

ANNO NONO

GEORGII IV. REGIS.

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CAP. LXXVII.

An Act to amend the Acts for regulating Turnpike Roads. [25th *July* 1828.]

WHEREAS an Act was passed in the Third Year of the Reign of His present Majesty, intituled *An Act to amend the General Laws now in being for regulating Turnpike Roads in that Part of* Great Britain *called* England: And whereas another Act was passed in the Fourth Year of the Reign of His present Majesty, intituled *An Act to explain and amend an Act passed in the Third Year of the Reign of His Majesty, to amend the general Laws now in being for regulating Turnpike Roads in that Part of* Great Britain *called* England: And whereas another Act was passed in the Seventh and Eighth Years of the Reign of His present Majesty, intituled *An Act to amend the Acts for regulating Turnpike Roads in* England: And whereas the said Acts require to be further amended, and some Enactments thereof to be repealed: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the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 so much of the said recited Act of the Fourth Year of the Reign of His present Majesty as enacts that all and every Book and Books containing the Accounts and Proceedings of the Trustees and Commissioners for executing any Act for making or maintaining any Turnpike Road, or containing any Orders or Agreements made or entered into by them, such Book or Books being kept and

3 G. 4. c. 126.

4 G. 4. c. 95.

7&8G.4.c.24.

So much of recited Act of 4 G. 4. as enacts that Book of Accounts and Proceedings shall be re-

ceived as Evidence repealed.

and signed in manner therein mentioned, should and might be given in Evidence in all Cases of Appeal, and in all Prosecutions, Suits, and Actions whatsoever, shall be and the same is hereby repealed.

Books of Accounts and Proceedings, to be received in Evidence, without proving their Contents, notwithstanding the Act under which they have been kept is repealed; and to be open to Inspection.

II. And be it further enacted, That all Books kept for registering Mortgages or Assignments, and all Entries therein, and all Books containing the Accounts and Proceedings of the Trustees in the Execution of any local Turnpike Act, kept according to the Directions and Provisions of any such Act, or of the said recited Act of the Third Year of the Reign of His present Majesty or of this Act, and made Evidence thereby, shall be admitted in Evidence in all Courts, and by all Judges, Justices, and others, without proving the Facts therein contained, unless such Facts, or any of them, shall be first controverted, notwithstanding any former Act, under the Provisions of which such Books may have been originally kept, may be repealed; and all such Books shall be preserved and kept by the Clerk for the Time being of such Trustees, and shall at all seasonable Times be open to the Inspection of the said Trustees, and of any Creditor or Creditors of the Tolls, without Fee or Reward; and the said Trustees and Creditors, or any of them, shall and may take Copies of or Extracts from the said Book or Books, or any Part or Parts thereof respectively, without paying any thing for the same; and in case the Clerk to the said Trustees shall refuse to permit, or shall not permit, the said Trustees, or such Creditors, or any of them, to inspect the said Book or Books, or to take such Copies or Extracts as aforesaid, such Clerk shall forfeit and pay any Sum of Money not exceeding Five Pounds for every such Offence.

Restriction of 3 G. 4. c. 126. s. 45. as to the Erection of Toll Gates repealed.

III. And be it further enacted, That so much of the said recited Act of the Third Year of the Reign of His present Majesty as directs that no Toll Gate shall be erected on the Side of any Turnpike Road, unless the same be ordered by the Trustees or Commissioners at a Public Meeting, in manner therein mentioned, shall be and the same is hereby repealed.

So much of 7&8G.4.c.24. as directs Trustees to remove Toll Gates, repealed.

IV. And be it further enacted, That so much of the said recited Act of the Seventh and Eighth Years of the Reign of His present Majesty as directs that it shall be lawful for the Trustees of any Turnpike Road to order and direct any Turnpikes, Toll Gates, or Side Bars to be removed, as therein directed, shall be and the same is hereby repealed.

Power to continue or erect Toll Gates.

V. And be it further enacted, That it shall be lawful for the Trustees of any Turnpike Road, and they are hereby authorized and empowered, to continue all and every or any of the Toll Gates or Toll Houses now standing or being in, upon, or across any such Turnpike Road, or on the Sides thereof, and from Time to Time at any Special Meeting to be holden for that Purpose, of which Meeting Public Notice, specifying the Time and Place and the Purpose thereof, shall have been given in some Newspaper published or circulated in the County or Counties through which any such Turnpike Road passes, and also by affixing a Copy of such Notice on all the Turnpikes, Toll Gates, or Side Bars (if any) which shall be then standing

standing on such Road, Fourteen Days previously to such Meeting, to order and direct, by some Order in Writing, to be signed by Three at least of the Trustees present at such Meeting, that there be erected and built, in, upon, or across any such Turnpike Road or any Part thereof, or upon the Sides thereof or any Part thereof, when and where they shall judge necessary, such and so many Toll Gates, Turnpikes, Side Bars, and Chains, with Toll Houses, Outhouses, and other Conveniences thereto, and also to take in and inclose on the Sides of such Road, or any Part thereof, suitable Garden Spots for each of such Toll Houses, not exceeding One Eighth of a Statute Acre to each Toll House, as the said Trustees shall direct or appoint; and also shall and may from Time to Time at any such Meeting, or at any other Meeting to be called as aforesaid, and by such Order as aforesaid, from Time to Time order and direct any of such Toll Gates, Turnpikes, Side Bars, and Chains to be taken down or discontinued, or to be removed and placed elsewhere, upon, across, or on the Sides of such Road, in such Situations as to them the said Trustees may appear fit or eligible: Provided that nothing in this Act contained shall authorize any Toll Gate, Turnpike, Side Bar, or Chain to be erected or built in any Place or Places where it is or may be provided by any local Turnpike Act there shall be no Turnpike, Toll Gate, Side Bar, or Chain erected, built, or placed.

So much of 3 G. 4. c. 126. as relates to the Recovery of Money, repealed.

VII And be it further enacted, That so much of the said recited Act of the Third Year of the Reign of His present Majesty as directs the Payment and Recovery of any Sum or Sums of Money to be subscribed or agreed to be advanced for the making or maintaining of any Turnpike Road, shall be and the same is hereby repealed.

Recovery of Subscriptions.

VII. And be it further enacted, That the several and respective Persons who shall subscribe for or agree to advance any Money for or towards the making or maintaining any Turnpike Road or Roads, or Highway intended to be made Turnpike, shall and they are hereby required to pay the Sum or Sums of Money so subscribed, within such Time or Times, and in such Parts and Proportions, as shall be expressed in the Writing which shall be subscribed by them or on their Behalf, or as the Trustees of any such Turnpike Road shall order and direct; and the same shall be demanded by and paid to such Person or Persons as the said Trustees shall by any Writing under their Hands authorize to receive the same; and if any Person or Persons shall neglect or refuse to pay the same, or any Part thereof, as aforesaid, it shall be lawful for the said Trustees to sue for the same in the Name of any one of such Trustees, or of their Treasurer or Clerk, and to recover the same, together with full Costs of Suit, in any of His Majesty's Courts of Record, by Action of Debt or on the Case, by Bill, Plaint, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than One Imparlance, shall be allowed; and all such Monies shall be vested in the said Trustees, and applied as in the Act for making or maintaining any such Turnpike Road or Roads shall be mentioned.

VIII. And

So much of 3 G. 4. c. 126. as authorizes the shortening of Roads, repealed.

VIII. And be it further enacted, That so much of the said recited Act of the Third Year of the Reign of His present Majesty as authorizes the Trustees of any Turnpike Road to make, divert, shorten, vary, alter, and improve any such Road, shall be and the same is hereby repealed.

Trustees may shorten, vary, and alter Roads.

IX. And be it further enacted, That it shall be lawful for the Trustees of any Turnpike Road, and they are hereby authorized and empowered, (subject to the Restrictions in the said recited Acts and this Act contained,) to make, divert, shorten, vary, alter, and improve the Course or Path of any of the several and respective Roads under their Care and Management, or of any Part or Parts thereof; and to divert, shorten, vary, alter, and improve the Course or Path of any of the said several and respective Roads, or any Part or Parts thereof, upon, in, through, or over any private Lands, Grounds, or Hereditaments, making or tendering Satisfaction to the Owners thereof and Persons interested therein for the same, or for any Damage they may sustain thereby; and also upon, in, over, or through any Common or Waste Lands, without making any Satisfaction for such Common or Waste Lands, in such Manner as they shall think proper; so that any such Road shall not exceed Sixty Feet in Width, together with such Footpath, Causeways, Bridges, Arches, Banks, Culverts, Ditches, Drains, and Fences on the Line of such Road, as they shall think necessary or expedient; and it shall also be lawful for such Trustees, and for their Surveyors or Surveyor and Workmen, with or without Carts or Carriages, from Time to Time to enter upon the Lands and Grounds or Hereditaments through which or whereupon such Road, Footpath, Causeways, Bridges, Arches, Banks, Culverts, Ditches, Drains, and Fences is or are intended to be made or pass, and also upon any adjoining Lands or Grounds, to stake out the same in such Manner as such Trustees shall think necessary or expedient, without being deemed a Trespasser or Trespassers, and without being subject or liable to any Fine, Penalty, or Punishment for entering or continuing upon such Lands or Premises respectively, for any of the Purposes of the Act, for making or maintaining any such Turnpike Road; and if any Person shall pull up, remove, or destroy any Stakes or other Marks used for the Purposes aforesaid, every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Mortgages under former Acts to remain good.

X. And be it further enacted, That where, at the Time of the Expiration or Repeal of any Act for making and maintaining any Turnpike Road, any Monies which may have been borrowed, subscribed, or advanced under the Provisions of such Act shall be due and owing on the Credit of the Tolls thereby granted, the Term and Tolls to be granted by all and every subsequent Act and Acts for maintaining such Turnpike Road shall be and the same are hereby made subject and liable to the Payment of the Monies which shall so remain due and owing on the Credit of such Tolls, and of all Interest to grow due thereon, as fully and effectually, to all Intents and Purposes, as if such Monies had been borrowed or become due on the Credit or Security of the Tolls to be granted by such subsequent Act or Acts; and all and every Person and Persons who may owe

owe or be subject or liable to the Payment of any Sum or Sums of Money to the Trustees for carrying any such former Act into Execution, shall be liable to the Payment thereof to the Trustees for executing any such subsequent Act or Acts, and such Monies shall be applied by them for the Purposes of such subsequent Act or Acts.

Bonds, Contracts, &c. to remain in full Force, notwithstanding the Repeal of any Act.

XI. And be it further enacted, That all Conveyances, Bonds, Covenants, Agreements, Contracts and Securities, made or entered into by any Person or Persons to or with the Trustees for carrying any local Turnpike Act into Execution, or by any other Person or Persons on behalf of the said Trustees, according to the Provisions of any such Act, shall remain in full Force and Effect, notwithstanding the Expiration or Repeal of such Act, and shall be and continue available in all Courts, and before all Judges and Justices having Jurisdiction, as the Case may require, until the same are fully satisfied and performed, on Account and for the Benefit of the Trust to be created by any subsequent Act for maintaining the same Turnpike Road, or any Part thereof.

Trustees may cancel Mortgages under former Acts, and execute others.

XII. And be it further enacted, That the Trustees appointed by virtue of any local Turnpike Act may receive in and cancel all or any of the Mortgages granted under the Trusts of any former Act for the same Turnpike Road, or any Part thereof, and instead and in lieu thereof give and execute another Mortgage or other Mortgages, at the Expence of the Parties requiring the same.

Trustees may renew Mortgages, &c. lost or mislaid.

XIII. And be it further enacted, That in all Cases where it shall appear by the Books kept by the Clerk or Treasurer to the Trustees of any Turnpike Road, or by any satisfactory Evidence adduced at any Meeting of such Trustees, that any Person or Persons is or are a Creditor or Creditors on Security of the Tolls authorized by any local Turnpike Act to be taken, and that the Mortgage or Assignment of the Tolls for securing any such Sum or Sums of Money has been lost, mislaid, or by Accident destroyed, it shall and may be lawful for the said Trustees, or any Three or more of them, to execute, at the Expence of the Person or Persons applying for the same, an Assignment of the Tolls by any such local Turnpike Act granted, for the Sum or Sums of Money mentioned in such original Assignment or Transfer; and every Assignment to be executed shall be valid and effectual for the Purposes thereby intended.

Persons employed under former Acts, to deliver up Books, &c.

XIV. And be it further enacted, That all Persons who may be or shall have been employed, or who shall have received any Tolls or other Money on account of or for the Purposes of any Act for making or maintaining any Turnpike Road which may have expired or been repealed, or who may have or shall have had in their Custody or Possession any Money, Books, Papers, Writings, or other Things relating to any such Turnpike Road, shall account for and pay and deliver over the same, and every Part thereof, to the Trustees for executing any subsequent Act for maintaining such Turnpike Road, in like Manner and under the like Penalties as the several Collectors and other Persons receiving any Money by virtue of the said recited Acts of the Third and Fourth Years of the Reign of His present

Majesty, and of any local Turnpike Act, are by the said recited Acts of the Third and Fourth Years of the Reign of His present Majesty required to pay or account for the same.

Officers to hold their Offices after any Act is repealed, unless removed by Trustees.

XV. And be it further enacted, That the Treasurer, if appointed consistently with the Provisions of the said recited Acts of the Third, Fourth, and Seventh and Eighth Years of the Reign of His present Majesty, and each and every Clerk, Receiver, Collector, Surveyor, and other Officer, appointed under or employed in the Execution of any Act for making or maintaining any Turnpike Road, which may have expired or been repealed, shall hold and enjoy such their several and respective Offices and Employments until removed therefrom respectively by the Trustees for executing any subsequent Act for maintaining the same Turnpike Road; and each and every such Treasurer, Clerk, Receiver, Collector, Surveyor, and other Officer, shall have the like Powers and Authorities for the Purpose of any such subsequent Act, and shall be subject and liable to the like Pains and Penalties, and to the like Powers of Removal, and to the like Rules and Regulations in all respects whatsoever, as if he or they had been appointed under or by virtue of such subsequent Act.

Tolls to be collected.

XVI. And be it further enacted, That it shall and may be lawful for the Trustees of any Turnpike Road, or any Person appointed or continued to be appointed Collector of the Tolls to be taken by virtue of any local Turnpike Act, to demand and take every Day, (such Day, for the Purposes of all local Turnpike Acts, being computed from Twelve of the Clock at Night to Twelve of the Clock of the next succeeding Night,) the several and respective Tolls to be mentioned in any such Act, at the several and respective Toll Gates and Turnpikes, or Side Bars and Chains, which are or shall be continued or erected by virtue of this Act, or of any local Turnpike Act, in, upon, across, or on the Sides of any Turnpike Road, or any Part or Parts thereof; and which Tolls or Sums of Money shall be demanded and taken as aforesaid, before any Horses, Cattle, or Carriage whatsoever shall be permitted to pass through any Toll Gate or Turnpike, or Side Bar or Chain; and the Tolls or Sums of Money to be levied and collected by virtue of any local Turnpike Act shall be and the same are hereby vested in the Trustees of such Act for the Purposes thereof, in manner to be thereby directed.

Penalty for claiming Exemptions not being entitled thereto.

XVII. And be it further enacted, That if any Person or Persons shall claim or take the Benefit of any of the Exemptions mentioned in any local Turnpike Act, not being entitled to the same, every such Person shall, for every such Offence, forfeit any Sum not exceeding Five Pounds; and in all Cases the Proof of Exemption shall be upon the Person claiming the same.

Actions to be brought within Six Months.

XVIII. And be it further enacted, That no Person or Persons shall or may be convicted of any Offence or Offences contrary to the Provisions of this Act, or of the said recited Acts, or of any local Turnpike Act, in a summary Way, before any Justice or Justices of the Peace, after the Expiration of Six Months from the Time

Time when any such Offence or Offences shall or may have been committed.

Power of former Acts extended to this Act.

XIX. And be it further enacted, That all the Powers, Authorities, Clauses, Provisions, Penalties, Matters, and Things contained in the said Acts of the Third, Fourth, and Seventh and Eighth Years of the Reign of His present Majesty, (save and except such Parts thereof respectively as are varied, altered, or repealed,) shall extend and be construed to extend to this Act; and all the Powers, Authorities, Clauses, Penalties, Forfeitures, Matters, and Things contained in the said Acts of the Third, Fourth, and Seventh and Eighth Years of the Reign of His present Majesty, (except such Parts thereof respectively as are varied, altered, or repealed,) and all the Powers, Authorities, Clauses, Provisions, Penalties, Matters, and Things contained in this Act, shall extend and be construed to extend to every local Turnpike Act, and shall be applied and put in execution as fully and effectually, to all Intents and Purposes, as if the same were repeated and re-enacted in the Body of such local Turnpike Act, and were made Part thereof; and that the said recited Acts and this Act shall not be recited in any such local Turnpike Act, save and except as to such Powers, Authorities, Clauses, Provisions, Penalties, Matters, and Things as shall be expressly referred to for the Purpose of being varied, altered, or repealed by any such local Turnpike Act.

Powers of this Act to extend to all local Turnpike Acts.

Acts not to be recited unless for the Purpose of being altered.

This Act not to extend to the Commercial Road, (9 G. 4. c. cxii.) or the Road from Glasgow to Carlisle, (56 G. 3. c. lxxxiii. &c.)

XX. Provided always, and be it further enacted, That nothing in this Act or in the said recited Acts contained shall extend, or be construed, adjudged, deemed, or taken to extend, to the Turnpike Road called the *Commercial Road*, or the several Branches leading from and out of the same, authorized to be made, repaired, and maintained under and by virtue of an Act passed in this Session of Parliament, intituled *An Act for more effectually repairing and improving the several Roads called the* Cannon Street *Roads, the* Commercial *Road, the* Horseferry *Branch of Road, the* East India Dock *Road, the* Barking *Road, and the* Shadwell *and* Mile End *Branch of Road, in the Counties of* Middlesex *and* Essex; *and for laying down a Stoneway on the said* Commercial, East India Dock, *and* Barking *Roads;* or to affect, encroach upon, vary, alter, or interfere with any of the Tolls, Weights, or Duties created by virtue of such Act, or any of the Powers and Authorities given to or vested in the Trustees acting under or by virtue of such Act; nor shall extend, or be deemed, construed, or taken to extend, to 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 to 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.

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