign of His said Majesty King *George* the Fourth, or secured upon or made payable out of the Tolls and Duties thereby granted, or any Part thereof, and of all Interest due and to grow due thereon, as fully and effectually, to all Intents and Purposes, as if such Monies had been borrowed and become due on the Credit of this Act, or of the Tolls hereby authorized to be collected.

Tolls and Duties liable to Debts still owing.

XIV. And be it enacted, That it shall be lawful for the said Trustees to demand and take, or cause to be demanded and taken, at the several and respective Toll Gates or Toll Bars to be continued or erected as aforesaid, the following Tolls; (that is to say,)

Power to take Tolls.

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

For every Horse, Mule, Ox, or other Beast whatsoever, if more than Three in Number, drawing any Waggon, 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, 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, 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, Ten-pence; and so in proportion for any greater or less Number:

[Local.]

25 B

For

For every Carriage propelled or drawn by Steam or other Power than Animal Power, the Sum of Two Shillings :

Which said Tolls shall be taken before any Horse, Mule, Ass, Beast, or other Cattle, or Carriage whatsoever, shall be permitted to pass through any Toll Gate or Bar which shall be by virtue of this Act upon or across the said Roads, or on the Sides thereof.

Fractional Part of a Halfpenny in Toll.

XV. And be it enacted, That in all Cases in which there shall be a fractional Part of a Halfpenny in the Amount of the Tolls by this Act authorized to be collected the Sum of One Halfpenny shall be taken in lieu of such fractional Part.

Persons having paid Toll to return Toll-free.

XVI. And be it enacted, That all Horses and Cattle (except Horses or Cattle drawing any Stage Coach, Waggon, or other Stage Carriage), or Carriages, in respect whereof the Toll hereby authorized to be taken shall have been paid at any Toll Gate or Bar on any of the said Roads or on the Sides thereof, shall, upon a Ticket denoting such Payment being produced, be permitted, in returning through the same Toll Gate or Toll Bar, and in going and returning through such other Gate or Bar (if any) as the Ticket for such Payment shall free, to pass Toll-free the same Day, to be computed from Twelve of the Clock at Night to Twelve of the Clock the succeeding Night.

Weighing Engines to be erected.

XVII. And be it enacted, That the said Trustees may, if they find it necessary, cause Weighing Engines to be erected upon such Parts of the said Roads as they shall think fit, for weighing all Waggons, Carts, and other such Carriages which shall pass along the said Roads, and receive and take, over and above the Tolls and Duties hereby granted, the following Sums of Money as additional Toll for every Hundred Weight of One hundred and twelve Pounds to the Hundred Weight which any such Waggon, Cart, or other such Carriage, together with its Loading, shall weigh at any of the said Weighing Engines, over and above the Weight which such Waggon, Cart, or other such Carriage is allowed to weigh, as herein-after mentioned, without paying additional Toll; (that is to say,)

Additional Tolls on heavy Carriages.

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

For every One Hundred Weight of such Overweight above Two Hundred and not exceeding Five Hundred, the Sum of Six-pence :

For every One Hundred Weight of such Overweight above Five Hundred and not exceeding Ten Hundred, the Sum of Two Shillings and Sixpence :

For every One Hundred Weight of such Overweight above Ten Hundred and not exceeding Fifteen Hundred, the Sum of Five Shillings :

For every One Hundred Weight of such Overweight above Fifteen Hundred, the Sum of Seven Shillings and Sixpence :

And

And that before they respectively shall be permitted to pass through such Gate or Turnpike.

XVIII. And be it enacted, That every Waggon, Cart, or other such Carriage shall be allowed to pass without paying any additional Toll, provided the same, with its Loading, does not weigh more than the Weights following; (*videlicet,*) every Waggon, Cart, or other such Carriage, drawn by One Horse or other Beast of Draught, One Ton Five Hundred Weight; and drawn by Two Horses or other Beasts of Draught, One and a Half Ton; and drawn by Three Horses or other Beasts of Draught, One Ton Fifteen Hundred Weight; and drawn by Four Horses or other Beasts of Draught, Two Tons; and drawn by Five Horses or other Beasts of Draught, Two Tons Fifteen Hundred Weight; and drawn by Six Horses or other Beasts of Draught, Three Tons Five Hundred Weight; and drawn by Seven Horses or other Beasts of Draught, Three Tons Fifteen Hundred Weight; and drawn by Eight or more Horses or other Beasts of Draught, Four Tons Five Hundred Weight.

Weight of Carriages which shall be permitted to pass without paying additional Toll.

XIX. And be it enacted, That it shall be in the Power of the said Trustees, at any of their stated General Meetings assembled, to diminish the Tolls to such Extent as they may think fit, but so that the same shall in no Case be diminished below One Half of the Tolls hereby authorized to be levied on all Waggon, Carts, and other such Carriages with Two or more Wheels, provided the Fellies or Rollers of the Wheels are of such Breadth and Construction as the said Trustees may deem least calculated to injure the Roads; with Powers to the said Trustees, before granting such Diminution, to establish such Rules and Regulations as they may think proper touching the Weight of the Loading which such Waggon, Carts, or other such Carriages may be permitted to carry.

Tolls may be diminished on Waggon and Carts having Wheels of a certain Description.

XX. And be it enacted, That where any Drag Iron or other Instrument shall be affixed under the Bottom or Sole of the Wheel or Wheels of any Coach, Waggon, or other Carriage passing along the said Roads, to make the Passage of such Coach, Waggon, or Carriage more safe down steep Hills, every such Drag Iron or other Instrument shall be flat at the Bottom or Sole thereof, and shall not be of less Breadth than the Fellies of the Wheels under which the same shall be affixed, on pain of the Owner of every such Coach, Waggon, or other Carriage forfeiting any Sum not exceeding Ten Shillings at every Gate or Turnpike on the said Roads through which such Coach, Waggon, or other Carriage shall pass.

Regulating Drag Irons.

XXI. 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* and *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

Act not to prevent Statute Labour Conversion being applied to Roads in certain Cases.

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

Trustees  
may reduce  
the Tolls for  
Lime or  
Chalk for  
Manure.

XXII. And be it enacted, That it shall be lawful for the said Trustees, at any Meeting to be specially called for the Purpose, to make an Order from Time to Time that the Tolls payable by virtue of this Act for any Horse or Beast drawing any Waggon, Cart, or other Carriage laden only with Lime or Chalk for the Improvement of Land, or returning unladen or empty from having been so employed, shall be reduced to such other Tolls as the said Trustees shall at any such Meeting agree or determine; and after the making of any such Order such reduced Tolls only shall in respect of the Matters last mentioned be payable.

Application  
of Monies in  
regard to  
Roads  
already  
Turnpike.

XXIII. And be it enacted, That all Monies which shall be received by the said Trustees by virtue of this Act upon the Roads first herein-before described (after Payment of the Expences of obtaining and passing this Act in manner herein-after provided) shall be applied, in the first place, in paying and discharging any Interest which may from Time to Time be owing in respect of any Money which may have been borrowed on the Credit of the Tolls authorized to be taken by the said former Act hereby repealed; secondly, in defraying the Expences of improving, maintaining, and keeping in repair such first-mentioned Roads, and in putting this Act into execution with reference thereto; thirdly, in reducing, paying off, and discharging the several Principal Sums which have been borrowed on the Credit of the Tolls authorized to be taken by the said former Act hereby repealed.

Application  
of Monies in  
regard to  
Roads not  
yet made  
Turnpike.

XXIV. And be it enacted, That all Monies which shall be received by the said Trustees on or in respect of the several Lines of Road secondly herein-before described shall, after Payment of the Expences of obtaining and passing this Act in manner herein-after provided, be applied, in the first place, in making or rendering Turnpike, improving, maintaining, and keeping in repair, the said last-mentioned Lines of Road, and putting this Act into execution with reference to such Lines of Road; secondly, in paying and discharging any Interest which may from Time to Time become due and owing in respect to any Money which may hereafter be borrowed on the Credit of the Tolls to be collected on the said second-mentioned Lines of Road; and lastly, in reducing, paying off, and discharging



charging any Principal Sums of Money which may be due on the Credit of the Tolls to be taken on the said Lines of Road secondly herein-before described.

XXV. And be it enacted, That no more Money shall be expended upon any Road comprised in this Act than shall be collected on such Road, or borrowed on the Credit of the Tolls collected thereon. Limiting Expenditure on Roads.

XXVI. And be it enacted, That no Trustee, Clerk, or Treasurer, acting under the Authority of this Act, if not otherwise interested, shall be deemed incompetent to give Evidence, or shall be disqualified from giving Evidence in any Action, Suit, or other Proceeding brought by or against him in such his Capacity of Trustee, Clerk, or Treasurer, by reason of his being Pursuer or Defender in such Action, Suit, or Proceeding. Trustee, Clerk, or Treasurer competent Witnesses in Actions.

XXVII. And be it enacted, That nothing herein contained shall be deemed to exempt the Roads comprised in this Act from the Provisions of any general Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament. Roads not to be exempted from any general Act.

XXVIII. And be it further enacted, That the Expence of preparing, applying for, procuring, and passing this Act shall be paid out of the first Monies that shall be in or come to the Hands of the said Trustees by virtue of the said first-recited Act hereby repealed, or of this Act. Expence of this Act how to be paid.

XXIX. And be it enacted, That the said Trustees shall once in each Year cause to be prepared an Account in Abstract of the total Receipts and Expenditure of all Funds levied by virtue of this Act for the Year preceding, under the several distinct Heads of Receipts and Expenditure, with a Statement of the Balance of the said Account, duly attested and certified by the Clerk to the said Trustees, and shall cause a Copy of such annual Account to be transmitted, free of Charge, to the Sheriff Clerk of the said County of *Roxburgh*, on or before the Thirty-first Day of *January* in each Year, under a Penalty of Ten Pounds in case of Default, to be sued for and levied by summary Process at the Instance of any Person authorized by the said recited Act of the First and Second Year of the Reign of His late Majesty King *William* the Fourth to prosecute for Tolls and Penalties in the same Manner as Penalties are authorized by the said Act to be sued for, and be applied in the Manner in which Penalties not otherwise directed to be applied are thereby directed to be applied; and such Account shall be open at all reasonable Hours to the Inspection of the Public, upon Payment of One Shilling for such Inspection, or if written Extracts are required therefrom at the Rate of Sixpence for each Folio of Seventy-two Words. Trustees to render an annual Account.

Term of  
Act.

XXX. And be it enacted, That this Act shall commence from and after the passing thereof, and shall continue in force for the Term of Thirty-one Years, and from thence to the End of the Session of Parliament which shall then next follow.

Public Act.

XXXI. And be it enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such.

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