Anno octavo

Georgii III. Regis.

An Act for repairing ſeveral Roads leading through the County of *Roxburgh*.

WHEREAS the High Road leading from the Red Swyre, upon the Mid Border betwixt England and Scotland, through the Burgh of Jedburgh, to Ancrum Bridge, by Two different Branches, One by Eelzierſtone, Rink, Moſsburnfoord, and the Bridge of Jedburgh, at the Town Foot; and another by Southdeankirk, Abbotrule, and the Town Head of Jedburgh; and from Ancrum Bridge, by Newtoun, to the River Tweed, betwixt the Foot of Gala, and the Foot of Leider; and from thence to the Confines of the County of Selkirk, near the Bridge, over Gala Water, near Gala Shiels; and to the Road leading from Kelſo, to Lauder, near Nether Blainſlies; and the Road from the Bridge over Tweed, to be hereafter mentioned, to the Town of Melroſe, and from thence to or near the Village of Eildone; and the Road from the Red Swyre aforeſaid to the Town of Hawick; and from the Weſt End of that Town, by Denholm and Crailing, to the high Road leading from the Town of Kelſo, by Maxwelheugh, to the Eaſt Border, are, during the Winter Seaſon or wet Weather, almoſt impaſſable for Coaches, Waggons, and other Carriages, and dangerous for Preamble.

Persons travelling on Horseback, and many Parts thereof are very incommodious, and cannot be sufficiently repaired, widened, and kept in Repair, for the Accommodation of Travellers, without some Provision be made by Parliament for raising Money to be applied for those Purposes: May it therefore please your Majesty, that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Right Honourable William Henry Ker, commonly called Earl of Ancrum; the Right Honourable Robert Ker, commonly called Lord Robert Ker; the Right Honourable Sir Gilbert Elliot of Minto Baronet, the Honourable Andrew Pringle of Alemoor Esquire, One of the Senators of the College of Justice; the Honourable George Cranston, the Honourable George Ballie Esquire of Jerriswood, the Honourable Charles Hamilton Esquire of East Gordon, Sir John Riddel of Riddel, Sir John Elliot of Stobs, Sir Alexander Don of Newton, Sir William Scott of Ancrum, Sir Robert Pringle of Stitchel, Baronets; Sir James Douglas of Springwood Park, Knight, Archibald Douglas of Cavers, Walter Scott of Harden, Henry Rutherfurd of Hunthill, John Strother Ker of Little Dean, Patrick Ker of Abbotrule, Robert Pringle of Clifton, Robert Rutherfurd of Fairnilee, Colonel Robert Scott of Horselawhill, Charles Ker of Wells, George Pringle of Torwoodlee, Thomas Turnbull of Know, Professor George Stewart of Middle Mill, Thomas Scott of Stoneadge, Robert Langlands of Langlands, William Scott of Burnhead, Henry Douglas of Friarshaw, John Chisholm of Stirkshaws, William Oliver of Dimliebyre, William Scott of Wool, William Scott of Raeburn, Patrick Murray of Cherrytrees, John Adam of Whitslead, Colonel George Mc Dougal of Mackerstone, Doctor Gilbert Elliot of Otterburn, Doctor William Ormstone of Henderside, James Ker of Bought Rigg, Archibald Jerden of Bonjedward, William Elliot of Woolee, Cornelius Elliot younger of Woolee, the Reverend Andrew Chatto of Mainhouse, John Carr of Cavers, Patrick Riddel of Mooslee, Hugh Scott of Gala, John Scott younger of Gala, George Brown of Eilstone, Doctor James Douglas of Cunzierton, Prebendary of Durham; Adam Scott of Gallalaw, the Reverend Joseph Leck of Rawflat, Archibald Douglas of Timpandean, Thomas Turner of Pinnaclehill, Walter Elliot of Ormstone, Colonel James Pringle of Stichel, Walter Ker younger, of Littledean, William Turnbull of

Trustees Names.

of Langraw, Doctor William Hunter of Linthill, Colonel Turnbull of Standhill, John Murray of Philliphaugh, Captain John Douglas of Adderstone, John Pringle of Haining, John Pringle of Crichton, John Rutherfurd of Ederstone, Gilbert Elliot younger of Minto, George Douglas younger of Springwood Park, Henry Macdougal younger of Mackerston, Alexander Don younger of Newton, William Nisbet of Dirletone, William Nisbet younger of Dirletone, George Rutherfurd of Fairnington, Henry Hall of Haughhead, Thomas Waugh Writer in Jedburgh, Robert Bennet of Chester, Francis Elliot younger of Stobs, Thomas Scott of Netherboonchester, Walter Scott of Wauhoop, Robert Wilson of Bewlee, Thomas Turnbull of Catchahill, Walter Turnbull of Firth, Alexander Scot of Sinton, John Hay of Drygrange, James Haig of Birnerside, Alexander Fisher younger of Sorlesfield, John Gray of Blainslies, Robert Scott of Crayling, William Nassaw Elliot of Wells, James Dickson of Broughton, John Lauder of Carolside, John Ferrier of Cowdenknows, Colonel Charles Tod of Dryburgh, Thomas Tod Writer to the Signet, Walter Scott Writer to the Signet, Andrew Wauchop of Nithery, Andrew Wauchop younger of Nithery, William Ker of Chatto, Doctor Patrick Erskine of Sheilfield, James Peter of Chappel, William Ker of Gate Shaw, John Waldie of Hayhope, Gilbert Laurie of Easterlanglee, John Tait of Westerlanglee, William Riddel of Kamistone, Thomas Rutherford younger of Knowsouth, Andrew Ker of Filogar, Charles Scott younger of Wool, William Hunter Writer in Melrose, Andrew Davidson of Greenhouse, James Shortried of Essenside, Thomas Wilkieson of Chesterhall, John Elliot of Brothwickbrae, Adam Keir of Bannistone, the Provost of the Burgh of Jedburgh for the time being, the Baillie of the Lordship of Melrose for the time being, the eldest Baillie of Lauder for the time being, the eldest Baillie of Hawick for the time being, shall be, and they are hereby nominated and appointed to be Trustees for surveying, ordering, altering, amending, widening, repairing, and keeping in Repair, the said Roads.

And be it hereby further enacted by the Authority aforesaid, That they, and the Survivors of them, or any Five or more of them, or such Person or Persons as they, or any Five or more of them, shall authorize and appoint, shall and may build and erect, or cause to be built and erected, a Gate or Gates, Turnpike or Turnpikes, in, upon, cross, or on the Side of, any Part or Parts of the said Roads; and also shall and may build Trustees may erect Turnpikes and Toll-houses,

Fences, and suppress any Bye-roads that do not appear to be of Importance to the Publick, to prevent any Person or Persons travelling the said Roads from avoiding the Payment of any of the Tolls or Duties granted by this Act.

Six Miles distant from each other,

Provided always, That there shall be the Distance of Six measured Miles at least betwixt every Two Gates so to be erected on the said great Road from the Red Swyre on the mid Border, to the Village of Blainslies near Lauder, and the same Distance betwixt every Two Toll-gates to be erected on each of the Branches leading from the said great Road, to the different Places mentioned in this Act; with Power nevertheless to the said Trustees, or any Five or more of them, to erect Toll-gates at a less Distance, in case it shall be necessary, to prevent Travellers from evading the Tolls.

(Proviso.)

Provided always, That no Traveller or other Person shall be obliged to pay Tolls oftener than Once every Six Miles.

and take Tolls thereat.

And be it further enacted by the Authority aforesaid, That from and after the First Tuesday in May, One thousand seven hundred and sixty eight, the said Trustees, or any Five or more of them, or any Person authorized by them as aforesaid, may and shall, at each Gate so to be erected, demand, levy, and take, the Tolls and Duties following, before any Horse, Mare, Gelding, Mule, Ass, Cattle great or small, Coach, Landau, Chariot, Berlin, Chaise, Hearse, Calash, Chair, Litter, Waggon, Wain, Cart, Sledge, or other Carriage whatsoever, shall be permitted to pass through the same; that is to say,

The Tolls.

For every Coach, Chariot, Landau, Berlin, Chaise, Hearse, Calash, or Chair, drawn by Six or more Horses, Mares, Geldings, Mules, or Beasts of Draught, the Sum of One Shilling and Six Pence Sterling; and drawn by Four or Five Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of One Shilling Sterling; and drawn by Two Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Six Pence Sterling.

For every Calash, Chaise, or Chair, drawn by One Horse, Mare, Gelding, Mule, or other Beast of Draught, the Sum of Three Pence Sterling.

For every Waggon, Wain, Cart, or other such Carriage, drawn by Six or more Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of One Shilling and Six Pence Sterling; and drawn by Five Horses, Mares,

Wares, Geldings, Mules, or other Beasts of Draught, the Sum of One Shilling and Three Pence Sterling; and drawn by Four Horses, Wares, Geldings, Mules, or other Beasts of Draught, the Sum of One Shilling Sterling; and drawn by Three Horses, Wares, Geldings, Mules, or other Beasts of Draught, the Sum of Four Pence Halfpenny Sterling; and drawn by Two Horses, Wares, Geldings, Mules, or other Beasts of Draught, the Sum of Three Pence Sterling; and drawn by One Horse, Ware, Gelding, Mule, or other Beast of Draught, the Sum of One Penny Halfpenny Sterling.

For every Horse, Ware, Gelding, Mule, or Ass, whereon any Person shall ride, One Penny Halfpenny Sterling.

For every other Horse, Ware, Gelding, Mule, or Ass, laden or unladen, and not drawing, the Sum of One Penny Sterling.

For every Drove of Oxen or Neat Cattle, the Sum of Ten Pence Sterling per Score; and so in Proportion for any greater or less Number.

For every Drove of Calves, Hogs, Sheep, or Lambs, the Sum of Two Pence Halfpenny per Score; and so in Proportion for any greater or less Number.

And be it further enacted by the Authority aforesaid, That the respective Sum and Sums of Money shall be demanded and taken in the Name of Toll, or as a Toll or Duty so to be raised and collected as aforesaid; and shall be and is hereby vested in the said Trustees; and the same, and every Part thereof, shall be paid, applied, disposed of, and assigned, to and for the several Purposes by this Act directed; the reasonable Charges and Expences paid, or that shall be paid, in or about or by reason of passing this Act, being first deducted and paid out of the same by the said Trustees: And if any Person or Persons shall neglect or refuse to pay the same, the said Trustees are hereby impowered by themselves, or such Person or Persons as they, or any Five or more of them, at a General Meeting assembled, shall authorize and appoint, to levy each and every of the said Tolls and Duties by Distress and Sale of any Horse or Horses, or other Cattle, or Goods, upon which such Tolls or Duties are by this Act imposed, or by Distress of any other of the Goods and Chattles of such Person or Persons so refusing to pay the said Toll or Duty, and to keep such Goods and Chattles so distrained, until the said Toll or Duty, with the reasonable Charges of such Distress, shall be paid: And it shall and may be lawful to and for the Person and Persons so distraining, after

Tolls vested in Trustees;

to be levied by Distress and Sale.

Distress may be sold after 4 Days.

the

the Space of Four Days after such Distress shall be made and taken, to appraise and sell the said Goods so distrained by publick Roup, at the Turnpike or Toll-house where the Toll ought to have been paid, returning the Overplus, if any be, to the Proprietor of such Goods or Chattles so distrained, after deducting such Toll or Duty, and the reasonable Charges for keeping up, appraising, and selling, the same.

Application of the Tolls.

And be it further enacted and declared, That the Money drawn or raised by such Toll at each Gate shall be laid out, in the First Place, in repairing and keeping in Repair the Roads upon which the said Gate or Gates shall be erected, or any Part of them, and thereafter in repairing and keeping in Repair any of the other Branches that the said Trustees, or any Five or more of them, at a General Meeting assembled, shall think proper; and the said Trustees are ordered, after paying of the Expences of procuring this Act, to apply the Money so arising accordingly.

Trustees may appoint Officers;

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Trustees, or any Five or more of them, at a General Meeting assembled, to choose and appoint fit Persons to be Treasurer or Treasurers, Receiver or Receivers, Collector or Collectors, Clerk or Clerks, to the said Trustees, for receiving the Tolls and Duties granted and made payable by this Act; and also One or more fit Person or Persons to be made Surveyor or Surveyors of the said Highways and Bridges, or such other Officers as they shall think proper; and, from time to time, to remove such Clerks, Receivers, Collectors, Surveyors, and other Officers, or any of them, as they shall see Occasion, and appoint others in their Room;

and remove them, and appoint others.

Officers to account upon Oath.

and the Person or Persons appointed Receiver or Receivers as aforesaid, and also the Surveyor or Surveyors, shall, on the First Tuesday in every Month, or at any other Time appointed by the said Trustees, or any Five or more of them, during the Continuance of this present Act, give in a true, particular, exact, and perfect Account in Writing under their respective Hands, with their respective Vouchers, of all Monies which he or they, every or any of them, have received, paid, and disbursed, by virtue of this Act, by reason of their respective Offices, and verify the same upon Oath if required before a Justice of the Peace of the Counties of Roxburgh or Berwick, in which ever of the said Counties the said Person or Persons shall reside; and in case any Overplus Money shall remain in their or any

of

of their Hands, they shall pay the same unto the said Trustees, or to such Person or Persons as they, or any Five or more of them, at a General Meeting assembled, shall authorize and appoint to receive the same, to be disbursed and laid out in amending and repairing the said Highways and Bridges, according to the true Meaning of this Act, and not otherwise; and the said Trustees, or any Five or more of them, at a General Meeting assembled, shall and may, and are hereby authorized and impowered, out of the Money arising out of the said Tolls or Duties, to make such Allowance unto their Clerk or Clerks, Surveyor or Surveyors, Collector or Collectors, or other Officers appointed by them, for and in Consideration of their Care and Pains taken in the Execution of the said respective Offices, and to such other Person or Persons who shall have been, or may be, assisting in making and repairing the said Bridges and Highways as aforesaid, by advancing or laying out any Monies, or otherwise relating thereunto, as unto them shall seem good, over and above the necessary Disbursements made by them.

Officers refusing to account,

And in case the said Receiver or Receivers, Collector or Collectors, of the aforesaid Tolls or Duties so to be paid as aforesaid, or any of them, shall not give and make such Account and Payment as the said Trustees, or any Five or more of them, shall order and direct; be it further enacted by the Authority aforesaid, That then, and in such Case, any Two or more Justices of the Peace, at any Special Meeting or other Meeting holden for the said Counties of Roxburgh and Berwick, in which ever of the said Counties the said Person or Persons shall reside, shall make Inquiry of and concerning such Default, as well by Confession of the Parties themselves, as by the Testimony of One or more credible Witness or Witnesses upon Oath, which Oath is hereby directed to be administered without Fee or Reward; and if any Person or Persons shall be thereof convicted, such Justices shall, upon Conviction, commit the Party or Parties to the Common Gaol of the said Counties of Roxburgh or Berwick, there to remain without Bail, until he or they shall have made a true and perfect Account and Payment in Manner aforesaid, or shall have compounded with the said Trustees, or any Five or more of them, and paid the Money which shall be thereby stipulated to be paid to them; which said Compositions and Monies the said Trustees, or any Five or more of them, are hereby authorized and impowered to make and receive.

Justices to enquire into the Default,

and commit the Offender.

Trustees to keep an Account for the Use of the Heritors,

And be it further enacted by the Authority aforesaid, That the said Trustees shall keep an exact Account of the Money received by virtue of this Act, and of the Application thereof, in a Book in the Hands of their Clerk; which Book of Accounts and Proceedings all Heritors of the said Counties of Roxburgh and Berwick shall, at any reasonable Times, be at Liberty to inspect without any Fee or Reward: And in case of any Misapplication of Money collected, received, or levied, by virtue of this Act, all and every Person or Persons who shall so misapply, or by whose Authority the same shall be so misapplied, shall forfeit and pay double the Sum so misapplied, to be recovered against him or them at the Suit of any Two or more Heritors within the said Counties possessed of Three hundred Pounds Scots of valued Rent, who are hereby authorized to pursue for and recover the same in a summary Action before the Lords of Session, without abiding the Course of the Roll, with full Costs of Suit; One Moiety of which Forfeiture shall belong to the Persons who sue for the same, and the other Moiety shall be paid to the said Trustees, or any Five or more of them, who are hereby authorized to apply the same for repairing of the said Roads by this Act directed to be repaired.

who have Power to sue.

Penalty on breaking down Gates, &c.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall maliciously break, pull down, or otherwise destroy, any Turnpike Gates, Posts, Chains, Bars, or other Works whatsoever, or Houses erected for the Use of such Turnpikes; or shall break, deface, or remove, any Mile-stones erected on the said Roads, or shall be aiding or assisting thereto; or shall rescue, or attempt to rescue, any Person or Persons in Custody for any such Offence; or if any Person or Persons shall beat or maltreat the Keepers of any of the Toll-bars in the Exercise of his or their Office, or shall violently force their Way through any of the said Bars without Payment; every Person or Persons so offending in any of the Premisses, and being thereof lawfully convicted in any Prosecution at the Instance of the said Trustees, or any Five or more of them, at a General Meeting assembled, by the Oath of One or more credible Witness or Witnesses, before any Two or more Justices of the Peace of the County where the Offence shall be committed; such Person or Persons so offending shall forfeit and pay the whole Damages and Expences sustained by the said Trustees, or by the said Keepers of the Toll-bars who shall be so beat or maltreated, and shall also be publickly whipped at the nearest

Market Town of the said County, or fined in One hundred Pounds Scots toties quoties, at the Discretion of the said Justices.

And be it further enacted by the Authority aforesaid, That if any Person or Persons, occupying inclosed Lands near any Turnpike which shall be erected in pursuance of this Act, shall knowingly, willingly, or purposely, permit or suffer any Person or Persons to pass through the same, or through any Gate, Passage, or Way, leading through the same, with any Coach, Cart, or other Carriage, or with any Horse, Ass, or other Cattle, whereby the Payment of the Toll or Duty by this Act imposed shall be avoided; every such Person so offending, and the Person or Persons riding or driving such Cart or other Carriage, Horse, Ass, or other Cattle, being thereof convicted by the Testimony of One or more credible Witness or Witnesses, before any One or more of the said Justices of the Peace of the said Counties of Roxburgh or Berwick, shall, for every such Offence respectively, forfeit and pay to the said Trustees, or their Collector or Collectors, the Sum of Twenty Shillings Sterling. Penalty on permitting, or going through private Passage, &c.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall, at any Time during the Continuance of this Act, take off, or cause to be taken off, any Horse or Horses, Mares or Geldings, or other Beasts of Draught, from any Coach, Chaise, Chariot, Berlin, Landau, Calash, Chair, or Litter, or any Horse or Horses, Ox or Oxen, or other Beasts of Draught, from any Waggon, Wain, Cart, or other Carriage, at or before the same shall come to any of the Gates or Turnpikes erected by virtue of this Act, with an Intent to avoid paying any Tolls or Duties hereby imposed; or shall leave in any House or Place any Waggon, Wain, Cart, or other Carriage, Horse, Mare, Gelding, or other Cattle, chargeable with, or liable to pay, the said Tolls or Duties, with such an Intent as aforesaid; every such Person or Persons shall forfeit and pay to the Trustees appointed to put this Act in Execution, or to their Collector for the time being, the Sum of Twenty Shillings Sterling. Or taking off Horses, &c.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful for the said respective Surveyor or Surveyors, and such Persons as he or they shall appoint by Order of any Five or more of the said Trustees, to dig, gather, take, and carry away, any Gravel, Furze, Heath, Sand, Stones, and other Materials for making or repairing the said Road, out of the Surveyors may dig Gravel, &c.

the several Grounds of any Person or Persons (not being the Ground whereon any Houses stand, nor a Garden, Orchard, Yard, planted Walk or Walks, or Avenue to any House, nor any Piece or Parcel of Ground set apart and used as a Nursery for Trees) where such Materials are or may be found, and from time to time to cause the same to be carried away, or so much thereof as the said Surveyor or Surveyors shall judge necessary for repairing and amending the Roads aforesaid, paying only for the Damage done to the Owners and Occupiers of the said Grounds respectively where and from whence the same shall be digged, gathered, or taken away, or over which the same shall be carried, the Amount of which Damage shall be settled and ascertained by Five or more of the said Trustees living in the Neighbourhood from which the said Materials are taken: And in case of any Difference between such Owners and Occupiers and the said Trustees, touching such Damages as aforesaid, the Justices of the Peace of the County where the Matter in Dispute shall arise, or any Three or more of them, shall and may adjudge and determine the same; but such Dispute and Difference shall not in the mean time hinder the using and carrying off the said Materials, and applying the same towards repairing the Roads.

making Satisfaction to the Owners.

Justices to determine Differences.

Surveyors may make Causeways, &c.

And be it further enacted by the Authority aforesaid, That it shall be lawful to and for the said respective Surveyor or Surveyors, and such Person and Persons as they shall appoint, by Order of the said Trustees, or any Five or more of them, to make, or cause to be made, Causeways, and to cut and make Drains through any Grounds lying contiguous to the said Roads, and to make and erect Arches and Bridges of Brick, Timber, or Stone; and also to and for any Five or more of the said Trustees, if they find any of the Highways not to be of a sufficient Breadth, to widen and extend the Breadth of such Roads to the legal Standard; and where it shall appear necessary to alter the Situation of the said Roads altogether, or to widen the said Roads to a Breadth beyond the legal Standard; then, and in such Case, any Five or more of the said Trustees shall, at a General Meeting assembled, and they are hereby authorized and impowered, by Writing under their Hands, to order and direct the said Roads to be extended to such a Breadth as they shall think proper, not exceeding Sixty Feet; and the said Surveyor or Surveyors shall, and they are hereby impowered, by Order of the said Trustees, or any Five or more of them,

them, to make such Ditch or Ditches, Trench or Trenches, as the said Surveyor or Surveyors shall adjudge necessary for the draining, amending, and repairing, the aforesaid Roads; paying such Damage to the Owners or Occupiers respectively, whose Grounds shall be prejudiced and damaged by such Alteration or Widening, as the said Trustees, or any Five or more of them, shall judge reasonable: And in case of any Difference concerning the same, between the said Owners and Occupiers and the said Trustees, the Justices of the Peace of the County where the Matter in Dispute shall arise, at their next General Quarter Sessions, or at the Second General Quarter Sessions thereafter at the farthest, or the major Part of them then present, shall and may adjudge, assess, and determine the same, and order the same to be paid by the Treasurer or Treasurers of the Tolls for the time being out of the Monies arising by the said Tolls.

making Satisfaction to the Owners.

Justices to determine Differences.

And whereas the said Roads may be carried by or through different Towns and Villages where the Streets or Passages may be incommodious, and where it may be necessary to take down or remove Houses, Walls, Buildings, or other Impediments, in order to afford a free Passage to Travellers; be it further enacted by the Authority aforesaid, That the said Trustees, or any Five or more of them, may, by a Writing under their Hands, order and direct such Buildings and Impediments to be removed, paying to the Proprietors for the Damage thereby sustained in Manner above directed.

Buildings, &c. may be removed.

Provided always, That no House or Building shall be pulled down without the Consent of the Owner or Proprietor, whose Side Walls shall exceed Twelve Feet in Height.

Proviso.

Provided always, That in altering or widening the aforesaid Roads, nothing shall be done which may any wise prejudice or damage any House or Building (except as aforesaid) or any Garden, Orchard, Yard, or planted Walk, or Avenue to any House, or any Piece or Parcel of inclosed Ground set apart and used as a Plantation or Nursery for Trees, except as herein after excepted.

Buildings, &c. not to be injured.

Provided always, That if any such Building shall have been erected, or any Garden, Orchard, planted Walk, or Avenue to a House, or any such Plantation or Nursery for Trees, shall have been made or planted since the Third Day of November, in the Year One thousand seven hundred and sixty seven, the Trustees shall have it in their Power, if they find it necessary to

Regulations in regard to Plantations, &c. made since 3 Nov. 1767.

carry the Road through any of the Particulars above mentioned, or to take from them any Materials for making the said Roads, paying for the same in Manner above directed; and that where it shall be found necessary to make Passages for the Water for such Ditches or Trenches through the Ground of any adjacent Proprietor, that such Proprietor, or the Possessor of such Land, after such Passages or Outlets are so made, shall be obliged in all Time thereafter to keep clear such Outlets and Passages from the said Trenches and Ditches, from time to time, as they shall be required by the said Trustees, or any Five or more of them, so as the said Outlets may not be stopt or made to restagnate into the said Trenches or Ditches, but may have free Passage through the said Proprietors Grounds: And in case of the Proprietor or Proprietors neglecting or refusing to clear or to cleanse such Outlets, when duly required by the Surveyor or Surveyors of the said Roads, or any Five of the Trustees, then, and in that Case, such Trusteees shall have Power to clear and cleanse such Outlets and Passages, and to levy the Expence thereof on the Owner or Proprietor of such Grounds, in Manner herein after directed.

Tolls to be paid but Once a Day.

And be it further enacted by the Authority aforesaid, That no Person or Persons having Occasion to pass through any Gate or Gates on the said Turnpike Road with the same Horses and Carriages, and return again before Twelve of the Clock at Night of the same Day, shall be liable and compelled to pay the said Tolls or Duties more than Once; and every Person paying Toll shall receive a Ticket for the Day, which shall intitle him to pass that Gate at which he receives it: And in case he shall give or dispose of the same to any other Person or Persons in order that he or they may avoid Payment of the said Toll; every such Person so giving or disposing of or receiving such Ticket or Tickets, upon being convicted thereof upon the Oath of One or more credible Witness or Witnesses, or otherwise before any One or more of the Justices of the Peace of the said Counties of Roxburgh and Berwick, shall, for every such Offence, forfeit and pay the Sum of Twenty Shillings Sterling, to be levied in the same Manner as before directed by this Act in the Case of refusing Payment of the Toll.

Exemptions from Toll.

Provided always, and be it further enacted and declared by the Authority aforesaid, That no Toll or Duty whatsoever shall be demanded or taken for any Carriages or Horses loaded with Sand, Marl, or Dung,

nor for Carriages going empty for the same; and in order to insure that empty Carriages shall not elude the said Toll by pretending they are to return with such Loading, they shall consign the Toll, and have it returned to them when they return with the said Loading; nor shall any Toll or Duty be taken for any Carriages or Horses loaded with any Materials for repairing the said Highways or Bridges, or any of the Causeways within or belonging to the same; nor shall any Toll or Duty be demanded for Passage of the Corns or Implements of Husbandry carrying to or from any Field, or Horses or Cattle going to Water or Pasture in the Farm or Farms in which any Gate or Gates, Turnpike or Turnpikes, may stand; nor shall any Toll or Duty be demanded from any Person or Persons who shall pass through the said Turnpikes attending the Funerals of any Person or Persons who shall die and be buried in any of the Parishes in which the Roads hereby directed to be repaired shall lie; nor from any Post-horse carrying the Mail or Packet; nor for the Horses of Soldiers who are upon their March by Rout, or the Carriages attending upon them; nor for the Carts, Carriages, or Waggons, travelling with Vagrants sent with legal Passes.

Persons, &c. chargeable to the Highways, to continue so.

Provided always, That every Person and Persons who are by Law chargeable in repairing and amending the said Roads and Bridges hereby intended to be repaired, shall still remain chargeable, and do their respective Works upon such Roads and Bridges as the said Trustees appointed by this Act, or any Five or more of them, shall direct, in such Manner as he or they ought to have done before passing of this Act.

And, for removing all Doubts and Questions that may arise concerning what Persons are liable to perform the Services aforesaid, be it hereby further enacted, That the Justices of the Peace of the County where the Matter in Dispute shall arise shall have Power, and are hereby impowered in their Quarter Sessions, or any Adjournment thereof, to hear and determine all such Questions, and their Judgement in every such Case shall be final.

Heritors to assist.

And be it further enacted and declared, That all and every Heritor labouring and possessing his own Grounds shall be obliged to assist at repairing the said Highways directed to be repaired by this Act, and for that Purpose to send Two Carts with Two Horses and One Man to each, at the Times and for the Days prescribed by Law for every Plough-gate of Land he so labours and possesses;

ſeſſes; and for preventing Queſtions ariſing what Quantity of Ground may be deemed a Plough-gate, the Truſtees, or any Five or more of them, are hereby authorized and impowered at a General Meeting for the reſpective Counties of Roxburgh and Berwick to determine the ſame, with Power of Appeal to the Quarter Seſſions, whoſe Determination ſhall be final.

Truſtees may compound for the Repair of Highways and Bridges.

And be it further enacted by the Authority aforeſaid, That the ſaid Truſtees, or any Five or more of them, at a General Meeting aſſembled, ſhall, and they are hereby impowered to, compound and agree with all or any of the ſaid Perſons chargeable to repair the ſaid Highways and Bridges within the reſpective Counties of Roxburgh and Berwick, for ſuch Sums annually as to the ſaid Truſtees ſhall ſeem reaſonable; ſuch Compoſitions and Agreements to be entered into Books to be kept for that Purpoſe by the Clerk or Clerks, Treaſurer or Treaſurers, to the ſaid Truſtees reſpectively: And in caſe the Compoſition-money ſhall not be paid within Twenty Days after the ſame ſhall be due, it ſhall and may be lawful for any Two of the Juſtices of the Peace of the County where ſuch Payment ſhall be in Arrear, by Warrant under their Hands, to impower the Perſon or Perſons authorized by the ſaid Truſtees at a General Meeting aſſembled to receive ſuch Compoſition-money to levy the ſame in Manner herein after directed.

Truſtees may compound for Statute-work.

Provided always, and be it further enacted by the Authority aforeſaid, That the reſpective Truſtees by this Act appointed, or any Five or more of them, at a General Meeting aſſembled, ſhall, and they are hereby authorized and required to, compound for the ſaid Work ſo to be performed by Law, and inſtead of the perſonal Service of any Perſon or Perſons liable to repair the ſaid Roads, or inſtead of the Attendance of his or their Carriage or Carriages, to receive and take from ſuch Perſon or Perſons at the Rate of Three Pence Sterling by the Day for each Man, and One Shilling Sterling by the Day for each Man and Cart with One Horſe, and One Shilling and Six Pence Sterling by the Day for each Man and Cart with Two Horſes; which Compoſition-money ſo agreed to be paid in lieu of ſuch Statute-work ſhall be paid at ſuch Time or Times, and to ſuch Perſon or Perſons, as the ſaid reſpective Truſtees, or any Five or more of them, at a General Meeting for the ſaid County aſſembled, ſhall order and direct; and in caſe ſuch Perſon or Perſons ſo compounding ſhall neglect or refuſe the Payment of ſuch Compoſition-money for the Space of Twenty Days after the ſame ſhall become due,

then

then it shall and may be lawful to levy the same by Distress and Sale of the Offender's Goods and Chattles in Manner herein after directed.

And whereas there are many other Roads in the said Counties of Roxburgh and Berwick where the Statute-work is due, be it further enacted and declared, That the Trustees before-mentioned in this Road shall have no Power over any of the Statute-work or Compositions in the said Counties, but over such Persons only as are allotted to them as their Share of the Counties by the Justices of the Peace at their Quarter Sessions; any thing contained in this Act to the contrary notwithstanding: Which Allotment the Justices of the Peace of the said Counties are hereby authorized, impowered, and required, to make at their Quarter Sessions, whose Judgements shall be final.

Trustees to have only such Services under their Direction as shall be allotted by the Justices.

And whereas a certain Share of the Bridge-money of the said Counties of Roxburgh and Berwick, when levied, belongs properly to the said Road; be it further enacted and declared by the Authority aforesaid, That the Justices of the Peace of the said Counties at their Quarter Sessions shall, and they are hereby authorized and impowered to declare and allot the Share of the Bridge-money falling to this Road, when so levied; which Allotment the Justices of the Peace of the said Counties are hereby authorized, impowered, and required, to make in their Quarter Sessions, whose Judgement shall be final.

Shares of the Bridge-money to be allotted to the said Road.

And be it further enacted and declared, That it shall be in the Power of the said Trustees, or any Five or more of them, to pull down any old Bridges that are useless by the Roads being turned about, or otherwise, and to apply the Materials to building new ones for repairing the said Roads, as they shall see proper.

Old Bridges may be pulled down.

And be it further enacted by the Authority aforesaid, That the respective Trustees, or any Five or more of them, at a General Meeting assembled, shall, and they are hereby impowered, as they shall see convenient and think fit, to compound and agree by the Year with any Person or Persons using to travel through the Turnpikes, and living within Three measured Miles of any Turnpike or Turnpikes to be erected on the said Roads, with any Coach, Landau, Berlin, Chariot, Calash, Chaise, Chair, Waggon, Wain, Cart, or other Carriage, Horse, Mare, Gelding, Mule, Ass, or any other Beast of Draught, for any Sum or Sums of Money as to the said Trustees shall seem reasonable, to be paid quarterly, from time to time, after such Agreement is made; and that Copies of all such Compositions or

Trustees may compound with Travellers.

Agreements so made by the said Trustees as aforesaid, shall be entered at Length in a Book or Books to be kept for that Purpose by the respective Clerk or Clerks, Treasurer or Treasurers; which said Book or Books shall and may be seen and perused by any Person whatever at all seasonable Times, without paying any Fee or Reward.

Composition-money how to be recovered.

Provided always, and be it enacted by the Authority aforesaid, That in case any Composition-money, so agreed to be paid for the Passage through the said Turnpikes or Gates to be erected by virtue of this Act, shall not be paid within Twenty Days next after the same shall become due or payable, according to such Composition or Agreement, Oath being first made that the same had been demanded and remains unpaid (which Oath a Justice of Peace of the said Counties is hereby impowered to administer) that then it shall and may be lawful for any Two of the Justices of the Peace of the said Counties, by a Warrant under their Hands, to impower the Person or Persons authorized by the said Trustees to receive such Composition-money, to levy such Composition-money on the Person or Persons so refusing or neglecting to pay the same, in Manner herein after mentioned.

Trustees may let the Tolls.

And be it further enacted by the Authority aforesaid, That the said Trustees, or any Five or more of them, at a General Meeting for the said Counties assembled, are hereby authorized and impowered, by publick Bidding, Auction, or Roup, to let the said Toll or Duty, levied at each Gate separately from time to time, during the Continuance of this Act, by Lease or otherwise, for any Term not exceeding Three Years, for the highest Rate or Rates they can get for the same separately, to such Person or Persons as shall, from time to time, give such good and sufficient Security for paying thereof as shall be approved by the said Trustees, or any Five or more of them.

Cross and Bye Roads how to be repaired.

And be it further enacted by the Authority aforesaid, That the said Trustees, or any Five or more of them, at a General Meeting assembled, shall, and they are hereby impowered, after the Roads above described shall be sufficiently amended, to apply the said Tolls, or what Part of them they shall think fit, towards repairing and amending the Cross and Bye Roads in the said Counties.

Tolls may be assigned for Money borrowed.

And, for the more speedy and effectual Reparation of the said Roads and Bridges, be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Trustees, or any Five or more of them,

at a General Meeting assembled, to borrow any Sum or Sums of Money at any Time, not less than half a Year after the Commencement of the Toll imposed by this present Act, not exceeding Five hundred Pounds Sterling on each Gate, at an Interest not exceeding Five Pounds per Centum per Annum; the Money borrowed upon each Gate always to be applied, in the First Place, to the paying off and discharging a proportional Share of the Money expended in procuring this present Act; and in the next Place to the Reparation of, and keeping in Repair, the Roads upon which the said Gate or Gates shall be erected, or any Part of them; and thereafter in repairing, and keeping in Repair, any of the other Branches that the said Trustees, or any Five or more of them, at a General Meeting assembled, shall think proper: And the said Trustees, or any Five or more of them, at a General Meeting assembled, are hereby impowered to assign and make over the Tolls and Duties on such Gate or Gates by this Act imposed, to the Person or Persons from whom the Money shall be so borrowed, as a Security for Repayment of such Sum or Sums of Money so lent by them, with Interest thereupon.

Provided always, That when such Sum or Sums of Money, or any Part thereof, shall be repaid, the said Trustees, or any Five or more of them, at a General Meeting assembled, may borrow Money again, in the Manner above expressed, so as the whole Sum due on any One Gate, at One Time, do not exceed the Sum of Five hundred Pounds. Proviso.

Provided always, and be it further enacted by the Authority aforesaid, That no Person shall be qualified or capable of acting as a Trustee in any Case in the Execution of this Act, unless he shall be infeft in Superiority or Property, or possest as a Proprietor in Life-rent, of Lands valued in the Tax-roll of the Counties of Roxburgh or Berwick respectively, to the Extent of One hundred Pounds Scots per Annum, excepting the eldest Sons and Heirs Apparent of Persons who are infeft in Lands of the Extent and Valuation aforesaid: And if any Person or Persons who shall be deemed unqualified, or made incapable to act for the Causes aforesaid, shall nevertheless presume to act, contrary to the true Intent and Meaning of this Act, every such Person or Persons shall, for every such Offence, forfeit and pay the Sum of Twenty Pounds Sterling, to be recovered and applied in Manner herein after directed. Qualification of Trustees. Penalty on acting if not qualified.

And

Treasurer to give Security.

And be it further enacted by the Authority aforesaid, That the said Trustees, or any Five or more of them, shall, and they are hereby required to take such Securities from their Treasurers, to be appointed for the Purposes of this Act, for the due Execution of their Offices, as to the said respective Trustees, or any Five or more of them, shall seem meet.

And whereas the River Tweed is often dangerous and impassable for Travellers, and the aforesaid Roads will be incomplete unless there is a Bridge upon the said River, at the Place that shall be judged most convenient for the said Roads betwixt the Foot of Leider and the Foot of Gala, the erecting and building of which will be attended with considerable Expence; it is hereby further enacted and declared by the Authority aforesaid, That it shall be in the Power of the said Trustees, or any Five or more of them, at a General Meeting assembled, and they are hereby fully authorized and impowered, to erect and build a Bridge, and to make such Contracts and Agreements as they shall think proper with any Artificers, Workmen, or other Persons, for erecting, building, and making such Bridge, Ramparts, Wings, Walls, Banks, Ways, and other Works, or any Part or Parts thereof; such Artificers and others contracting, always giving Security, to be approved of by the said Trustees, that their Work shall be completely and properly finished.

Trustees may erect a Bridge,

And it is hereby further enacted by the Authority aforesaid, That the said Trustees, or any Five or more of them, at a General Meeting assembled, shall and may erect, and cause to be erected, a Turnpike or Toll-gate and Toll-house, either upon or at either End of the said Bridge, and shall lay and assess a Duty or Pontage in the Nature of a Toll, to be paid before any Passage over the said Bridge shall be permitted; which Toll shall be the same and equal with the Rates mentioned in this Act for passing through any other Turnpike; with this Difference, that no Carriage, Horse, or other Beast whatsoever, shall be exempted from paying Toll.

erect a Toll-gate,

and receive Toll.

Bridge Tolls how to be regulated,

And it is hereby further enacted, That the said Turnpike or Toll-gate, as well as the Building of the said Bridge, with regard to the Materials, shall be regulated in the same Manner as any other Turnpike in this Act; and all concerned shall be liable in the same Penalties, and under all the other Clauses therein contained; with the Difference only as above mentioned, that no Carriage whatsoever shall be excepted from the Payment of the Toll.

And

And it is hereby further enacted, That it shall be in the Power of the said Trustees, or any Five or more of them, at a General Meeting assembled, either before the Building of such Bridge, or after it, to assign the said Toll to any Person lending Money for the Building of such Bridge, either as an absolute or collateral Security to such Person as shall lend the Money, or as a Security or collateral Security to such Person or Persons as shall subscribe to raising a Sum of Money to build the said Bridge. Bridge Tolls may be assigned.

And it is hereby further enacted, That the said Toll shall continue upon the said Bridge until such Time as the whole Expences for erecting it, and the Interest of the Money borrowed for that Purpose, shall be paid. Continuance of the Bridge Toll.

And, for preventing the evading the Tolls and Pontage granted by this Act, be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Trustees, or any Five or more of them, at a General Meeting assembled; or such Person or Persons as they shall appoint, to destroy or shut up any Ford or Fords cross the River of Tweed, as they shall think necessary to prevent the evading of the said Tolls or Pontage; any Law, Custom, or Usage, to the contrary notwithstanding. Fords may be destroyed.

Provided always, That nothing in this Act contained shall extend to impower the said Trustees to stop up any Ford at any greater Distance than One Mile and an Half, according to the Course of the River, above or below the said intended Bridge. Proviso.

And be it further enacted and declared by the Authority aforesaid, That such Trustee or Trustees, appointed to put this Act in Execution, as is or shall be in the Commission of the Peace within the Counties of Roxburgh or Berwick, shall and may act as a Justice or Justices of the Peace within the said Counties, for the more effectual putting in Execution the several Authorities and Powers in this present Act mentioned and contained, notwithstanding such Justice or Justices is, are, or shall be, a Trustee or Trustees as aforesaid. Trustees in the Commission of the Peace may act as Justices.

And be it further enacted by the Authority aforesaid, That no Person or Persons, appointed or to be appointed by this Act a Trustee or Trustees for putting this Act in Execution, shall have or accept of any Place of Profit arising out of, or by reason of, any Tolls or Duties by this Act laid or granted. Trustee not to accept a Place of Profit.

And be it further enacted by the Authority aforesaid, That the said Trustees for repairing the said Roads shall meet at Jedburgh upon the First Tuesday in May, One Time and Place of Trustees Meeting.

thousand seven hundred and sixty eight, with Power to them to adjourn themselves to such Times and Places as they shall think proper and convenient for putting this Act in Execution: And if it shall happen that there shall not appear at any Meeting, or any adjourned Meeting that shall be appointed to be held by the said Trustees, a sufficient Number of Trustees to act at the said Meeting, and to adjourn to any other Day, then, and in such Case, the Clerk or Clerks, by Notice under his or their Hand or Hands, to be fixed on the said Turnpike-gates to be erected by virtue of this Act, at least Ten Days before the next Meeting, may appoint the said Trustees to meet at the Place where the Meeting of the said Trustees was appointed to be held, or at some other convenient Place, on that Day Three Weeks on which such last Meeting of the said Trustees was appointed to be held; and, failing of such Appointment of the Clerk or Clerks, by Death, Removal, or otherwise, it is hereby enacted and declared, That it shall be in the Power of any Two of the said Trustees to call a Meeting on Twenty Days Warning in the Edinburgh News-papers.

In Default of a sufficient Number to act,

Clerk to give Notice of another Meeting.

Trustees to defray their own Expences.

And be it hereby further enacted and declared, That the said Trustees, at their First and all their subsequent Meetings, shall defray their own Charges and Expences.

Penalties to be levied by Distress and Sale.

And be it further enacted by the Authority aforesaid, That all Tolls, Duties, Penalties, and Forfeitures, by this Act imposed, if not otherwise directed to be levied by this Act, shall be levied by Distress and Sale of the Offender's Goods and Chattles, by Warrant under the Hands and Seals of Two or more Justices of the Peace of the County where the Offence shall be committed; and the Persons distraining for such Penalties are hereby authorized and impowered to sell the Goods and Chattles so distrained, and return the Overplus Money (if any be) upon Demand, to the Owners of such Goods or Chattles, after such Tolls, Duties, Penalties, and Forfeitures, with the reasonable Charges of distraining, keeping, and selling the same, shall be deducted and paid.

Distress may be sold.

On Death, &c. of Trustees, others to be chosen.

And be it further enacted by the Authority aforesaid, That upon the Death of any One of the Trustees named and appointed by this Act, or upon their or any of their Refusal to act in the said Trust (such Refusal being signified in Writing to a Board of Trustees at their publick Meetings by the Trustee or Trustees so refusing to act;) it shall and may be lawful for any Five or more of the said Trustees at any General Meeting assembled,

Notice thereof to be given.

Fourteen Days previous Notice of the said Meeting, and of the Intent and Business thereof, having been first given by the Clerk to the Trustees in the aforesaid Manner, by any Writing or Writings under their Hands, to choose, nominate, and appoint, in the Room of the Trustee or Trustees so deceased or refusing to act, some other fit and able Person or Persons qualified as aforesaid to be joined with the other or surviving Trustees in the Execution of all and every the Powers and Trusts in them reposed and vested by this Act; and all and every Person or Persons so chosen, nominated, and appointed, as Trustee or Trustees as aforesaid, shall and may, and they are hereby authorized and impowered to, act to all Intents and Purposes in as full and ample Manner for putting this present Act in Execution, as the other Trustees nominated and appointed by this Act.

Persons aggrieved may appeal to the Quarter Sessions.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall think him or themselves aggrieved by any Order or other Proceedings of the said Trustees, it shall and may be lawful for him or them to appeal to the Justices of the Peace of the County where the Cause of Complaint shall arise, in their General Quarter Sessions assembled, who are hereby authorized and impowered to hear and determine the Matter in Dispute, and whose Order therein shall be final and conclusive.

Commencement and Continuance of this Act.

And be it further enacted by the Authority aforesaid, That the Tolls and Duties hereby granted shall take Place from and after the First Tuesday in May, in the Year One thousand seven hundred and sixty eight, and that this Act shall continue in Force for the Space of Twenty one Years, and to the End of the then next Session of Parliament; excepting the Toll imposed by this Act for erecting a Bridge over the River Tweed, and the Powers relating thereto, which shall continue as before-mentioned.

Publick Act.

And be it further enacted and declared by the Authority aforesaid, That this Act shall be taken and allowed in all Courts in the Kingdom as a Publick Act; and all Judges, Justices, and others, are hereby required to take Notice thereof as such, without specially pleading the same.

FINIS.