

ANNO QUARTO

GEORGII IV. REGIS.

CAP. XLIX.

An Act for regulating Turnpike Roads in that Part of *Great Britain* called *Scotland*.

[4th *July* 1823.]

WHEREAS it is expedient that the Laws now in force for the general Regulation of Turnpike Roads in that Part of *Great Britain* called *Scotland* should be consolidated, and that further Regulations should be made in regard to the same; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, an Act passed in the Parliament of *Scotland*, in the Year of our Lord One thousand six hundred and sixty-nine, intituled *Act for repairing Highwayes and Bridges*; and another Act passed in the Parliament of *Scotland*, in the Year of our Lord One thousand six hundred and seventy, intituled *Act concerning Highwayes*; and another Act passed in the Parliament of *Scotland*, in the Year of our Lord One thousand six hundred and eighty-six, intituled *Additional Act anent Highways and Bridges*; and an Act passed in the Fifth Year of the Reign of His Majesty King *George* the First, intituled *An Act for amending and making more effectual the Laws for repairing the Highways, Bridges, and Ferries in that Part of* Great Britain *called* Scotland; and an Act passed in the Eleventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for widening the Highways in that Part of* Great Britain *called* Scotland; and an Act passed

1669, c. 16.
1670, c. 9.
1686, c. 8.
5 G. 1. c. 30.
11 G. 3. c. 53.

passed in the Twelfth Year of the Reign of His late Majesty King
12 G. 3. c. 45. *George* the Third, intituled *An Act for the better Regulation of Carters, Carriages, and loaded Horses; and for removing Obstructions and Nuisances upon the Streets and Highways within that Part of* Great Britain *called* Scotland, so far as they relate to Turnpike
Recited Acts, so far as they relate to Turnpike Roads, repealed. Roads, shall be and the same are hereby repealed: Provided always, that the said recited Acts, notwithstanding hereof, shall remain in force as heretofore, as to all Roads not being Turnpike, to which they may relate.

Extending this Act to all Local Acts for making and repairing Turnpike Roads in Scotland. II. And whereas it is of great Importance that one uniform System should be adhered to in the Laws for regulating the Management and Maintenance of Turnpike Roads throughout that Part of *Great Britain* called *Scotland*; be it therefore enacted, That from and after the passing of this Act, all the Enactments, Provisions, Matters, and Things in this Act contained, shall extend to all Acts of Parliament now in force, and to all Acts of Parliament which shall hereafter be passed for making, widening, turning, amending, repairing, or maintaining any Turnpike Road in that Part of *Great Britain* called *Scotland* (save and except as to such Enactments, Provisions, Matters, and Things as shall be expressly varied, altered, or repealed by any such Act as shall be hereafter passed.)

Not to affect 47 G. 3. sess. 1. c. 11. III. Provided always, and be it further enacted, That nothing in this Act contained shall extend to repeal, alter, or affect the Enactments, Provisions, and Regulations contained in an Act passed in the First Session of the Forty-seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for continuing the Term and enlarging the Powers of Two Acts passed in the Thirtieth and Thirty-seventh Years of His present Majesty, for making and repairing certain Roads in the County of* Fife, *and for making and keeping in Repair several other Roads in the said County.*

Qualification of Trustees. IV. And be it further enacted, That the Qualification of Trustees for carrying into Execution the Powers and Provisions of this Act, and of all Local Turnpike Acts of Parliament which are now in force, or which shall hereafter be in force in *Scotland*, shall be such as are or shall be enacted and contained in each such Local Turnpike Act respectively: Provided always, that no Person shall hereafter act as a Trustee in the Execution of any Act of Parliament for making, repairing, or maintaining any Turnpike Road, unless (if so required by any Trustee then present) he hath taken, or shall, before he shall act as such Trustee, take and subscribe the Oath or Affirmation following, before any Two or more of the Trustees appointed or to be appointed by or in pursuance of such Act, who are hereby authorized and empowered to administer the same, in the Words or to the Effect following; (that is to say),

Trustees to take the following Oath.

Oath. 'I do swear, [*or*, being of the People called 'Quakers, do solemnly affirm], That I truly and *bond fide* am [*here 'insert the Qualification required by the Act, as the Case may be.*]
'So help me GOD.'
'[*or, being a Quaker, omit the Words* 'So help me GOD.']

V. Provided also, and be it further enacted, That no Person appointed a Trustee by any Act for making, repairing, or maintaining Turnpike Roads, shall be capable of acting as such in the Execution of any such Act, whilst he holds any Place or Employment of Profit under any such Act or this Act; or who shall be a Tacksman of the Tolls on any Turnpike Road, or of any Part thereof; and if any Person not being qualified as aforesaid, or being disqualified by any of the Causes aforesaid, or not having taken and subscribed the Oath herein-before mentioned, or being a Quaker, not having made and subscribed the Affirmation herein-before mentioned, if so required, shall nevertheless presume to act as a Trustee in the Execution of any such Act, (except in administering the Oath or Affirmation herein-before mentioned) every such Person shall for every such Offence forfeit and pay the Sum of Twenty Pounds to any Person who shall prosecute for the same, to be recovered, with Expences, by summary Action before the Sheriff or Stewart of the Shire or Stewartry in which such Road is situated, or in the Court of Session; and the Person so prosecuted shall prove that he is qualified as aforesaid, or otherwise shall pay the said Penalty, without any other Proof or Evidence on the Part of the Prosecutor than that such Person hath acted as a Trustee in the Execution of any Act for making, repairing, or maintaining Turnpike Roads; provided nevertheless, that no Act or Proceeding touching the Execution of any such Act, which shall be done or performed by such unqualified or disqualified Person, previously to his being convicted of the Offence before mentioned, shall be thereby impeached or rendered nugatory; but all such Proceedings shall be as valid and effectual as if such Person had been duly qualified.

Trustees not to act where interested, &c.

Persons acting not being qualified to forfeit 20*l*.

VI. And be it further enacted, That no Trustee appointed under any Turnpike Act, who is in the Commission of the Peace, shall be disqualified from acting as a Justice of the Peace in the Execution of any such Act, by reason of his being such Trustee.

Trustees may act as Justices.

VII. And be it further enacted, That no Lender of Money upon the Credit of the Tolls, or Assignee of any such Lender, nor any Person receiving Interest out of Tolls for any such Money lent, shall on that account only be deemed unqualified to act as a Trustee in the Execution of any such Act.

Lenders of Money not disqualified.

VIII. And be it further enacted, That the Trustees of Turnpike Roads, having met under Authority of an Act of Parliament by which they are appointed, may from Time to Time adjourn to meet at such Place and at such Time as the said Trustees, or the major Part of them present at any Meeeting shall appoint, and at all their several Meetings the Trustees shall pay and defray their own Expences; and all Orders and Determinations of the Trustees in the Execution of any such Act, shall be made at Meetings to be held in pursuance thereof, and not otherwise (except in the Cases hereby otherwise particularly provided for), and that no Order or Determination shall be made, unless the major Part of the Trustees present shall concur therein; and that all Acts, Orders, and Proceedings of the Trustees relating to any such Act, and all the Powers and Authorities hereby

Meetings of Trustees.

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in them vested generally, shall be exercised by the major Part of the Trustees who shall be present at the respective Meetings to be held by virtue of any such Act, the whole Number present not being less than the Number directed by the Act under which such Trustees shall be appointed to be present to carry the Act into Execution; and that a Preses shall, in the first Place, be appointed at every Meeting to be held by virtue of any Turnpike Act, or of this Act, who, in case of an equal Number of Votes (including the Vote of the Preses), shall have the casting Vote; and that no Order or Determination at any Meeting of the said Trustees once made, agreed upon, or entered into, shall be revoked or altered at any subsequent Meeting, unless Notice of the Intention to propose such Revocation or Alteration shall have been given at a previous Meeting holden for the same Road, and entered in the Book of Proceedings of such Meeting, and also by Two several Advertisements in some Newspaper usually circulated in the Shire or Stewartry in which such Road is situated, Ten Days at least previous to such subsequent Meeting, or by affixing such Notice for Two consecutive *Sundays* on the Church Doors of the Parish or Parishes within which such Road is situated, and on all the Toll Bars then erected upon such Road, Fourteen Days at least before such Meeting, of which Notice having been duly given, a Certificate by the Precenter or Toll-gatherer shall be sufficient Evidence.

No Order to be revoked unless Notice given.

Two Trustees or the Clerk may call Meetings.

IX. And be it further enacted, That it shall be lawful for any Two Trustees, or for the Clerk of the Trustees of any Turnpike Road, to call a General Meeting of the Trustees of such Road upon the Requisition in Writing of any Two Trustees, in which Requisition shall be stated the Purpose for which such Meeting is called; and the Notice for calling such Meeting, in which shall be stated the Purpose thereof, shall be published Two several Times in some Newspaper usually circulated in the Shire or Stewartry in which the said Road is situated, or by affixing the same on the Toll Bars of such Road, at least Ten Days before such Meeting.

Power to name Committees.

X. And be it further enacted, That the Trustees acting under any Turnpike Act shall have Power at any General Meeting to divide the Road comprised in such Act into Districts, to name Committees of their Number, being qualified to act as Trustees under this Act and such Turnpike Act, for the more immediate Direction and Management of particular Parts of such Roads, and to give such Committees (whereof Three to be a Quorum) such Instructions and such Powers as they shall from Time to Time think fit and expedient.

Power to appoint Clerks, Collectors, Treasurers, &c.

XI. And be it further enacted, That it shall be lawful for the Trustees acting under any Turnpike Act, at any General Meeting, to appoint a Clerk and Treasurer, and also to appoint, if they shall think fit, a Superintendent for all or each or any Part of the Roads within their Trust, with remunerating Salaries to such Clerk, Treasurer, and Superintendent, and to apportion such Salaries among the several different Roads within their Trusts; and that they shall also have Power in their District and Committee Meetings to appoint Clerks,

Clerks, Collectors, Treasurers, Surveyors and other Officers, with reasonable Salaries for their Trouble.

Treasurer to give Security.

XII. Provided always, and be it further enacted, That the Trustees of every Turnpike Road shall (unless where all the Monies collected on any such Turnpike Road shall be lodged, in an Account to be opened in the Name of the Trustees thereof, with the Bank of *Scotland*, the Royal Bank of *Scotland*, or the Bank of the *British* Linen Company of *Scotland*, or any of the Branches of the said Banks) take sufficient Security from every Treasurer to be appointed by them for the Purposes of any Act of Parliament for making, repairing, or maintaining any Turnpike Road, for the due and faithful Execution of his Office, before such Treasurer shall enter upon his Office, and if they shall so think proper, shall also take such Security from any other Officer to be appointed under or by virtue of this or such other Act, and shall limit the Sum beyond which he shall not retain any Money belonging to the Trustees.

Office of Treasurer and Clerk to be kept separate.

XIII. And be it further enacted, That it shall not hereafter be lawful for any Trustees or Commissioners to continue or appoint the Person who has been or may be appointed to act as their Clerk in the Execution of any Act or Acts of Parliament for repairing and maintaining any Turnpike Road, or the Partner of any such Clerk, to be or to hold the Offices of Clerk and Treasurer for the Purposes of such Act or Acts, or to continue or appoint the Person who has been or may be appointed Treasurer, or the Partner of any such Treasurer, to be the Treasurer and Clerk for the Purposes of such Act or Acts; and if any Person shall act in both the Capacities of Clerk and Treasurer, or if any Person being the Partner of any such Clerk shall act as Treasurer, or being the Partner of such Treasurer shall act as Clerk, in the Execution of this or any other Act, every Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds, to any Person or Persons who shall prosecute for the same, to be recovered with Expences by summary Action in the Court of Session.

Orders and Proceedings to be entered in a Book.

XIV. And be it further enacted, That all Orders and Proceedings of the Trustees of every Turnpike Road, together with the Names of the Trustees present at every Meeting, shall be entered in a Book to be kept by the Clerk to the said Trustees for that Purpose, and be signed by the Preses of the Meeting at which such Orders or Proceedings shall be from Time to Time made or had; and that such Book shall be opened at all seasonable Times to the Inspection of any of the Trustees without Fee or Reward; and Extracts of such Proceedings, signed by the Clerk, shall bear Faith and be received in Evidence in the same Manner as Extracts of Proceedings of Courts of Law in *Scotland*.

Books of Account to be kept, and to be open to the Inspection of Trustees and Creditors and others.

XV. And be it further enacted, That the Trustees of every Turnpike Road shall direct a Book to be provided and kept by their Clerk for the Time being, in which Book such Clerk shall enter true and regular Accounts of all Sums of Money received and expended on account of the Road for which such Clerk shall act, and of the several Articles, Matters, and Things for which such Sums of Money shall

shall have been disbursed; and which Book shall at all seasonable Times be open to the Inspection of the said Trustees, or any Creditor on the Tolls collected and taken on the Road to which such Books relate, or any Person who shall be liable to pay any of the Tolls authorized to be taken on such Roads respectively; and the said Trustees and Creditors and other Persons, or any of them, may take Copies of the said Book or any Part thereof, without such Trustee or Creditor paying any thing for the same; and the said Book shall be produced by the said Clerk at all Meetings of the said Trustees; and in case any Clerk shall not permit or shall refuse to permit the said Trustees, Creditor, or such other Person to inspect any such Book, or to take such Copies as aforesaid, or in case such Clerk shall refuse or neglect to produce such Book at any Meeting of the said Trustees, such Clerk shall forfeit and pay any Sum of Money not exceeding Five Pounds, to be levied and applied in the same Manner as other Penalties are hereby directed to be recovered and applied; provided that every Person not being a Trustee or Creditor shall pay the Sum of Five Shillings to the Clerk for each such Inspection.

Clerk refusing Inspection, &c., to forfeit 5*l.*;

but Persons not being Trustees or Creditors, shall pay 5*s.* for each Inspection.

XVI. And be it further enacted, That the Trustees of every Turnpike Road may sue and be sued in the Name of their Clerk or Treasurer for the Time being; and that no Action to be brought or commenced by or against any Trustees of any Turnpike Road, by virtue of this or any other Act of Parliament, in the Name of their Clerk or Treasurer, shall cease by the Death or Removal of such Clerk or Treasurer, or by the Act of such Clerk or Treasurer, without the Consent of the said Trustees; but that the Clerk or Treasurer for the Time to the said Trustees shall always be deemed to be the Pursuer or Defender (as the Case may be) in every such Action or Process: Provided always, that all Expences of Process or Proceedings so incurred by such Clerk or Treasurer shall be reimbursed and paid out of the Trust Funds of the Turnpike Road for which he shall act.

Trustees may sue and be sued in the Name of their Clerk, &c.

XVII. And be it further enacted, That all such Officers as shall be appointed by any Trustees of any Turnpike Road shall, as often as required by the Trustees, render and give to them, or to such Person as they shall for that Purpose appoint, a true, exact, and perfect Account in Writing under their respective Hands, with the proper Vouchers, of all Monies which they shall respectively, to the Time of rendering such Accounts, have received, paid, and disbursed by virtue of this or any Turnpike Act, or for or on account or by reason of their respective Offices; and in case any Money so received by any such Officer shall remain in his Hands, the same shall be paid to the Trustees, or to such Person as they shall in Writing under their Hands authorize and empower to receive the same; and if any such Officer shall refuse or wilfully neglect to render and give such Account, or to produce and deliver up such Vouchers, or shall for the Space of Fourteen Days after being thereunto required by the said Trustees, so refuse or neglect to render and give up to them, or to such Person as they shall direct or appoint, all Books, Papers, Writings, Tools, Matters, and Things in his Hands, Custody, or Power

Officers to account.

Proceedings on Neglect of Officers.

Power belonging or relating to the Road for which he shall act, then it shall be lawful for the Sheriff or Stewart or Justices of the Peace in Quarter Sessions assembled, for the Shire or Stewartry where the Officer so refusing or neglecting shall be or reside, upon Complaint made by or on Behalf of the said Trustees, to hear and determine such Complaint in a summary Way, and to cause such Money as shall appear to be due and unpaid to be levied by Poinding and Sale of the Goods and Effects of such Officer, rendering to him the Surplus (if any) of the Money remaining due, after deducting the Expences of such Poinding and Sale; and if sufficient Goods and Effects cannot be found, or if it shall appear to any such Sheriff, Stewart, or Justices assembled as aforesaid, that any such Officer shall have wilfully refused to give such Account, or to deliver up all or any Books, Papers, Writings, Tools, Matters, and Things in his Custody or Power, relating to the Execution of his Office, such Sheriff, Stewart, or Justices shall commit him to the House of Correction or Common Gaol of the Shire or Stewartry where such Offender shall be or reside, there to remain until he shall make and give a true and perfect Account, and verify the same in Manner aforesaid, and shall produce and deliver up the Vouchers relating thereto, and shall have paid the Money (if any) remaining in his Hands as aforesaid, according to the Direction of the Trustees, or shall have compounded with the said Trustees for such Money, and paid such Composition according to their Direction, which Composition all Trustees are hereby empowered to make and receive, or until he shall deliver up such Books, Papers, and Writings, Tools, Matters, and Things as aforesaid, or have given Satisfaction to the Trustees concerning the same; but no such Officer, who shall be committed on account of his not having sufficient Goods and Effects as aforesaid, shall be detained in Prison by virtue of this Act for any longer Time than Six Calendar Months.

Accounts to be annually audited.

XVIII. And be it further enacted, That the Trustees of every Turnpike Road shall, and they are hereby required, either by themselves or some Committee of their Number, annually to examine the Vouchers, and audit and settle the Accounts of the respective Clerks and Treasurers appointed by them, and to examine into the State of the Revenues and Debts, distinguishing Bonded from Floating Debts, of the several Roads for which they shall act as Trustees, and to make up Abstracts of such Accounts, which Abstracts shall contain a Statement of the Revenues and Debts of the Trust, and also an Account of all Bonds given by the Trustees, and the Dates thereof; which said Abstracts of Accounts and Statements shall be signed by not less than Three of the Trustees.

Persons holding Places of Profit not to sell Wine, &c.

XIX. And be it further enacted, That no Tacksman of Tolls, or Toll-gatherer, or other Person, except in the Cases hereinafter mentioned, who shall hold any Place of Profit under any Trustees of any Turnpike Road, shall sell any Wine, Ale, Spirituous Liquors or Provisions by Retail: Provided always, that where any Toll Bar is situated in any remote Part of the Country, and the Trustees of the Turnpike Road on which such Toll Bar is placed shall represent to the Justices of the Peace for the Shire or Stewartry in their Quarter Sessions assembled,

But Justices may grant a Licence in certain Cases.

sembled, that it will be convenient to Travellers using such Road, that such Tacksman of the Tolls or Toll-gatherer, or other Person stationed at such Toll Bar, should be licensed to sell Provisions and Ale and Spirituous Liquors by Retail, it shall be lawful for the said Justices to grant to the Tacksman, Toll-gatherer, or other Person stationed at such Toll Bar, a Licence, in the Form granted by Justices to Publicans; and such Tacksman, Toll-gatherer, or other Person may thereon receive the other Licences granted to Publicans by the Commissioners of Excise, which said Excise Licences the said Commissioners, or the Person by them authorized to grant the same, are hereby empowered to grant; any thing in an Act passed in the Thirty-third Year of the Reign of His late Majesty, intituled *An Act for repealing the Duties on Coals, Culm, and Cinders brought or carried Coastwise into* Scotland, *and for granting other Duties on Licences to sell certain distilled Spirituous Liquors in lieu thereof*, or in any other Act of Parliament to the contrary notwithstanding; and after obtaining such Licences, it shall be lawful for such Tacksman or Toll-gatherer, or other Person to whom the same shall be granted, to hold such Place of Profit as Tacksman or Toll-gatherer, and at the same Time to exercise the Trade of a Victualler at such Toll House, and to sell by Retail the Articles specified in such Licences, for the Time for which such Licences shall be granted; and every such Tacksman or Toll-gatherer, or other Person so obtaining such Licences, shall be subject and liable to such and the like Pains, Penalties and Forfeitures, Rules, Regulations, and Restrictions, as any other Person licensed to deal in Ale or other Spirituous Liquors is or may be subject and liable to by Law.

33 G. 3. c. 69.

Trustees may accept of Subscriptions for making particular Parts of any of the Roads.

XX. And be it further enacted, That it shall be lawful for the Trustees of Turnpike Roads to accept Subscriptions for such Sum of Money as may be requisite for the making or maintaining any particular Part of the said Roads, and for securing the Repayment thereof, with Interest, to assign the Tolls authorized to be levied on any of the said Roads; and that it shall also be lawful for the said Trustees to contract and agree with the Person subscribing Money as aforesaid, for making or maintaining the said Roads, or any particular Part thereof as aforesaid, to apply the same in making and maintaining such Parts of such Roads; and they are hereby required to lay out and apply the Money so lent for that express Purpose accordingly.

Payment of Subscriptions to be enforced.

XXI. And be it further enacted, That if any Person who has subscribed or shall subscribe towards the making and maintaining the Roads by any Act intended to be made and repaired, shall, after Forty Days Notice given by any Person authorized by the said Trustees to receive and recover the Subscription Money, neglect or refuse to pay the Sum by him or her subscribed, to the Person so authorized, it shall be lawful to such Person, and he is hereby required to sue for and recover the said Subscription Money, in any Court competent in *Scotland*.

Power to borrow Money.

XXII. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, to borrow and take up at Interest, on

the Credit of the Tolls arising on such Road, such Sum of Money as they shall from Time to Time respectively think proper, and to assign the Tolls on such Road, or any Part or Parts thereof, (the Expences of which Assignation to be paid out of the Tolls) as a Security to any Person, or his Trustees, who shall advance such Sum of Money; which Assignations shall be in the Words or to the Effect following; (that is to say),

'BY virtue of an Act passed in the Year of the Reign of intituled [*here set forth the Title of the Act or Acts*], We, a Quorum of the Trustees for executing the said Act [*or* Acts] in Consideration of the Sum of Sterling advanced and paid to the Treasurer of the said Trustees, do hereby grant and assign unto *A. B.* and his Executors and Assignees, [*here specify the Matter assigned*], to be had and holden from this Day of in the Year of our Lord for and during the Residue of the Term for which the said Tolls are granted by the said Act, unless the said Sum of with Interest after the Rate of *per Centum per Annum*, shall be sooner paid and discharged.'

And Copies of such Assignations shall be entered by the Clerk to the said Trustees in the said Book of Orders and Proceedings; and it shall be lawful for all Persons respectively, to whom any Assignation of Tolls shall be made as aforesaid, or who shall be from Time to Time entitled to the Money thereby secured, to transfer, by Indorsation on such Assignation, his, her, or their Right and Interest in and to such Assignation of Tolls, and the Principal Money and Interest thereby secured, to any other Person whomsoever; and such Assignation, with Notice to the Clerk of the said Trustees, and Entry thereof in their Books of Proceedings, shall be equivalent to and have all the Effects of an intimated Assignation as affording a Preference; and every Indorsee may in like Manner indorse the same; and such Indorsation, with Notice thereof, entered as aforesaid, shall have all the Effects of an intimated Assignation, and so *toties quoties*; and all Persons to whom any such Assignation or Indorsation shall be made as aforesaid, shall, in proportion to the Sum of Money thereby secured, be Creditors on the Tolls by such Act granted, in equal Degree one with another, or in such Order as shall be agreed upon and stipulated by the said Trustees at the Time of the Advance of their respective Shares.

Trustees may borrow Money on Annuity.

XXIII. And be it further enacted, That it shall also be lawful for the Trustees of every Turnpike Road to borrow on Liferent Annuity, and to assign the Toll Dues leviable on the same to the Lender of the Money, for and during the Residue of the Term for which the said Toll Dues are granted, such Sums as they shall from Time to Time think proper; and it shall be lawful for the Grantee of such Annuity to transfer the same in like Manner by Indorsation, which, with Notice to the Clerk, and Entry in the Books of the Trustees, shall be equivalent to an intimated Assignation as affording a Preference; and that such Indorsee shall have also Power to transfer in like Manner such Annuity, and so *toties quoties* during the Life of the Grantee thereof; and that the Person claiming the Payment of the

same shall be at all Times bound, if so required, to produce satisfactory Proof of the said Grantee having been alive up to the Date of such Claim: Provided always, that it shall not be lawful for the Trustees to give more than Ten *per Centum* on any Sum of Money so to be borrowed by the said Trustees on Annuity, or to grant any such Annuity on any Life under Fifty.

Not more than 10 per Cent. to be given. No Life under 50.

Trustees not personally liable.

XXIV. And be it enacted, That the said Trustees shall not be held or adjudged to have rendered themselves personally liable for the Repayment of any Money borrowed, or Interest thereof, by reason of having signed the said Securities, but which Securities are to be held and considered as granted upon the sole Credit and Security of the Tolls; nor shall any Trustee or Subscriber be held personally liable upon any Pretext for Payment of any Sum which he shall not have bound himself to pay personally as an Individual, independent of his Office as a Trustee under any Turnpike Act of Parliament.

Proprietors under Entail may burden their Estates.

XXV. And be it further enacted, That it shall and may be lawful for any Proprietor or Heir of Entail in Possession of any entailed Estate, or the Tutor or Curator of such Proprietor or Heir of Entail, who may be desirous of advancing or lending any Sum or Sums of Money for the Purposes of making or maintaining any Turnpike Road, or building any Bridge on the same, to be made or built subsequent to the passing of this Act, either to bind himself personally as a Trustee of such Turnpike Road, and also to bind the succeeding Heirs of Entail for the Repayment of any such Sum or Sums, to any Person or Persons who may advance the same to the Trustees of such Turnpike Road; or to advance such Sum or Sums, and to render the same a Burden upon the said entailed Estate and the succeeding Heirs of Entail; or, having advanced such Sum or Sums, to borrow the like Sum or Sums, and to bind himself or herself, and the said Estate, and the Heirs of Entail succeeding to him or her, for the same; and all Bonds and Obligations for Money so to be advanced or borrowed and applied, shall be held to bind such Proprietors in Cases where they have personally bound themselves, and also the Heirs of Entail in such Estates, for the Repayment of such Money; and such Bonds and Obligations shall be valid and effectual against the Granters of the same, and also against the Heirs of Entail succeeding to them in such entailed Estates, and such Sums shall be and continue to be a real Burden on such Estates till repaid out of the Tolls and Duties levied on such Turnpike Road: Provided always, that the Share or Proportion of such Sum or Sums of Money to be so advanced or borrowed affecting such succeeding Heirs of Entail, shall not exceed One Year's free Rent of the entailed Lands of such Proprietor, situated in each Parish respectively through which any such Turnpike Road or any Part thereof shall run, or in which any such Bridge or any Part thereof shall be built; and that the Heir of Entail in Possession of such entailed Estates shall be obliged to keep down the Interest of such Sum or Sums of Money so advanced or borrowed, but it shall not be lawful to the Creditor or Creditors in right of any such Debt, to adjudge or otherwise evict the entailed Estate for Payment thereof or any Part thereof; provided also, that it shall and

may be competent to such Creditor or Creditors to prosecute such Remedy or Remedies against the Rents thereof as are given and allowed by the Law of *Scotland* to heritable Creditors.

Proprietors of entailed Estates may renounce Damages.

XXVI. And be it further enacted, That it shall be in the Power of Proprietors of entailed Estates, and of all Trustees, Tutors and Curators of any Person under any legal Disability or Incapacity, to give up and renounce every Claim of Damage or otherwise competent to them, for such Ground and Materials as any Turnpike Road may occupy or require on their respective Properties, and that such Renunciation shall be equally binding on the Heirs of such Persons.

Penalty on taking off Horses to avoid Payment of Toll.

XXVII. And be it further enacted, That if any Person shall take off or cause to be taken off any Horse or other Beast of Draught from any Coach, Chaise, Waggon, Cart, or other Carriage, at or before the same shall come to any Toll Bar, and after having passed such Toll Bar shall add or put on such Horse or other Beast of Draught to such Coach, Chaise, Waggon, or other Carriage, with Intent to avoid any Toll payable or Penalty imposed by this or any Turnpike Act of Parliament, every Person so offending, and being convicted thereof before the Sheriff or Stewart, or any Justice of the Peace for the Shire or Stewartry where the Offence shall be committed, upon the Oath of any credible Witness or other competent Evidence, shall forfeit and pay any Sum not exceeding Forty Shillings for each Offence.

Power to erect Weighing Machines.

XXVIII. And be it further enacted, That it shall be lawful for any Turnpike Trustees to erect Weighing Machines on any convenient Part of any Turnpike Road, so as not to interrupt the travelling along the same; and to direct all Waggons, Carts, or other Carriages carrying any Load, and which shall come within One hundred Yards of the said Machine, to be weighed thereat, together with the Loading thereof.

Penalty on unloading Goods, &c. to evade Toll.

XXIX. And be it further enacted, That if any Person shall unload or cause to be unladen any Goods, Wares or Merchandize, from any Horse or other Beast of Burden, Waggon, Cart or other Carriage, at or before the same shall come to any Toll Bar or Weighing Engine erected in pursuance of any Turnpike Act or of this Act, or shall load or lay upon such Horse or other Beast of Burden, Waggon, Cart or Carriage, after the same shall have passed any such Toll Bar or Weighing Engine, any Goods, Wares or Merchandize taken or unladen from any Horse or other Beast of Burden, Waggon, Cart or other Carriage, belonging to or hired or borrowed by any Person, in order to avoid the Payment of Tolls payable for Overweight; every Person so offending as aforesaid, and being thereof lawfully convicted before the Sheriff or Stewart or any Justice of the Peace for the Shire or Stewartry where the Offence shall be committed, upon the Oath of any credible Witness, or other competent Evidence, shall forfeit and pay a Sum not exceeding Forty Shillings for each Offence.

XXX. And

Duty of Tollkeeper as to weighing.

XXX. And be it further enacted, That the Keeper of every Toll Bar where any Weighing Engine shall be erected, or any other Person appointed by the Trustees of any Turnpike Road to the Care of such Weighing Engine, shall weigh all such Waggons, Carts, or other such Carriages which shall pass loaded through such Bars respectively, and which he shall believe to carry greater Weights than are allowed to pass without paying additional Toll; and if any Tollkeeper, or Person so appointed, shall knowingly permit any such Waggon, Cart, or other such Carriage to pass through any such Toll Bar with greater Weights than are allowed by any Act of Parliament to be carried without Payment of additional Toll on the Road on which such Bar or Weighing Engine shall be placed, without weighing the same, and receiving such additional Tolls as aforesaid, he shall for every such Offence forfeit a Sum not exceeding Five Pounds; and if the Owner or Driver of any Waggon or Cart shall refuse to allow the same to be weighed, or shall resist any Tollkeeper or Toll-gatherer in weighing the same, every Owner or Driver so offending shall forfeit and pay a Sum not exceeding Five Pounds.

Penalty on Tollkeeper neglecting to weigh, &c. and on Drivers of Waggons resisting the weighing, &c.

Trustees, &c. may cause Carriages to be weighed.

XXXI. And be it further enacted, That it shall be lawful for any Trustee or Surveyor of any Turnpike Road, if he shall suspect any such Connivance or Neglect as aforesaid, to cause any Waggon, Cart, or other Carriage which shall have passed through any Toll Bar where any Weighing Engine shall be erected, and shall not have passed above Two hundred Yards beyond such Toll Bar, to return to such Weighing Engine, and be there weighed with the Loading which passed through such Toll Bar, in the Presence of such Trustee or Surveyor, upon requiring the Driver thereof to drive such Carriage back to such Weighing Engine, and upon paying or tendering to him the Sum of One Shilling for so doing, which shall be returned to the Person paying the same if upon weighing such Carriage and the Loading thereof it shall be found above the Weight allowed to be carried on such Carriage without Payment of additional Toll; and if the Driver of any such Carriage, being so requested to return with his Carriage to such Weighing Engine, shall neglect or refuse so to do, he shall forfeit a Sum not exceeding Forty Shillings; and it shall be lawful for any Peace Officer or any other Person being then present, upon such Neglect or Refusal, to drive and take such Carriage back to such Weighing Engine, in order to be weighed as aforesaid.

Where Turnpike Roads under different Trusts meet, Trustees may fix on a Place for erecting a Weighing Engine.

XXXII. Provided also, and be it further enacted, That when Two or more Turnpike Roads meet at or near the same Place, it shall be lawful for the Trustees of such Turnpike Roads respectively, at a Meeting to be held for that Purpose, to fix upon some convenient Place to erect a Weighing Engine upon, which will accommodate all such Turnpike Roads, and by Agreement amongst themselves at such Meeting to proportion the Expences which may attend the making, erecting, maintaining, and keeping in repair such Weighing Engine, and likewise to proportion the Money arising from Forfeitures to be incurred for Overweight at such Weighing Engine amongst all such Turnpike Roads, in such manner as to them shall appear just and reasonable.

XXXIII. And

XXXIII. And be it further enacted, That if the Owner or Driver of any Waggon, Cart, or other Carriage, travelling on any Turnpike Road where any Weighing Engine is erected, shall drive or turn out of the same, in order to avoid having the same weighed, every such Owner or Driver, convicted of such Offence before the Sheriff or Stewart, or any Justice of the Peace for the Shire or Stewartry where such Offence shall be committed, upon the Oath of any credible Witness, or other competent Evidence, shall forfeit, if he be the Owner, any Sum not exceeding Five Pounds, and if he be the Driver and not the Owner, any Sum not exceeding Forty Shillings, upon Conviction for every such Offence. Penalty on turning out of the Way to avoid having Carriage weighed.

XXXIV. And be it further enacted, That where any Carriage whatsoever, with Four Wheels, shall pass through any Toll Bar affixed to any Waggon or Cart, it shall be liable to the same Toll as if it had passed through drawn by Two Horses; and in case any Carriage whatsoever, with Two Wheels only, shall pass through any Toll Bar so affixed to any Waggon or Cart as aforesaid, it shall be liable to the same Toll as it would have been if passing through and drawn by One Horse only; and where any Horse shall be fastened to, but not used in drawing any Waggon, Cart, or other Carriage, such Horse shall not be liable to a higher Toll than a single Horse laden or unladen, as the Case may be. Tolls upon Carriages affixed to others.

XXXV. And be it further enacted, That no Toll shall be demanded or taken on any Turnpike Road for any Horses or Carriages attending His Majesty or any of the Royal Family, or returning therefrom. Exempting Royal Family from Tolls.

XXXVI. And be it further enacted, That no Toll shall be demanded or taken at any Toll Bar from any Person for any Horse or other Beast of Draught, or for any Waggon, Cart, or other Carriage, employed in carrying or conveying, or going empty to fetch, carry, or convey, or returning empty from carrying or conveying, having been employed only in carrying or conveying any Materials for making or maintaining any Turnpike Road or Highway, or for building, rebuilding, or repairing any Bridge or Toll House on any Turnpike Road or Highway; or for any Horse or other Beast of Draught, or Carriage employed in carrying or conveying, having been employed only in carrying or conveying on the same Day, on the Turnpike Road on which such Gate is placed, any Ploughs, Harrows, or other Implements of Husbandry, (unless laden also with some other Thing not hereby exempted from Toll), or any Hay, Straw, or Dung, Fodder for Cattle, and Corn in the Straw, or other Produce of such Farm, from one Part of any Farm to another; or for any Horses or other Beasts of Husbandry going to or returning from Plough or Harrow, or to or from Pasture or Watering Place, or going to be or returning from being shoed or farried at their usual Smithy; or from any Person going to or returning from his, her, or their usual Place of Religious Worship tolerated by Law, on *Sundays*, or on any Day on which Divine Service is by Authority ordered to be celebrated; nor from any Clergyman going to or returning from visiting any sick Parishioner, or on other his parochial Duty within his Parish; nor shall any Toll be exacted within

Exemptions from Tolls: Materials for Roads and Bridges.

Implements of Husbandry, and Produce, removing from One Part of a Farm to another.

Horses going to or from ploughing, &c.

Going to Church, &c.

Clergymen.

Funerals.

within the Parish from any Person attending or returning from having attended the Funeral of any Person who shall die and be buried within the Parish, or for any Horse or other Beast of Draught, Waggon, Cart, or other Carriage, employed only in carrying or conveying Criminals or Vagrants sent by Warrants or legal Passes, or returning empty after having been so employed; or for any Horse or other Beast of Draught or Burden, or Carriage of whatever Description, employed or to be employed in conveying 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, except in so far as such Horse or other Beast of Draught or Carriage are specially made liable to the Payment of Tolls and Duties by virtue of an Act made in the Fifty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to repeal the Exemption from Toll granted for or in respect of Carriages with more than Two Wheels carrying the Mail in* Scotland; *and for granting a Rate for Postage as an Indemnity for the Loss which may arise to the Revenue of the Post Office from the Payment of such Tolls*; nor shall any Toll be demanded or taken for the Horse of any Officers or Soldiers on their March or on Duty, or for any Horse or other Beast, or any Waggon, Cart, or other Carriage, employed in carrying or conveying, or returning empty from carrying or conveying, having been employed only in carrying or conveying the Arms or Baggage of any such Officers or Soldiers, or employed in carrying or conveying, or returning empty from carrying or conveying, having been employed only in carrying or conveying any sick, wounded, or disabled Officers or Soldiers; or for any Waggon, Cart, or other Carriage whatsoever, nor for any Horse or other Beast of Draught drawing the same, employed in conveying any Ordnance, or Barrack, or Commissariat, or other Public Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces, or returning empty from having been so employed; or for any Carriage conveying Volunteer Infantry, or for any Horse furnished by or for any Person belonging to any Corps of Yeomanry or Volunteer Cavalry or Infantry, and rode by him in going to or returning from any Place appointed for and on the Days of Exercise, Inspection, or Review, or on other Public Duty, provided that such Person shall be dressed in the Uniform of his Corps, and shall have his Arms, Furniture, and Accoutrements according to the Regulations of such Corps at the Time of claiming the Exemption; or for any Horses or Carriages which shall only cross any Turnpike Road, or shall not pass above One hundred Yards thereon: Provided always, that if any Person shall, by any fraudulent or collusive Means whatsoever, claim or take the Benefit of any of the Exemptions aforesaid, not being entitled to the same, every such Person shall forfeit and pay a Sum not exceeding *Five Pounds*, which shall be applied to the Use of such Road; and in all Cases the Proof of Exemption shall be upon the Person claiming the same: Provided also, that nothing herein contained shall affect the Exemptions in any Lease of Tolls executed under any Local Act, prior to the passing of this Act, in such Cases where Tolls have been let, subject to fewer or less Exemptions than the Exemptions hereby granted.

For conveying Vagrants, &c.

Horses on Military Duty, &c.

Yeomanry, &c.

or shall not travel above 100 Yards on Road.

Penalty on fraudulent Evasion.

Not to affect existing Leases of Tolls.

53 G. 3. c. 68.

XXXVII. And

XXXVII. And be it further enacted, That no Person owning or driving, or causing to be driven, any Waggon, Cart, or other Carriage provided for the Service of His Majesty's Forces, or conveying any Ordnance, or Barrack, or Commissariat, or other public Stores of or belonging to His Majesty, or for the Use of His Majesty's Forces, shall be subject to any additional Toll, Penalty, or Forfeiture for Overweight; nor shall any such Waggon, Cart, or other Carriage, or the Horse or Horses drawing the same, while so employed, be stopped or detained by reason of any Weight in any such Waggon, Cart, or other Carriage, or of being drawn by any Number of Horses or other Beasts of Draught; but it shall be lawful for the Owner or Driver of any such Waggon, Cart, or other Carriage, to put any Number of Horses or other Beasts of Draught to such Waggon, Cart, or other Carriage; any thing in any Act or Acts of Parliament relating to Turnpike Roads to the contrary notwithstanding. Exempting Carriages conveying King's Stores, &c. from Penalties for Overweight.

XXXVIII. And be it further enacted, That all Horses travelling for Hire under the Post Horse Duties Acts, having passed through any Turnpike Gate erected or to be erected on any Turnpike Road drawing any Carriage in respect of which any Toll shall have been paid, on returning through the Turnpike Gate at which the Toll shall have been paid, and the other Gates (if any) cleared by such Payment, either without such Carriage, or drawing such Carriage, the same being empty, and without a Ticket denoting a fresh Hiring, shall be permitted to pass Toll free, although such Horses or Carriage shall not have passed through such Turnpike Road on the same Day; provided that such Horses so travelling shall return before Nine of the Clock of the Morning succeeding the Day on which they first passed the Turnpike Gate at which the Toll shall have been paid. Post Horses having passed through any Gate, may return Toll-free before Nine in the Morning of the following Day.

XXXIX. And be it further enacted, That where any Horse or Horses as last aforesaid shall pass through any Turnpike Gate on any Road not drawing any Carriage, and a Toll shall be paid on such Horse or Horses at such Turnpike Gate, and the same Horse or Horses shall return drawing any Carriage on the same Day, or before Nine of the Clock of the Morning succeeding the Day on which they first passed such Gate, the Toll paid on such Horse or Horses on their originally passing shall be deducted from the Toll payable on the same when drawing the Carriage to which they shall be attached on their Return, so that no higher Toll shall on the whole be taken than if such Horse or Horses had in the first place passed through such Turnpike Gate drawing the said Carriage. Horses having passed through a Gate and returning drawing a Carriage, the Toll paid on the Horses to be deducted.

XL. And be it further enacted, That the Tolls made payable by any local Turnpike Act shall be paid for and in respect of all Horses or Beasts of Draught drawing any Stage Coach, Diligence, Van, Caravan, or Stage Waggon, or other Stage Carriage conveying Passengers or Goods for Pay or Reward, every Time of passing or repassing along the said Roads, or any of them. Stage Coaches, &c. to pay for every Time of passing.

XLI. Provided also, and be it further enacted, That the Tolls made payable by any local Turnpike Act shall be paid for and in respect of all Horses or Beasts of Draught let out to Hire, and drawing any Horses let out to Hire and drawing Post Chaises,

&c. to be subject again to Toll on every new Hiring.

any Post Chaise or other Carriage, every Time of passing along the said Roads, or any of them, whenever any new Hiring thereof shall take place, and a Ticket denoting such Hiring shall be produced.

Trustees to put up a Table of the Tolls at every Toll Bar.

XLII. And be it further enacted, That the Trustees of every Turnpike Road shall put up and continue at every Toll Bar a printed Schedule or Table, containing the Name of the Toll Bar where the same shall be affixed, with a List of the Tolls payable at every such Bar, and also the Name of any other Bar which shall be cleared by the Payment of Toll at the Bar where such Table of Tolls shall be affixed; and shall provide Tickets denoting the Payment of Toll, and mentioning the Bar so cleared, one of which Tickets shall be delivered to the Person paying the Toll, and which shall also have printed or written thereon the Day of the Month on which the same is delivered; and on the Production of such Ticket at any Bar cleared by the Payment of the Toll at the Bar where such Ticket was delivered, the Person producing the same shall pass through such Bar without paying any additional Toll: Provided always, that if no such Schedule or Table as aforesaid shall be put up and continued at any Toll Bar, it shall not be lawful to collect any Toll at such Toll Bar.

For Recovery of Tolls.

XLIII. And be it further enacted, That if any Person subject to the Payment of any Toll under and by virtue of any Act of Parliament for making or maintaining any Turnpike Road, shall, after Demand thereof made, wilfully neglect or refuse to pay the same, it shall be lawful for the Person authorized to collect such Tolls, taking such Assistance as shall be necessary, to seize and poind any Horse, Beast, Cattle, Carriage, or other Thing, upon or in respect of which any such Toll is imposed, or any Carriage in respect of the Horses or other Beasts of Draught drawing the Carriage on which such Toll is imposed, or any of the Goods or Effects of the Person so neglecting or refusing to pay (except the Bridle or Reins of any Horse or other Beast separate from the Horse or Beast); and if the Toll, or any Part thereof so neglected or refused to be paid, and the reasonable Charges of such Seizure and Poinding, shall not be paid within the Space of Four Days next after such Seizure and Poinding, the Person so seizing and poinding may, with the Authority of the Sheriff, Stewart, or any Justice of the Peace for the Shire or Stewartry, who are hereby empowered to grant such Authority, sell by public Roup any Horse, Beast, Cattle, Carriage, or Thing so seized and poinded, or a sufficient Part thereof, returning the Surplus of the Money (if any) arising from such Sale, and what shall remain unsold, to the Owner thereof, after such Tolls, and the reasonable Charges occasioned by such Seizure, Poinding, and Sale, shall be deducted.

For settling Disputes concerning Tolls.

XLIV. And be it further enacted, That if any Dispute shall arise about the Amount of the Tolls due, or the Expences of keeping or selling any Articles poinded for Non-payment of any Tolls, it shall be lawful for the Toll-gatherer, or the Person poinding, to retain such Articles, or the Money arising from the Sale thereof (as the Case may be), until the Amount of the Tolls due, and the Expences of

keeping and selling the Articles as aforesaid, be ascertained by the Sheriff or Stewart, or any Justice of the Peace for the Shire or Stewartry wherein the Toll Bar at which the Toll in dispute shall be payable shall be situate, who, upon Complaint made for that Purpose, shall in a summary Manner determine the Amount of the Tolls due, and shall adjudge such Expences to either Party as to the said Sheriff, Stewart, or Justices shall appear right and proper.

Penalty on evading Tolls.

XLV. And be it further enacted, That if any Person shall, with any Horse, Cattle, Beast, or Carriage, pass from any Turnpike Road over any Land near or adjoining thereto, (not being a public Highway), and such Person not being the Proprietor or Occupier, or Servant or One of the Family of the Proprietor or Occupier of such Land, with Intent to evade the Payment of the Tolls granted by any Act of Parliament; or if any Proprietor or Occupier of any such Land shall knowingly or willingly permit any Person (except as aforesaid) so to pass over such Land with such Intent; or if any Person other than the Toll-gatherers shall give, or if any Person shall receive from any Person other than the Toll-gatherers, or forge, counterfeit, or alter any Note or Ticket directed to be given, with Intent to evade the Payment of the Tolls; or if any Person shall fraudulently or forcibly pass through any Toll Bar as aforesaid, or shall leave, before coming to any Toll Bar, any Horse, Cattle, Beast, or Carriage whatsoever, by reason whereof the Payment of any Tolls or Duties shall be avoided or lessened; or if any Person shall do any other Act whatever, in order to evade the Payment of any of the Tolls, and whereby the same shall be evaded, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Trustees may compound for Tolls.

XLVI. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, previous to letting the Tolls, to compound and agree, for any Term not exceeding One Year at any one Time, with any Person using such Road, for the passing of their Horses, Cattle, or Carriages through any of the Toll Bars to be erected on such Road, or on the Sides thereof; which Composition shall be paid in advance; and in default thereof, the Composition or Agreement with the Person making such default shall thenceforth be void; and all such Composition Money shall be paid and applied in such Manner as the Tolls are directed to be paid and applied: Provided nevertheless, that it shall not be lawful for the Tacksman or Toll-gatherer to compound with any Person for the Payment of any Tolls, or to accept any lower Tolls than those settled by the Trustees of any Turnpike Road to be taken, or pay back or return any Sum of Money to Persons frequenting any Turnpike Road and paying the Tolls thereon, with the Intent of avoiding the Provisions of this Act or any Turnpike Act, under a Penalty for each such Offence of Twenty Pounds.

Tacksmen or Toll-gatherers not to compound, on Penalty of 20*l.*

Trustees may reduce Tolls, and may remove Toll Bars:

XLVII. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, at a Meeting to be held for that Purpose (of which One Calendar Month's Notice shall be given in Writing, to be affixed on all the Toll Bars upon such Roads, or by Advertisement in some public Newspaper generally circulated in that

Part of the Country) from Time to Time to lessen and reduce the Tolls granted by any Turnpike Act, or to take down and remove any Toll Bar erected across or at the Side of any Turnpike Road, or to grant Exemption at the same, for and during such Time as a Majority of the said Trustees, being a Quorum, shall think proper; and in like manner to advance any of the Tolls so reduced, so that the several and respective Tolls do not exceed the Tolls allowed to be demanded and taken by such Turnpike Act, and again to erect the Toll Bar that may have been so taken down, and again to collect Tolls thereat; provided nevertheless, that where the whole Money borrowed on the sole Credit of the Tolls granted by any such Act shall not have been discharged, no such Tolls shall be reduced, nor such Toll Bar removed, nor such Exemption from Tolls be granted, without the Consent in Writing of the Persons entitled to Three-fourths of the Money remaining due upon such respective Tolls.

and afterwards may advance Tolls and replace Toll Bars.

Restriction on setting up Toll Bars.

XLVIII. And be it further enacted, That no Toll Bar shall hereafter be erected across or on the Side of any Turnpike Road, unless the same be ordered by the Trustees at a Meeting, of which Fourteen Days public Notice shall have been given in some Newspaper usually circulated in the Shire or Stewartry in which such Road is situated, or by affixing the same upon all the Toll Bars erected on such Road, which shall not be farther distant than Six Miles from the Place where such Toll Bar is proposed to be erected, and also on the Church Doors of the Parish within which such Toll Bar is proposed to be erected, and unless a Majority of the Trustees present shall sign the said Order at such Meeting.

If Trustees cause Gates to be erected contrary to Law, Sheriff or Justices may order them to be removed.

XLIX. And be it further enacted, That if the Trustees of any Turnpike Road shall erect any Toll Bar where they have not any Power by virtue of any Act of Parliament so to do, it shall be lawful for the Sheriff or Stewart, or the Justices of the Peace in Quarter Sessions assembled, for the Shire or Stewartry where any such Bar is erected, upon Complaint in a summary Way to hear and determine therein, and to order such Bar to be removed.

On Death of Collector, Trustees may nominate another till next Meeting.

If Collector, &c. refuse to deliver Possession, Sheriff or Justice may give Possession.

L. And be it further enacted, That it shall be lawful for any Two Trustees of any Turnpike Road, upon the Death of any Person appointed to collect the Tolls upon such Turnpike Road for the Trustees of such Road, to appoint some other fit Person in his Place until the next Meeting of the Trustees of such Road; and that if any Person who shall be discharged from his Office by the Trustees shall refuse to deliver up the Possession of the House, Gardens, and Pertinents which he enjoyed in right of his Appointment to that Office, within Three Days after Notice of his Discharge shall be given to him or left at his House, or if the Wife or Family of any such Person who shall die as aforesaid, shall refuse to deliver up the Possession of such House, Garden, and Pertinents within Three Days after such new Appointment shall be made as aforesaid, it shall be lawful for the Sheriff, Stewart, or any Justice of the Peace for the Shire or Stewartry where such Toll House shall be, by Warrant under his Hand, to order a Constable or other Peace Officer, with such Assistance as shall be necessary, to enter such House and Premises

mises in the Day-time, and to remove the Persons who shall be found therein, together with their Goods, out of such House, and to put the Person appointed to collect the Tolls at such Place into the Possession thereof.

Carts, &c. without Owner's Name to pay Double Toll.

LI. And be it further enacted, That where any Owner of any Coach, Chaise, or such other Carriage, and of any Waggon, Cart, or such other Carriage, as is herein-after directed to have the Owner's Name painted upon it, shall fail to have his Name and Place of Abode painted in legible Characters upon some conspicuous Part of such Carriages respectively, in manner herein-after directed, the Tacksman of the Tolls or the Toll-gatherer shall, under a Penalty of not exceeding Forty Shillings for each Omission, demand and take, at any Bar on any Turnpike Road, before any such Carriage respectively shall pass through such Bar, Double the Tolls otherwise leviable for such Carriages as aforesaid.

Toll-gatherers to put up their Names, and Table of Tolls on the Front of the Toll Houses.

LII. And be it further enacted, That every Toll-gatherer appointed by the Trustees or Tacksman on every Turnpike Road shall place on some conspicuous Part of the Fronts of their several Toll Houses his or her Christian and Surname, painted in Black on a Board with a White Ground, each of the Letters of such Name to be at least Two Inches in Length, and of a Breadth in Proportion; and that such Board shall remain at such Toll House during the whole of the Time that the Person whose Name shall be expressed thereon shall be on Duty thereat; and every Tacksman or Toll-gatherer shall place on the Front of the Toll House the printed Schedule or Table herein-before directed to be provided by the Trustees; and if any Tacksman or Gatherer shall not place such Board or Schedule or Table respectively, and keep the same there during the Time such Person shall be such Tacksman or Gatherer, or shall demand or take a greater or less Toll than such Tacksman or Gatherer shall be authorized to do, or shall demand or take a Toll from any Person who shall be exempt from the Payment thereof, and who shall claim such Exemption, or shall refuse to permit any Person to read such Board, Schedule, or Table, or shall refuse to tell his or her Christian and Surname to any Person who shall demand the same, on being paid the said Tolls, or shall give a false Name, or shall refuse or neglect to give a Ticket denoting the Payment of the Tolls, and naming and specifying the several Toll Bars freed by such Payment, or upon the legal Toll being paid or tendered, shall unnecessarily detain or wilfully obstruct any Passenger from passing through any Toll Bar, or shall make use of any scurrilous or abusive Language to any Trustee, Surveyor, Traveller, or Passenger, or offend against the Provisions of any Turnpike Act or of this Act, such Person shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence.

Penalty on Neglect, and for other Offences.

If Toll-gatherers abscond, Penalties to be levied on Tacksman of Tolls.

LIII. Provided always, and be it enacted, That in case any Toll-gatherer, or Person acting as such, shall offend against any of the Provisions of any Turnpike Act or of this Act, whereby any Penalty shall be incurred, and shall abscond or absent himself or herself so as not to be found; then it shall be lawful for the Sheriff or Stewart, or any Justices of the Peace before whom any such Toll-gatherer

gatherer or Person shall be convicted of any such Offence, to order and adjudge that the Penalty incurred as aforesaid shall be paid by the Tacksman of the Tolls under whom such Gatherer or other Person shall act; all which Penalties shall be levied, recovered, and applied in Manner hereinafter directed.

Powers for Trustees to let by public Roup the Tolls.

LIV. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, at a Meeting appointed for the Purpose, to let by public Roup the Tolls of the several Bars erected upon their respective Turnpike Roads: Provided always, in case no Bidder shall offer, or in case the said Tolls shall not be let by public Roup, it shall then be lawful for the said Trustees to let the same by private Tender: Provided also, that no Tolls upon any Turnpike Road shall be let for a longer Time than Three Years, and that at all such Lettings the Trustees shall be entitled to bid for the Tolls so to be let, either by themselves or their Clerk or Treasurer, or any other Person by them respectively authorized.

Not to be let for a longer Time than Three Years.

Trustees may agree with the Post-master General.

LV. Provided always, That it shall be lawful for the said Trustees to enter into any Agreement with His Majesty's Postmaster General, as to the Amount of Tolls that shall be paid for any Mail Coach travelling along any such Turnpike Road, without any Limitation as to the Amount of the Tolls to be payable, or the Number of Years for which such Agreement shall subsist.

Power to widen Roads to Twenty Feet without making Compensation:

LVI. And be it further enacted, That the Trustees of all Turnpike Roads shall have Power and they are hereby authorized to widen and extend all Turnpike Roads now existing, and all Highways now existing and which shall hereafter be made Turnpike, so that the same shall be in all Places Twenty Feet in Width of clear passable Road, Twenty Feet being hereby declared to be the least legal Breadth of a Turnpike Road; and no such Trustees shall pay any thing for any Ground necessary to make any such Turnpike Road of such legal Breadth; reserving his Claim of Damages to the Proprietor, for any Fences which may be altered or removed by widening such Road as aforesaid.

And to widen to Forty Feet Breadth on making Compensation.

LVII. And be it enacted, That the Trustees of all Turnpike Roads shall have Power and they are hereby authorized, if they shall see fit, to widen any Turnpike Road to the Width of Forty Feet of clear passable Road, exclusive of the Bank or Ditch on either Side thereof, on making full Satisfaction to the Proprietors and Occupiers of any Land, Ground, or other Premises taken for the Purpose of such widening, for the Land or Ground so to be taken over and above the Width of Twenty Feet as aforesaid, in manner herein-after directed.

Lands may be purchased for improving the Road.

LVIII. And be it further enacted, That it shall be lawful for the Trustees of any Turnpike Road to treat, contract, and agree for, and they are hereby empowered to take and acquire, and it shall be lawful for all Bodies Politic or Corporate, Heirs of Entail or Trustees, as also Guardians, Tutors, and Curators of every Person whatsoever, under any legal Disability or Incapacity, to sell, feu, let, and convey all such Lands or Buildings as shall by such Trustees of Turnpike Roads be

deemed necessary to be purchased or acquired by them for the Purpose of widening, diverting, altering, or improving such Roads, or for Toll Houses and Gardens, or for making convenient Places for turning Carriages at Weighing Engines, or for storing Materials or otherwise; or to treat, contract, and agree for the Compensation for any Loss or Damage any Proprietor or Occupier, or any other Person, may sustain by any Operation of such Trustees of Turnpike Roads; such Trustees making such Satisfaction to the Proprietor and Occupier of such Lands or Buildings so to be taken or acquired, as shall be agreed upon between the Trustees of the Turnpike Roads and such Proprietor or Occupier, or as shall be awarded in Manner herein-after mentioned.

When Persons interested neglect or refuse to treat, the Value may be ascertained by a Jury.

LIX. And be it further enacted, That in case the Proprietor of any Lands or Buildings as aforesaid shall refuse to treat, or shall not be satisfied with the Price offered him by the Trustees of any Turnpike Road, it shall be lawful for such Trustees to make Application to the Sheriff or Stewart of the Shire or Stewartry where such Lands or Buildings lie, to summon a Jury of Nine indifferent Persons, (a Majority of whom shall determine) in order to value the Lands or Buildings necessary to be taken and used as aforesaid, and the Loss or Damage ensuing from the altering or removing of Fences; and the said Sheriff or Stewart is hereby empowered and required, upon such Application, to give Fifteen Days Notice thereof to the Proprietor and Occupier of such Lands or Buildings, and afterwards to issue his Precept in the usual Manner for calling together a Jury, who being duly sworn, the said Sheriff or Stewart shall proceed to examine upon Oath in his Presence, and the Presence of the Jury, such Witnesses as shall be summoned by either Party, and upon their Depositions, or other competent Evidence, such Jury shall determine the Price or Damages to be paid by such Trustees; and in estimating the Sums to be paid to the Proprietors and Occupiers of Lands and Buildings as aforesaid, and in making up their Verdict, the said Jury shall have right and they are hereby empowered to take under their Consideration all Circumstances, particularly the Advantages arising to the Proprietors and Occupiers by new or altered Roads; and in ascertaining the Value of the Fences which it may be necessary to pull down, the Jury shall have power to direct such Fences as may thereby become useless to be taken down and removed by the said Trustees, upon Payment of such Allowance for the same as the said Jury may determine; and it shall be optional to the Proprietors and Occupiers, either to accept of the Allowance so awarded, or to retain the Materials of the said Fences to their own private Use; and after a Verdict is pronounced as aforesaid, the said Sheriff or Stewart is hereby required to adjudge Payment of the Value and Amount of the Loss or Damage awarded to the Persons having a Right thereto, and upon Payment being made by the said Trustees of the same, or Consignation of such Sum in the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company of *Scotland*, in manner by this Act directed, such Trustees shall have a Right to take the said Lands and Buildings; and the said Proceedings and Orders of the said Sheriff or Stewart shall be final, and not be subject to Review by Advocation

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

Sheriff or Stewart to adjudge Payment of the Sum adjudged by the Jury.

or Suspension, or by Reduction to or by any Court whatever, any Law or Usage to the contrary notwithstanding.

Expences of the Proceedings how to be paid.

LX. Provided always, and be it enacted, That in the Event that such Jury shall award a greater Compensation than the Trustees shall have offered, but less than the Proprietor or Occupier shall have required, the Expence of the Proceedings shall be borne by such Trustees and the said Proprietor or Occupier equally; but in case the said Jury shall award to such Proprietor or Occupier the Sum so required, or any greater Sum, the whole of the said Expence shall be paid by such Trustees; and on the other Hand, if the said Jury shall award the Sum offered by such Trustees, or a less Sum, the whole of the said Expence shall be paid by the said Proprietor or Occupier: Provided always, that in all Cases where any Person shall, by reason of Absence, be prevented from treating with such Trustees, such Expence as aforesaid shall be paid by such Trustees.

Penalty on Jurymen refusing to act.

LXI. And be it enacted, That if any Person summoned as a Juryman under the Authority of any Sheriff or Stewart, in any Matter arising out of this Act or any Turnpike Act, shall neglect or fail to appear, and shall without lawful Excuse refuse to act as a Juryman, such Sheriff or Stewart may fine every such Person for every such Offence in any Sum not exceeding Five Pounds Sterling.

How Lands and Buildings may be required by Trustees.

LXII. And be it further enacted, That all Lands and Buildings, which may be required by the Trustees of any Turnpike Act under the Authority of the same, shall become the Property of the said Trustees by the simple Discharge of the agreed Price or appraised Value thereof, or by Consignation of the said Price or Value in the Bank of *Scotland*, the Royal Bank of *Scotland*, or the *British* Linen Company, and it shall be sufficient to record the Discharge or the Voucher of Consignation in the Sheriff's Court Books of the Shire or Stewartry in which such Lands are situated; whereupon such Trustees may take and use the said Lands and Buildings, and hold the same as validly as if the respective Proprietors thereof had executed in their Favour regular Dispositions of the same, and Infeoftments had followed thereon.

Old Highway to be stopped up, and the Road sold.

LXIII. And be it further enacted, That when any new Turnpike Road shall be made and completed in lieu of the old Road, and such old Road shall have thereby become useless, it shall be lawful for such Trustees to make Application to the Justices of the Peace for the Shire or Stewartry in which such old Road lies, to have the same shut up; of which Application Fifteen Days Notice shall be given by Advertisement in some one Newspaper generally circulated in the Shire or Stewartry, or upon each of the Toll Bars on the said Road; and such Justices shall make such Order therein as to them shall seem just; and all such Parts of such Roads as are by such Justices authorized to be shut up (except where the same may be given in Exchange by such Trustees to the Proprietors of Lands or Buildings taken for the Purposes of the new Road, by way of simple Exchange, without further Conveyance) shall be vested in and shall be sold by such Trustees, in manner herein-after mentioned, for the best Price that

that can be gotten for the same; but if such old Road shall lead to any Place which cannot, in the Opinion of the said Justices, be conveniently accommodated with a Passage from such new Road, then the old Road shall be sold, subject to the Right of Way to such Place; but all Mines, Minerals, and Fossils lying under the same shall continue the Property of the Person who would from Time to Time have been entitled to the same if such old Road had continued.

Toll Houses become useless may be sold.

LXIV. And be it further enacted, That it shall in like Manner be lawful for the said Trustees of any Turnpike Road to dispose of and convey to the Purchaser of the same any Toll House or other Building belonging to the said Trustees as shall by them be adjudged to have become useless.

When any Parts of the old Road are to be sold, the first Offer to be made to the original or adjoining Owners.

LXV. Provided always, and be it further enacted, That the said Trustees, before they shall sell and dispose of any Piece of Ground, or any Toll House not wanted for the Purposes of any Turnpike Road, to any Person, shall first offer the same to the Person of whom the same shall have been purchased, his Heirs or Successors, of that Land, and then to the Person whose Lands shall adjoin thereto, and if such Person shall refuse (except on account of the Price thereof) to purchase the same, on Oath being made before One of His Majesty's Justices of the Peace for the Shire or Stewartry where such Ground is situate, by some Person in no way interested in such Ground, stating that such Offer was made by such Trustees, and was refused, such Oath shall be sufficient Proof that such Offer was made and refused; but in case such Person shall agree to purchase such Ground, but shall not agree with respect to the Price, it shall be determined by a Jury in manner herein-before directed, and the Money to arise from such Sale shall be applied to the Purposes of the Act for repairing and maintaining such Turnpike Road; but the Purchaser shall not be answerable or accountable for any Misapplication of such Money.

Application of Compensation where exceeding 200*l.*

LXVI. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Heritages, purchased, taken, or used by virtue of the Powers of this Act, or any Turnpike Act, for the Purposes of any Turnpike Road, or for the Purpose of being added to any Minister's Glebe as herein-after directed, which are held under Entail, or are subject to Liferents, Annuities, or other Incumbrances, or shall belong to any Incorporation, married Woman, Infant, Lunatic, or Person or Persons under any legal Disability or Incapacity, such Money shall, in case the same shall amount to the Sum of Two hundred Pounds Sterling, under the Direction and by the Authority of the Court of Session, be with all convenient Speed paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Heritages, in the Redemption or Purchase of

the Land Tax, or discharge of any Debt or Debts, or such other Incumbrance or Part thereof as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Heritages, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, in the same Manner as the Lands, Tenements, or Heritages which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made, the Interest or annual Produce of such Money shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Heritages so hereby directed to be purchased, in case such Purchase or Settlement were made.

Application where the Compensation does not exceed 200*l.* nor less than 20*l.*

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

Application where the Money is less than 20*l.*

LXVIII. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as last before mentioned shall be less than Twenty Pounds Sterling, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Heritages so purchased, taken, or used for the Purposes of this Act, in such Manner as such Trustees of any Turnpike Road as aforesaid, or any Two or more of them, shall think fit; or in case of

Infancy or Lunacy, then to his, her, or their Tutors and Curators, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not making out Titles, &c.

LXIX. And be it further enacted, That in case any Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or Heritages to be purchased by virtue of this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises to the Satisfaction of the said Trustees, or in case such Person or Persons to whom such Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Heritages be not known or discovered, then and in every such Case it shall and may be lawful to and for such Trustees of any Turnpike Road or Roads as aforesaid, or any Two or more of them, to order the said Sum or Sums of Money so awarded as aforesaid, to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company, to the Credit of the Parties interested in the said Lands, Tenements, or Heritages (describing them), subject to the Order, Controul, and Disposition of the Court of Session; which said Court, on the Application of any Person or Persons making claim to such Sum or Sums of Money, or any Part thereof, by Petition, shall be and is hereby empowered, in a summary way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Public Funds, and to order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estate or Estates, Title or Interest of the Person or Persons making claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

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

Where any Question shall arise touching the Right to such Money, the Persons who had been in Possession of Premises shall be deemed entitled.

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

some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Heritages, or to some Estate or Interest therein.

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

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

Power to carry the Roads through Ministers' Glebes, making Addition to Glebe in proportion to Ground taken off.

LXXII. And be it further enacted, That in altering the Course of any Turnpike Road, or widening the same, it shall be in the Power of the Trustees of such Road to cause the same to be carried through any Minister's Glebe, Fifteen Days previous Notice of their Intention so to do being given to the Minister of the Parish, and the Clerk of the Presbytery of the Bounds: Provided always, that such Quantity of Ground shall be laid to the Glebe lying most contiguous and convenient thereto, as shall be a sufficient Compensation for that taken for the said Road; which Grounds such Trustees shall have Power to purchase from the contiguous Proprietor or Occupier, who shall in like Manner be empowered and bound to sell such Land, whether the same be under Entail or otherwise; and in case of any Difference with regard to the Amount of such Compensation, or the Price to be paid to such Proprietor or Occupier, Application shall be made to the Sheriff or Stewart of the Shire or Stewartry, who shall summon a Jury, and determine the same, in like Manner as is herein-before directed in regard to Lands to be taken for the Purposes of altering or widening Turnpike Roads; and upon such Determination, and upon Payment being made by such Trustees of such Price to the Proprietor or Occupier of the Ground, or Consignation thereof in any of the said Banks, such Trustees shall from thenceforth have a Right to cause the Addition to be made to the Glebe, and to take and use the Part of the Glebe necessary for the Purpose of altering or widening such Roads; and the Proceedings and Order of the said Sheriff or Stewart shall be final and conclusive, and shall not be removable to any other Court by Advocation, Suspension, or Reduction, or otherwise.

Valued Rent not to be altered in respect of Ground taken.

LXXIII. Provided always, and be it declared and enacted, That in every Case where it may be necessary to exchange or take Ground as herein-before allowed for the Purposes of Turnpike Roads, or for making a Compensation for Glebes, the same shall not affect, alter, or diminish the valued Rent of the Lands from which such Ground shall be so taken.

LXXIV. And be it further enacted, That it shall not be lawful for the Trustees of any Turnpike Road, in altering or diverting the Course of any Part of the Turnpike Road under their Care and Management, to deviate over any inclosed Lands or Grounds more than One hundred Yards from the Line or Course of such Turnpike Road, or to take down or remove any Dwelling House or other Building, the Side Walls of which exceed Twenty Feet in Height, or to take in or make use of any Policy, Orchard, Garden, the Contents of which exceed Half an Acre, Lawn, planted Walk, or Avenue to a House, or any inclosed Ground planted as an Ornament or Shelter to a House, without the Consent in Writing of the Owner thereof, or of his Agent or Factor: Provided always, that nothing herein contained shall extend or be deemed, taken, or construed to extend to revoke, limit, abridge, alter, or vary any Powers or Authorities contained in any Act or Acts of Parliament existing and in force at the passing of this Act for making, altering, or diverting any Turnpike Road or the Course thereof, to be made or diverted and maintained under the Authority of such Acts, but the same Powers and Authorities shall and may be used, exercised, and carried into Effect by the Trustees appointed by such Acts, fully and effectually, any thing herein contained to the contrary notwithstanding.

Trustees not to deviate more than One hundred Yards from present Line of Road, nor make use of any Garden, &c. without Consent of the Owner.

LXXV. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, or any Person authorized by them, to search for, dig, and carry away Materials for making or repairing such Turnpike Road, and the Footpaths thereof, or building or repairing any Toll House, Bridge, or any other Work connected with such Road, from any Common Land or Waste, without paying any thing for such Materials, and to carry away the same through the Ground of any Person, without being deemed a Trespasser, such Trustees and other Persons filling up the Pits or Quarries, levelling the Grounds wherefrom such Materials shall be taken, or fencing off such Pits or Quarries, so that the same shall not be dangerous to any Person or Cattle, and paying for or tendering the Damage done by going through and over any inclosed or Arable Lands for or with such Materials, such Damages to be ascertained as herein-after mentioned; and also that it shall be lawful for such Trustees and other Persons to search for, dig, and carry away any such Materials, in or out of the Land of any Person where the same may be found, within any Parish in which any Part of the Turnpike Road is situate, or in any adjoining Parish (such Materials not having been dug or raised for the private Use of the Owner of such Land, and such Land not being an Orchard, Garden, Lawn, Policy, Nursery for Trees, planted Walk or Avenue to any House, nor any inclosed Ground planted as an Ornament or Shelter to a House, and unless where Materials have been taken by the said Trustees previous to the passing of this Act), making or tendering such Satisfaction for Stones taken from Quarries let for Hire, and for the surface Damage done to the Owner or Occupier of the Lands from whence the same shall be dug and carried away, or over which the same shall be carried, as such Trustees shall judge reasonable; and also to land on and carry through or over any inclosed Lands (not being a Garden, Lawn,

Power to get Materials.

Lawn, planted Walk, Policy, Orchard, Avenue to a House, or Nursery for Trees, nor any inclosed Ground planted as an Ornament or Shelter to a House), or over any open uncultivated Land, or any Common, any Materials for making or repairing any such Road, or for building or repairing any Toll House, Bridge, or other Work connected with such Road, paying or tendering for the Damage done in landing on or going over any inclosed Lands, for or with such Materials, such Sum of Money as such Trustees shall judge reasonable; and in case such Trustees, and the Proprietor and Occupier of such Lands, shall differ as to the Amount of such Payments and Damages as aforesaid, the Sheriff, Stewart, or Two Justices of the Peace for the Shire or Stewartry wherein the Place from whence such Materials shall have been taken, or on which the same shall have been landed or carried, shall be situate, on Three Days Notice thereof being given in Writing, by either Party to the other, shall hear and determine the Amount of such Payments and Damages, and the Expences attending the same.

Notice to be given before Materials taken from ArableLand, Sea Shore, River, or Watercourse.

LXXVI. And be it further enacted, That when the Materials for making or repairing any Turnpike Roads cannot elsewhere be got within a reasonable Distance from the same, it shall be lawful for any Trustee or Person acting under the Authority of any Turnpike Act, or of this Act, to search for, dig, and carry away any Materials for making or repairing any Turnpike Road, or for building or repairing any Toll House, Bridge, or other Work connected with any Turnpike Road, out of any inclosed or Arable Land, or from the Sea Shore, or out of any River or Watercourse, Notice in Writing, signed by Two Trustees, having been given to the Proprietor or Occupier of the Land or of the Lands on each Side of any River or Watercourse from which it is intended to take such Materials, or his or her known Agent, or left at the usual Place of Abode of such Proprietor or Occupier, to appear before any Two Justices of the Peace acting for the Shire or Stewartry where the said Lands, River, or Watercourse shall be situated, and if such River or Watercourse is the Boundary of Two Shires or Stewartries, then before Two Justices of either Shire or Stewartry, to show Cause why such Materials shall not be had therefrom; and in case such Proprietor, Agent, or Occupier shall attend pursuant to such Notice, but shall not show sufficient Cause to the contrary, such Justices may authorize such Trustees, or other Persons, to search for, dig, and carry away such Materials, at such Time as to such Justices shall seem proper; and if such Proprietor, Agent, or Occupier shall neglect or refuse to appear, such Justices may (upon Proof on Oath of the Service of such Notice), make such Order therein as they shall think fit, as fully and effectually to all Intents and Purposes as if such Proprietor, Occupier, or Agent had attended; and the Order of such Justices shall be final and conclusive.

Power to contract for Lands to get Materials.

LXXVII. Provided always, and be it further enacted, That it shall be lawful for the Trustees of any Turnpike Road to purchase, feu, or rent any Land for the Purpose of getting Materials for the Repair or Use of any Turnpike Road, and at any Time afterwards to sell the

the Land so purchased by Public Roup, provided that the said Trustees shall dispose of the same in manner herein-before directed in respect to Land not wanted for the Purposes of any Turnpike Road.

Penalty on taking away Materials provided for the Roads.

LXXVIII. And be it further enacted, That it shall not be lawful for any Person to take away any Materials which shall have been procured or provided or used for the Repair or Use of any Turnpike Road, or to take any Materials out of any Quarry which shall have been opened by any Turnpike Trustees for the Purpose of getting Materials for any Turnpike Road, so as to interrupt or interfere with the Workings carried on by such Trustees, and every Person so offending shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds; provided that nothing herein contained shall prevent the Owner of any Quarry to take and carry away Materials from the same for his own Use solely.

Power to make Footpaths, and to use adjoining Ground as a temporary Road.

LXXIX. And be it further enacted, That it shall be lawful for the Trustees of any Turnpike Road to make and keep in repair Footpaths on the Sides of the same, on making full Satisfaction to the Proprietors and Occupiers of Ground taken for the same, when the Road shall exceed Twenty Feet in Width; and also to make a Road through the Grounds adjoining to any ruinous or narrow Part of any Turnpike Road (not being the Site or Ground whereon any House stands, nor being a Garden, Lawn, Policy, planted Walk, or Avenue to any House, or any inclosed Ground planted and set apart as a Nursery for Trees), to be made use of as a Public Highway, whilst the old Road is repairing or widening, making Recompence to the Proprietor and Occupier of such Grounds, for the Damages they may thereby sustain; and in case such Trustees and such Proprietor or Occupier shall differ as to the Amount of such Damages, it shall be lawful for the Sheriff, Stewart, or any Two Justices of the Peace for the Shire or Stewartry, on Three Days Notice in Writing being given by either Party to the other, to determine the Damages to be paid to such Proprietor or Occupier, in manner herein-before directed.

Trustees to make Side Drains.

LXXX. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road to make sufficient Side Drains on any such Road, with Power to conduct the Water therefrom into any adjoining Land, Ditch, or Watercourse (such Land not being the Site of any House or Garden), in such Manner as shall be least injurious to the Proprietor or Occupier of such Land; the said Side Drains to be maintained at the Expence of the Trustees.

Trustees to make Ditches.

LXXXI. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road to make sufficient Ditches along the Sides of any such Road, provided that if the Land is inclosed on the Side of such Turnpike Road, such Ditch shall be made on the Field Side of the Fence, and with Power to make proper Ditches and Outlets from the said Side Ditches through any Lands adjoining any such Turnpike Road (not being the Site of any House or Garden) in

such Manner as shall be least injurious to the Proprietor or Occupier of such Land; and after such Side Ditches or other Ditches or Outlets are made, the Proprietor or Occupier of such Land (unless such Land be uninclosed and waste), shall be obliged in all Times thereafter to keep clear such Side Ditches, or other Ditches or Outlets, as well as all Ditches already made along the Sides of any Turnpike Road, when so required by the said Trustees or their Surveyor; and in case the Proprietor or Occupier shall neglect or refuse to cleanse such Side Ditches or other Ditches or Outlets when duly required by such Trustees or Surveyors, such Trustees or Surveyors shall have Power to cleanse such Side Ditches or other Ditches or Outlets, and levy the Expence thereof on the Proprietor or Occupier of such Grounds in manner as other Penalties by this Act imposed: Provided always, that nothing herein contained shall prohibit any Proprietor or Occupier from substituting, to the Satisfaction of the Trustees, any other equally effectual Ditch or Outlet in place of that constructed by the Trustees.

Conduits to be made over Side Ditches.

LXXXII. And be it further enacted, That where any other Turnpike Road, Highway, or private Road, or any Passage, shall be made from any Turnpike Road over or into the adjoining Lands, or where any House shall be built along the Side of any Turnpike Road, the Trustees of such other Turnpike Road, Highway, and the Proprietor or Occupier of such private Road, Land, or Houses, shall build sufficient Conduits or Bridges, to the Satisfaction of the said Turnpike Trustees, over the Side Drains and Ditches of any such Turnpike Road, opposite to any such other Turnpike Road, Highway, private Road, Passage, or House, and thereafter maintain and uphold the same; and in case the Trustees of such other Turnpike Road, or of such Highway, or the Proprietor or Occupier of such private Road, Passage, or House shall neglect or refuse to maintain the said Conduits, or Bridges, it shall be lawful for such Turnpike Trustees to repair the same, and charge such Persons respectively with the Expence thereof, and levy the same as other Penalties by this Act imposed: Provided also, that where any other Turnpike Road, Highway, private Road, or Passage shall be so made from any Turnpike Road, or where any House shall be so built, the Trustees of such other Turnpike Road or Highway, Proprietor or Occupier, shall construct the said Road, Passage, or House respectively, in such Manner that the Communication between the same respectively and any Turnpike Road shall be made on a Level with such last-mentioned Turnpike Road; and the Trustees of such other Turnpike Road or Highway, Proprietor or Occupier, shall not construct any Mound, sloping Bank, or make any Projection into or upon the Sides of any Turnpike Road; nor shall cut or slope away any Part of the Sides of any Turnpike Road; and if the Trustees of such other Turnpike Road or Highway, Proprietor or Occupier, shall act contrary hereto, it shall be lawful for the Trustees of any Turnpike Road to remove such Obstruction, and repair such Defects, at the Expence of such Trustees, Proprietor or Occupier respectively, and recover such Expences in the same Manner as Penalties by this Act imposed are authorized to be levied.

Water not to be turned on the Roads.

LXXXIII. And be it further enacted, That it shall not be lawful for any Person to turn any Water or conduct any Drain across any Turnpike Road, except in the Manner prescribed by the Trustees of such Turnpike Road; and every such Person so offending shall, for every such Offence, forfeit and pay a Sum not exceeding Five Pounds, besides the Expence which such Trustees may be at in repairing the Injury occasioned thereby.

To prevent Nuisances.

LXXXIV. And be it further enacted, That it shall not be lawful for any Person to lay any Timber or Stones (excepting Timber, Stones, and other Materials for building or repairing any Houses or Walls immediately adjoining the Sides of any Turnpike Road, and which may occupy One-fourth Part of such Road only), or any Dung, Ashes, Rubbish, Scourings of Ditches, or any other Matter or Thing upon any such Turnpike Road, or upon any Street of any Town or Village which forms a Part of such Turnpike Road, and which is maintained by the Trustees of such Road, or upon the Side Drains or Ditches thereof, and every Person so offending shall forfeit and pay any Sum not exceeding Five Pounds; and it shall moreover be lawful for the said Trustees or their Surveyor, or other Person appointed by them, *brevi manu*, to seize and carry off any such Matter as aforesaid, and dispose of the same in such Manner as the Trustees shall direct: Provided always, that when the Proprietor or Occupier of any Lands or Houses immediately adjoining any Turnpike Road shall lay down any Materials for building or repairing any House or Wall as aforesaid, such Proprietor or Occupier shall erect such Fence round such Materials, and shall fix and light Lamps thereon in such Manner as the Trustees of such Road may require; and such Proprietor or Occupier, on failing to comply with such Requisition as aforesaid, shall forfeit and pay any Sum not exceeding Five Pounds for every Day he shall continue to so offend.

Owners of adjoining Lands to cu the Hedges and Branches of Trees obstructing the Road.

LXXXV. And be it further enacted, That the Owners or Occupiers of the Lands next adjoining to every Turnpike Road shall cut, prune, and trim their Hedges to the Height of Six Feet from the Surface of the Ground, and also cut down, prune, or lop the Branches of Trees, Bushes, and Shrubs growing in or near such Hedges or other Fences adjacent thereto (such Fences, Trees, Bushes, or Shrubs not being in any Garden, Orchard, Plantation, Walk or Avenue to a House, nor any Tree, Bush, or Shrub, being an Ornament or Shelter to a House, unless the same shall hang over the Road or any Part thereof in such a Manner as to impede or annoy any Carriage or Person travelling thereon), in such Manner that the Turnpike Road shall not be prejudiced by the Shade thereof, and that the Sun and Wind may not be excluded from such Turnpike Road to the Damage thereof; and that if such Owner or Occupier shall not, within Ten Days after Notice given by the Surveyor for that Purpose, cut, prune, and trim such Hedges, or cut down, prune, or trim such Branches of Trees, Bushes, and Shrubs, in manner aforesaid, it shall and may be lawful for the said Surveyor, and he is hereby required to make Complaint to the Sheriff, Stewart, or some Justice of the Peace of the Shire or Stewartry where such Turnpike Road shall lie, who shall summon the Occupier of such Lands before him, to answer the said Complaint; and if it shall appear to such Justice that such Occupier has

If neglected for Ten Days, Surveyor may complain to a Justice, &c.

has not complied with the Requisites of this Act in that Behalf, it shall and may be lawful for such Justice, upon hearing the Surveyor and Occupier of such Land, or his Agent (or in Default of his or her Appearance, upon having due Proof of the Service of such Summons), and considering the Circumstances of the Case, to order such Hedges to be cut, trimmed, and pruned, and such Branches of Trees, Bushes, and Shrubs to be cut down or pruned or trimmed, in such Manner as may best answer the Purposes aforesaid; and if the Occupier of such Lands shall not obey such Order within Ten Days after it shall have been made, and he or she shall have had due Notice thereof, he or she shall forfeit the Sum of Two Shillings for every Twenty-four Feet in Length of such Hedge which shall be so neglected to be cut, trimmed, and pruned, and the Sum of Two-pence for every Tree, Bush, or Shrub, which shall be so directed to be cut down, pruned, or trimmed; and the Surveyor, in case of such Default made by the Occupier, shall and he is hereby required to cut, prune, and trim such Hedges, and to cut down, prune, or trim such Branches of Trees, Bushes, and Shrubs in the Manner directed by such Order, and such Occupier shall be charged with and pay, over and above the said Penalties, the Charges and Expences of doing the same, to be recovered in the same Manner as other Penalties by this Act imposed.

Penalty for Neglect after Order of Justice.

Hedges, &c. may be trimmed at the Expence of Defaulter.

Time of cutting or pruning Hedges.

LXXXVI. Provided always, and be it further enacted, That no Person or Persons shall be compelled, nor any Surveyor permitted, by virtue of this Act, to cut or prune any Hedge at any other Time than between the last Day of *September* and the last Day of *March*, nor to cut down, prune, or lop the Branches of any ornamental Trees (unless the same shall hang over the Road, or any Part thereof, so as to impede or annoy any Carriage or Person travelling thereon), if the Proprietor of the Lands shall become bound to pay the additional Expences which their remaining unlopped may occasion the said Trustees in keeping any such Road in repair.

Proprietors may preserve ornamental Trees on paying extra Expence of Repairs.

Penalties on Persons making Encroachments.

LXXXVII. And be it further enacted, That if any Person shall fill up or obstruct any Ditch at the Side of any Turnpike Road, or any Ditch used for conveying Water from the said Road, or shall encroach by making any Dwelling House or other Building, or any Hedge, Ditch, or other Fence, or in any other Manner whatever on any Turnpike Road, or shall make any Drain, Gutter, Sink, or Watercourse across, or otherwise break up the Surface of any Turnpike Road, without the Consent in Writing of the Trustees of such Road, or of their Surveyor; or in ploughing or harrowing the adjacent uninclosed Lands, shall turn any Horse, Plough, or Harrow in or upon such Road, or the Side Ditches thereof, such Person shall forfeit for every such Offence a Sum not exceeding Five Pounds, and it shall be lawful for the Trustees of any such Road, to cause such Dwelling House or other Building, Hedge, Ditch, or Fence, Drain, Sink, Watercourse, Gutter, or other Encroachment to be taken down or filled up at the Expence of the Person so offending; and it shall be lawful for the Sheriff or Stewart, or any Two Justices of the Peace of the Shire or Stewartry where such Offence shall be committed, upon Proof of the Fact, to grant a Warrant for levying the Expences of taking down or filling up such Dwelling House or other Building,

Hedges, Ditches, Drains, or other Encroachments as aforesaid, over and above the Penalties hereby imposed, by Pointing and Sale of the Offender's Goods and Effects, rendering the Surplus (if any) to the Owner.

Notice of building and inclosing on the Sides of the Roads to be given to Trustees.

LXXXVIII. And be it further enacted, That after the passing of this Act, no Houses or other Buildings shall be erected, nor any Inclosures made along the Sides of any Turnpike Road, within the Distance of Twenty-five Feet from the Centre thereof, and no Place out of which the Trustees of any Turnpike Road have been in the Use of taking Materials previous to the passing this Act, shall be inclosed, until the Proprietor or Occupier of the Lands shall have given One Month's previous Notice at least of his Intention, to the Trustees of the said Road; and if he fail so to do, he shall not be entitled to any Compensation for the Value of the said Houses, Buildings, or Inclosures, in case the said Trustees shall at any future Time think it necessary to demolish the same for the Purpose of widening the Road; nor shall the inclosing of such Place, out of which Materials shall have been taken as aforesaid, preclude the Trustees of any Turnpike Road from re-opening and using the same; and the said Notice shall be given to the Trustees by a Letter addressed to their Clerk, who shall lay the same before the next General Meeting, or adjourned General Meeting; and the said Meeting is hereby required to insert a Copy of the said Letter in their Minutes.

Milestones and Direction Posts to be erected.

LXXXIX. And be it further enacted, That the Trustees of every Turnpike Road shall cause Stones or Posts to be set up, on or near the Sides of every Turnpike Road, at the Distance of One Mile from each other, denoting the Distance of such Stone or Post from some Town or Place, to or from which such Road shall lead, and also Direction Posts at the several Highways or Turnpike Roads leading out of or crossing any such Road, with Inscriptions thereon, denoting to what Places such Road respectively leads; and if any Person shall wilfully break, cut down, pull up, or damage any such Posts or Stones, or shall obliterate, deface, spoil, or destroy any of the Letters, Figures, or Marks which shall be inscribed or painted thereon, and be thereof convicted before the Sheriff, Stewart, or any Justice of the Peace for the Shire or Stewartry where such Offence shall be committed, or the Offender shall be found or reside, or by the Oath of One credible Witness, or other competent Evidence, such Person so offending shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence.

Penalty on Persons committing Nuisances.

XC. And be it further enacted, That if any Person or Persons shall ride upon any Footpath or Causeway by the Side of any Turnpike Road, made or set apart for the Use or Accommodation of Foot Passengers, or shall lead or drive any Horse, Ass, Mule, Swine, or Cattle, or Carriage of any Description, or any Wheelbarrow, Truck, or Sledge, or any single Wheel of any Waggon, Cart, or Carriage apart therefrom, upon any such Footpath or Causeway, or shall cause any Injury or Damage to be done to the same, or the Hedges, Posts, Rails, or Fences thereof, or shall wilfully pull down or damage any Bridge, Wall, or any other Building or Erection made by the Trustees or Commissioners of any Turnpike Road, or

repaired or repairable by them, or shall haul or draw, or cause to be hauled or drawn, upon any Part of such Turnpike Road, any Timber, Stone, or other Thing, otherwise than upon Wheeled Carriages, or shall suffer any Timber, Stone, or other Thing which shall be carried principally or in part upon Wheeled Carriages, to drag or trail upon such Road to the Prejudice thereof; or shall use any Tipstick, Joggle, or other Instrument for the Purpose of retarding the Descent of any Cart or other Carriage down any Hill, in such Manner as to destroy, injure, or disturb the Surface of any Turnpike Road; or shall in or upon such Road, or by the Side or Sides thereof, or in any exposed Situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any Beast, Swine, Calf, Lamb, or other Cattle; or if any Person driving any Horse or other Beast on the said Road, carrying any Iron Bar or Rod, Basket, or Pannier, or any other Matter or Thing, shall place such Bar or Rod, Basket or Pannier, Matter or Thing, so that the same or any of them shall project more than Thirty Inches from the Side of such Horse or other Beast, or so as in any Manner to obstruct or impede the Passage of any Person, or any Horse, Beast, or Carriage travelling along such Turnpike Road; or if any Hawker, Higgler, Gipsey, or other Person or Persons travelling with any Machine, Vehicle, Cart, or other Carriage, with or without any Horse, Mule, or Ass, shall pitch any Tent, or encamp upon or by the Sides of any Part of any Turnpike Road; or if any Blacksmith, or other Person occupying a Blacksmith's Shop situate near any Turnpike Road, and having a Window or Windows fronting the said Road, shall not, by good and close Shutters every Evening after it becomes Twilight, bar and prevent the Light from such Shop shining into or upon the said Road; or shall make or assist in making any Fire or Fires commonly called Bonfires, or shall set fire to or wantonly let off or throw any Squib, Rocket, Serpent, or other Firework whatsoever, within Eighty Feet of the Centre of such Road; or bait or run for the Purpose of baiting any Bull, or play at Foot Ball, Tennis, Fives, Cricket, or any other Game or Games, upon such Road, or on the Side or Sides thereof, or in any exposed Situation near thereto, to the Annoyance of any Passenger or Passengers; or if any Person shall leave any Waggon, Wain, Cart, or other Carriage whatever upon such Road, or on the Side or Sides thereof, without any proper Person in the sole Custody or Care thereof, longer than may be necessary to load or unload the same, except in Cases of Accident, and in Cases of Accident for a longer Time than may be necessary to remove the same, or shall not place such Waggon, Wain, or other Carriage during the Time of loading or unloading the same, or of taking Refreshment, as near to One Side of the Road as conveniently may be, either with or without any Horse or Beast of Draught harnessed or yoked thereto; or shall lay any Timber, Stone, Hay, Straw, Dung, Manure, Soil, Ashes, Rubbish, or other Matter or Thing whatsoever upon such Road, or on the Side or Sides thereof, or the Footpaths or Causeways adjoining, to the Prejudice of such Road or Footways, or to the Prejudice, Annoyance, Interruption, or personal Danger of any Person or Persons travelling thereon; or shall suffer any Water, Filth, Dirt, or other offensive Matter or Thing whatsoever to run or flow into or upon such Road or Footpaths from any House, Building, Erection, Lands or Premises adjacent thereto; or if any Person driving any Pigs or Swine upon such

such Road shall suffer such Pigs or Swine to root up or damage such Road, or the Fences, Hedges, Banks, or Copse on either Side thereof respectively; or if any Person shall, after having blocked or stopped any Cart, Waggon, or other Carriage in going up a Hill or rising Ground, cause or suffer to be or remain on such Road the Stone or other Thing with which such Cart or other Carriage shall have been blocked or stopped; or if any Person or Persons shall pull down, damage, injure, or destroy any Lamp or Lamp Post put up, erected, or placed in or near the Side of any Turnpike Road or Toll House erected thereon, or shall extinguish the Light of any such Lamp, every Person offending in any of the Cases aforesaid shall for each and every such Offence forfeit and pay any Sum not exceeding Forty Shillings, over and above such Damages occasioned thereby.

Regulation of Drivers.

XCI. And be it further enacted, That if the Driver of any Carriage used for carrying Goods on any Turnpike Road, shall ride on the Shafts, or on any other Part of such Carriage, without having some Person guiding the Beasts of Draught drawing the same, or without having and holding double Reins attached to each Side of the Bridle of each Beast of Draught drawing such Carriage; or if the Person driving any Sort of Carriage shall not keep to the Left or Near Side of such Road on meeting or on being overtaken by any other Carriage, or if such Person shall wilfully prevent any other Person passing him, such Person shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds, over and above the Damages occasioned thereby and Expences.

Surveyors, &c. not to leave Nuisances on Roads.

XCII. And be it further enacted, That if the Surveyor of the Trustees of any Turnpike Road, or any Contractor or other Person in their Employment, shall lay on any Part of any such Road any Heap of Stones or other Materials for the Repair thereof, and shall permit the same to remain longer than necessary for the breaking and spreading of such Materials, or shall lay on any such Road any Matter or Thing, or shall knowingly permit to remain on any Part of any such Road any Matter or Thing which may endanger the Safety of any Passenger, or shall dig any Pit, or make any Cut on any Turnpike Road, without sufficiently fencing the same, such Person shall for each such Offence forfeit and pay a Sum not exceeding Five Pounds over and above the Damages occasioned thereby and Expences; and that it shall be lawful for any Person travelling along any Turnpike Road to prosecute such Surveyor, Contractor, or other Person in the Employment of the Trustees, so offending in manner herein-after provided.

Proprietor to fence Pits.

XCIII. And be it further enacted, That if the Proprietor or Occupier of any Lands adjacent to any Turnpike Road shall dig any Pit or make any Cut upon or within Twelve Feet of the Side of any such Road, and shall leave the same unfenced so as to be dangerous to Travellers, and shall not fence the same when required so to do by the Trustees of such Road, or the Procurator Fiscal of the Shire or Stewartry within which the said Pit or Cut is situated, such Proprietor or Occupier shall forfeit and pay any Sum not exceeding Five

Five Pounds for every Day the said Pit or Cut shall continue to be unfenced after the Elapse of Three Days after Notice shall have been given as aforesaid; and it shall then be lawful for the said Trustees or Procurator Fiscal to order the same to be fenced at the Expence of such Proprietor or Occupier, to be recovered as other Penalties by this Act directed.

No Animal to be pastured on Roads.

XCIV. And be it further enacted, That if any Horse, Cattle, Ass, Sheep, Swine, or other Beast of any Kind, shall be pastured or left or found straying on any Turnpike Road, or the Sides of the same, where such Road shall be inclosed, (except on such Parts of any Road as lead or pass through or over any Common or Waste or uninclosed Ground), it shall be lawful for any Trustee of such Road, or the Surveyor of such Trustees, or any other Person authorized by them, *brevi manu*, to seize and detain the same, until the Owner thereof shall for every such Animal pay a Sum not exceeding Five Shillings and Expences; and in case the said Penalty and Expences shall not be paid within Three Days after Notice of such Detention shall be given on the Two nearest Toll Bars on the said Road where such Animal shall be found, the said Surveyor or other Person shall sell the same, with the Authority of the Sheriff, Stewart, or any Justice of the Peace for the Shire or Stewartry, who are hereby empowered to grant such Authority, and after deducting the Amount of the said Penalty and Expences, shall pay the Surplus, if any, to the Owner of such Animal so detained.

Side-ridges to be made.

XCV. And be it further enacted, That every Person in ploughing any uninclosed Land adjoining any Turnpike Road shall make Hedge-ridges along the Sides of such Road of the Breadth of Twelve Feet at the least, under a Penalty not exceeding Five Pounds, to be levied as other Penalties by this Act directed.

Gates to open Inwards.

XCVI. And be it further enacted, That no Gate of any Park, Field, or Inclosure whatsoever, shall be made to open into or towards any Part of any Turnpike Road, or of any Footpath belonging thereto, or be suffered so to open, except the Hanging Post thereof shall be fixed or placed so far from the Centre of any Part of such Turnpike Road, as that no Part of such Gate shall, when open, project over any Part of such Turnpike Road, or any Footpath belonging thereto; and the Occupier of any Park, Field, or Inclosure, having any Gate opening outwards, contrary to the Meaning of this Act, shall, within Six Days after Notice to him or her given, either personally or in Writing, from the Trustees of any Turnpike Road, or their Surveyor, cause such Gate to be hung so that no Part of the Gate, when open, shall project over any Part of such Turnpike Road, or any Footpath belonging thereto; and if such Occupier fail so to do, the Surveyor of any such Turnpike Road shall cause the Gate to be hung as herein-before directed, and charge the Expence of making such Alteration and hanging such Gate against the said Occupier, who shall also forfeit and pay a further Sum not exceeding Five Pounds for such Neglect, to be fixed by the Sheriff, Stewart, or any Two Justices of the Peace for the Shire or Stewartry in which such Gate is situated.

Weeds to be cut.

XCVII. And be it further enacted, That the Trustees of every Turnpike Road shall cut or cause to be cut all Weeds growing on the same, or the Sides thereof, when inclosed, at a proper Season of the Year, in order to prevent such Weeds coming into Seed, and if they fail so to do for Eight Days after being required by the Proprietor or Occupier of the adjoining Lands, by Notice in Writing given to their Clerk or Surveyor, such Proprietor or Occupier may cut the same, and charge the Expence thereof against the said Trustees, and recover the same as Penalties by this Act directed, *mutatis mutandis*.

Trustees shall erect Parapets, &c.

XCVIII. And be it further enacted, That the Trustees of every Turnpike Road shall erect sufficient Parapet Walls, Mounds, or Fences along the Sides of all Bridges, Embankments, or other such dangerous Parts of the said Roads, and if they shall fail therein, it shall be lawful for the Procurator Fiscal of the Shire or Stewartry in which such Road is situated, or any Commissioner of Supply for the Shire or Stewartry in which such Road is situated, upon finding Security to pay Expences of Process if he shall fail in his Action, to prosecute the Trustees of any such Turnpike Road before the Sheriff or Stewart of the Shire or Stewartry in which such Road is situated, who shall judge and determine therein in a summary Manner, and upon finding the Complaint well founded, may oblige the said Trustees to remedy the Matter complained of, and adjudge to the Prosecutor full Expences of Process; but if such Prosecution shall be found groundless, the private Prosecutor shall be liable in Expences.

Parishes shall defray Damages, &c.

XCIX. And be it further enacted, That it shall be lawful for the Trustees of every Turnpike Road, where the Parapet of any Bridge, or any Toll House, Toll Bar, Fence, Milestone, Direction Post, or any Erection, Building, Matter, or Thing belonging to the said Trustees, shall be destroyed or injured, and the Persons so offending cannot be discovered and convicted, to complain to the Sheriff, Stewart, or any Two Justices of the Peace of the Shire or Stewartry in which such Damage shall have been committed, having previously given Notice in Writing of their Intention of making such Complaint on the Church Door of the Parish in which the said Damage shall have been committed for Two consecutive *Sundays*, and which Complaint the said Sheriff, Stewart, or Justices shall hear in a summary Way; and if they shall sustain the same, they shall have Power to assess the Amount of such Damage upon the Proprietors, Occupiers, and such other Persons of the Parish wherein such Damage shall have been committed as aforesaid, as are liable for the Payment of the Conversion Money leviable for Statute Labour in the Shire or Stewartry in which such Parish is situated; which Assessment shall be levied by the said Trustees upon the same Persons, in the same Proportions, with the same Relief to Landlords against Tenants, in the same Manner, and with the same Powers as are provided and contained in the Acts of Parliament for regulating and converting the Statute Labour of the Shire or Stewartry in which the Parish where such Damages shall be so committed as aforesaid is situated.

No Windmill, &c. to be erected within One hundred Yards of the Turnpike Road.

C. And be it further enacted, That no Person shall hereafter erect any Windmill, Watermill, or Limekiln within the Distance of One hundred Yards from any Part of any Turnpike Road, under the Penalty of Five Pounds for every Day such Windmill, Watermill, or Limekiln shall continue, unless the same shall be so placed or screened as to prevent Damage or Detriment to any Traveller on such Turnpike Road; nor shall any Person hereafter place any Skinner's Washing Pond within the Distance of One hundred Yards from any Part of any Turnpike Road, under a Penalty not exceeding Five Pounds for every Day any such Nuisance shall continue: Provided always, that nothing herein contained shall be construed to render legal the Re-erection or Continuance of any Windmill, Watermill, Lime-kiln, or Skinners Washing Pond, in any Case where by the Common Law the same shall be a public or private Nuisance.

Owners of Waggons and Carriages, &c. shall cause their Names to be painted thereon.

CI. And be it further enacted, That the Owner of every Waggon or Cart, and also of every Coach, Post Chaise, or other Carriage, let either in the Whole or in Part to hire, shall paint in a straight Line, upon some conspicuous Part on the off or right Side of his Waggon or Cart, and upon the Pannels of the Doors of all such Coaches, Post Chaises, or other Carriages, before the same shall be used upon any Turnpike Road, the Christian and Surname and Place of Abode of such Person, or the Christian and Surname and Place of Abode of the principal Partner or Owner thereof, in large legible Roman Letters, either of a dark Colour upon a light Ground, or of a light Colour on a dark Ground, not less than One Inch in Height, with Numbers, beginning with Number One, where more of such Carriages respectively than One shall belong to the same Owner, and proceeding in regular Progression, and continue the same thereupon so long as such Carriage shall be used upon any Turnpike Road; and every Owner of any such Carriage as aforesaid using or allowing the same to be used upon any Turnpike Road without the Names and Descriptions painted thereon respectively as aforesaid, or who shall paint or cause to be painted any false or fictitious Name or Place of Abode on such Carriage, shall forfeit for every such Offence a Sum not exceeding Five Pounds; and every Person driving any Coach or Post Chaise let for Hire, Waggon, Cart, or other Carriage, without the Name or Description of the Owner painted thereon as hereinbefore directed, or with a false or fictitious Name, or with the Name painted in inverted Characters, or placed in an inverted Position, or who shall refuse to stop and permit such Name to be read by any Person requiring him so to do, shall forfeit for each such Offence any Sum not exceeding Forty Shillings, to be recovered as other Penalties by this Act directed.

One Driver may take Charge of Two Carts.

CII. And be it further enacted, That it shall be lawful for any one Person to act as the Driver of Two Carts on any Turnpike Road, and for such Carts to pass and travel on any Turnpike Road, being only under the Care and Superintendence of such single Person: Provided always, that the hinder of such Carts, when under the Care of only One Person, shall not be drawn by more than One Horse, and that the Horse of the hinder Cart shall be attached by a Rein to the Back

of the Cart which shall be foremost, and follow in the same Line therewith, the Horse drawing such last Cart never being permitted to be further from the foremost Cart than Four Feet; and in case the said Horse shall not be so attached, the Driver of such Carts shall for each such Offence forfeit a Sum not exceeding Forty Shillings, to be recovered as other Penalties are by this Act authorized to be recovered.

Children not to drive Carts, &c.

CIII. And be it further enacted, That no Waggon or Cart travelling on any Turnpike Road shall be driven by any Person who shall not be of the full Age of Thirteen Years, under a Penalty for each such Offence not exceeding Forty Shillings, to be paid by the Owner of such Waggon or Cart.

Trustees may direct Prosecutions for Nuisances, &c.

CIV. And be it further enacted, That the Trustees of every Turnpike Road, at any of their General or Adjourned Meetings, may direct Prosecutions to be raised against the Offender for any Nuisance or other Offence done or committed upon any of the Turnpike Roads under their Care respectively, at the Expence of the Turnpike Funds, to be allowed by such Trustees at some subsequent Meeting.

Penalty on Witnesses not attending when summoned.

CV. And be it further enacted, That if any Person shall be summoned as a Witness to give Evidence before any Sheriff or Stewart, or before any Justice of the Peace, touching any Matter relating to or contained in any Act of Parliament relating to Turnpike Roads or this Act, either on the Part of the Prosecutor or the Person accused, and shall refuse or neglect to appear at the Time and Place for that Purpose appointed, after having been paid or tendered a reasonable Sum for his or her Expences, without a reasonable Excuse for such Refusal or Neglect, then such Person shall forfeit for every such Offence any Sum not exceeding Five Pounds.

Punishing Persons resisting the Execution, or assaulting Collectors.

CVI. And be it further enacted, That in case any Person shall resist or forcibly oppose any Person employed in the due Execution of this Act, or any Act made for making or maintaining any Turnpike Road, or shall assault any Surveyor or any Tacksman or Toll-gatherer in the Execution of his or their Office, or shall pass through any Toll Bar or Fence set up under the Authority of any Act of Parliament for making or maintaining any Turnpike Road, without paying the Toll appointed to be paid at such Bar, or shall make any Rescue of Cattle or other Goods distrained by virtue of this Act, or of any Act for making and maintaining any Turnpike Road, every such Person so offending shall for every such Offence forfeit any Sum not exceeding Five Pounds, at the Discretion of the Sheriff, Stewart, or Justices of the Peace before whom such Person shall be convicted of any such Offence.

For securing transient Offenders.

CVII. And whereas Offences may be committed against this Act, or other Acts for making and maintaining Turnpike Roads, by Persons unknown to the Toll-gatherers or other Officers; be it therefore further enacted, That it shall be lawful for any of the Trustees of any Turnpike Road, or any of their Clerks or their Toll-gatherers, Surveyors, or other Officers respectively, and such other Person as any of them shall call to their Assistance, without any Warrant or other

other Authority than this Act, *brevi manu*, to seize and detain any unknown Person who shall commit any Offence, either prohibited by this Act, or by any Act of Parliament for making or maintaining any Turnpike Road, and take such Person before the Sheriff, Stewart, or nearest Justice of the Peace for the Shire or Stewartry where the Offence shall have been committed, or where such Offender shall be seized and apprehended, who shall forthwith examine, and discharge or commit such Person till Caution *de Judicio Sisti* be found, as the Case may require.

Prosecutors may recover by Action, &c.

CVIII. And be it further enacted, That every Person who shall prosecute for any Expence, Toll Duty, Penalty, Forfeiture, or Fine imposed by this or any Act of Parliament made for making or maintaining any Turnpike Road, for the Recovery of which no particular Mode is directed, shall prosecute for and recover the same before the Sheriff or Stewart, or the Justices of the Peace of the Shire or Stewartry in which such Penalty, Forfeiture, or Fine has been incurred, or where the Offender shall reside, subject to Appeal in Manner herein-after mentioned.

For Recovery of Penalties:

CIX. And be it further enacted, That all Expences, and also all Penalties, Forfeitures, and Fines by this Act directed to be paid or inflicted, (the Manner of levying, recovering, and applying whereof is not herein otherwise directed) shall, upon Proof of the Offences respectively before the Sheriff, Stewart, or any Two Justices of the Peace for the Shire or Stewartry where the Offence shall have been committed, or where the Offender may reside (as the Case may require), either by the Confession of the Party offending, or by the Oath of any credible Witness, or other competent Evidence, be levied, together with the Expences attending the Information and Conviction, by Poinding and Sale of the Goods and Effects of the Party offending, by Warrant under the Hand of such Sheriff, Stewart, or Justices (which Warrant such Sheriff, Stewart, or Justices are hereby empowered to grant), and the Surplus (if any) after deducting such Expences, Penalties, Forfeitures and Fines, and the Charges of such Poinding and Sale, shall be returned unto the Owner of such Goods and Effects; and in case such Expences, Fines, Penalties, and Forfeitures shall not be forthwith paid upon Conviction, then it shall be lawful for such Sheriff, Stewart, or Justices to order the Offender so convicted to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of poinding, unless the Offender shall give sufficient Security, to the Satisfaction of such Sheriff, Stewart, or Justices, for his or her Appearance before such Sheriff, Stewart, or Justices, on such Day as shall be appointed for the Return of such Warrant of poinding, which Security the said Sheriff, Stewart, or Justices are hereby empowered to take by Bond of Caution or otherwise; but if upon the Return of such Warrant it shall appear that no sufficient Goods and Effects can be found, then it shall be lawful for the said Sheriff, Stewart, or Justices, and they are hereby authorized and required, by Warrant under their Hand, to cause such Offender to be committed to the Common Gaol or House of Correction of the Shire or Stewartry where the Offender shall be or reside, there to remain for any Time not exceeding

ing Three Months, unless such Expences, Penalties, Forfeitures, and Fines, and all reasonable Charges attending the same, shall be sooner paid; and the Monies recovered or levied for such Expences shall be applied to the Payment of the same respectively; and the Monies arising by such Penalties, Forfeitures, and Fines respectively, when paid, if not otherwise directed to be applied by this Act, or the Act under which the same shall have been incurred, shall be paid to the Trustees for making and maintaining the Road on which such Offence shall have been committed, or to their Treasurer, and applied and disposed of for the Purposes of the said Road.

By summary Process.

CX. And be it further enacted, That in recovering the different Penalties imposed by this Act or any Turnpike Act, it shall be lawful for the Sheriff, Stewart, or Justice before whom any Complaint for the Recovery thereof may be brought, to proceed, if under all Circumstances there shall be Cause, in a summary Way, and to grant Warrant for bringing the Parties complained upon before them for Examination, and on Confession or Probation by the Oath of any credible Witness or other competent Evidence, to proceed to determine thereon, without any written Pleadings or Record of Evidence, it being hereby provided that a Record shall be preserved of the Charge and of the Judgment pronounced.

Appeal.

CXI. Provided always, and be it further enacted, That any Person who shall think himself or herself aggrieved by any Proceedings to be had before any Justice or Justices of the Peace in the Execution of this Act, for which no particular Relief has been hereby provided, may within Six Months after the Matter complained of shall be done, but not afterwards, appeal to the Justices of the Peace at the Quarter Sessions of the Shire or Stewartry where the Cause of Complaint shall have arisen, the Appellant giving Fifteen Days previous Notice of such Appeal to the Defender or Defenders, and to the Clerk of the said Trustees and the Clerk of the Justices of the Peace, which Justices shall have Authority to hear and determine the Matter in Dispute, and their Judgment therein shall be final, without being subject to Review by Advocation, Suspension, Reduction, or otherwise.

Judgment of Sheriff, Stewart or Justices to be final.

CXII. And be it further enacted, That where by this Act the adjudging of any Penalty, Forfeiture, Fine, or any other Matter is committed to the Sheriff, Stewart, or the Justices of the Peace assembled in their Quarter Sessions of the several Shires and Stewartries in *Scotland*, the Judgment of such Sheriff, Stewart, or Justices assembled as aforesaid, shall be final and conclusive, and shall not be subject to Review by Advocation or Suspension, or by Reduction, or by any Process of Law whatever, any Law or Usage to the contrary notwithstanding.

Prosecutions to be brought within Six Months.

CXIII. And be it further enacted, That all Prosecutions for the Penalties, Forfeitures, and Fines imposed by this Act or any Turnpike Act, or for any Wrongs done or Injuries suffered in any Matter thereto relating, or for any thing done in pursuance of any of the Powers by this Act or any Turnpike Act given and granted for any

thing done in pursuance of this Act or any Turnpike Act, shall be commenced within Six Months after the Penalty, Forfeiture, or Fine is incurred, or Wrong done, or Injury suffered, or Fact committed, and not afterwards.

Exception of Highland Commissioners Roads and Glasgow and Carlisle Road.

CXIV. Provided always, That nothing herein contained shall be construed or taken to extend to any Road made under or by virtue of an Act passed in the Forty-third Year of the Reign of His late Majesty, intituled *An Act for granting to His Majesty the Sum of Twenty thousand Pounds, to be issued and applied towards making Roads and building Bridges in the Highlands of* Scotland; *and for enabling the Proprietors of Land in* Scotland *to charge their Estates with a Proportion of the Expence of making and keeping in repair Roads and Bridges in the Highlands of* Scotland; or of an Act passed in the Fifty-ninth Year of His said Majesty, intituled *An Act to repeal Two Acts made in the Fifty-fourth and Fifty-fifth Years of the Reign of His present Majesty, for maintaining and keeping in repair certain Roads and Bridges in* Scotland; *to provide more effectually for that Purpose; and for the Regulation of Ferries in* Scotland; or of an Act passed in the Fifty-sixth Year of the Reign of His said late Majesty, intituled *An Act for improving the Road from the City of* Glasgow *to the City of* Carlisle, or of Three several Acts amending the same, passed in the Fifty-eighth and Fifty-ninth Years of the Reign of His said late Majesty, and in the First and Second Years of the Reign of His present Majesty.

43 G. 3. c. 80.

59 G. 3. c. 135.

56 G. 3. c. lxxxiii.

Sheriffs, &c. empowered to take Affidavits of Notices.

CXV. And be it further enacted, That it shall be lawful for the Sheriffs and Stewarts within their respective Shires and Stewartries to take Affidavits on Oath or Affirmation (which Oath or Affirmation such Sheriffs and Stewarts are hereby authorized to administer), of the Answers that may be given by the Proprietors and Occupiers of Lands, on Applications made to them for their Consent to such Bills; and every Affidavit of such Notices shall be in the Form following, as near as the Circumstances of the Case will admit:

'*A. B.* of maketh Oath, and saith [*or*, being One of 'the People called *Quakers*, upon his solemn Affirmation saith], That 'he did apply to , and did receive from the several 'Persons whose Names are contained in the Paper hereto annexed, 'whom he believes to be the Proprietors of the Lands through which 'the intended Turnpike Road is to be carried, the Answers set forth 'in the Paper hereunto annexed.

'(Signed) *A. B.*

'Sworn [*or* solemnly affirmed before me,] 'as witness my Hand, the Day of in the 'Year .'

And no such Affidavit as aforesaid shall be subject or liable to any Stamp Duty now payable by any Act of Parliament, or which shall hereafter be imposed, unless specially named and made subject thereto by the Act of Parliament imposing the same; nor shall any Fee be charged by any Sheriff, Sheriff Clerk, or other Officer, for administering or attesting the above Oaths or Affirmations.

CXVI. Pro-

CXVI. Provided always, and be it enacted, That Proof of the Hand-writing of any Sheriff or Stewart, before whom any such Affidavit shall be made as aforesaid, shall be sufficient Evidence of the Signature of such Sheriff or Stewart before any Committee of either House of Parliament, without any Witness being produced who was present at the Time when such Affidavit was made. Proof of Hand-writing of Sheriff to be deemed sufficient.

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