ANNO TERTIO

VICTORIÆ REGINÆ.

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Cap. xl.

An Act to alter and amend several Acts, for making, maintaining, and keeping in repair certain Roads in the Counties of *Clackmannan* and *Perth*; and for other Purposes relating thereto.

[19th *May* 1840.]

WHEREAS an Act was passed in the Thirty-fourth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for making and repairing certain Roads in the Counties of* Clackmannan *and* Perth: And whereas another Act was passed in the Thirty-seventh Year of the Reign of His said Majesty King *George* the Third, intituled *An Act for altering, amending, and enlarging the Term and Powers of an Act made in the Thirty-fourth Year of His present Majesty's Reign, for making and repairing certain Roads in the Counties of* Clackmannan *and* Perth: And whereas another Act was passed in the Forty-fifth Year of the Reign of His said Majesty King *George* the Third, intituled *An Act for continuing the Term and altering and enlarging the Powers of Two Acts passed in the Thirty-fourth and Thirty-seventh Years of His present Majesty, for making and repairing certain Roads in the Counties of* Clackmannan *and* Perth; *and for making and keeping in repair several other Roads communicating therewith:* And whereas another Act was passed in the Fifty-third Year of the Reign of His said Majesty King *George* the Third, intituled *An Act to continue the Term and alter the Powers of several Acts, of the Thirty-fourth, Thirty-seventh, and Forty-fifth*

34 G. 3. c. 139.

37 G. 3. c. 166.

45 G. 3. c. 16.

53 G. 3. c. 46.

fifth Years of His Majesty's Reign, for repairing several Roads in the Counties of Clackmannan *and* Perth: And whereas another Act was passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for amending and making more effectual the Laws concerning Turnpike Roads in* Scotland: And whereas the Trustees appointed by and under the Authority of the said Four first-recited Acts have proceeded to put the same into execution, and have expended considerable Sums of Money which they borrowed on the Credit of the Tolls and Duties leviable thereby, and upon their own personal Security, for the Purpose of making and maintaining the said Roads, which Sums still remain due and owing thereon, and cannot be repaid, nor can the said Roads be effectually maintained and kept in repair, unless the Terms and Powers of the said Acts be extended, and the Tolls increased or altered: And whereas it is expedient that the said recited Acts should be repealed, and that further and other Provisions should be granted and made in lieu thereof: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Four recited Acts of His said Majesty King *George* the Third shall be and the same are hereby repealed, save and except as to all Monies borrowed, and Contracts, Bonds, Assignments, and other Obligations granted or entered into by the Trustees under the Authority of the said Acts or any of them; and instead thereof this Act shall, from and after the passing thereof, commence, take effect, and be put in execution for and during the Term herein-after mentioned, for the Purpose of amending, altering, repairing, and keeping in repair the Roads in the said Acts and herein-after described.

1 & 2 W. 4. c. 43.

Four first-recited Acts repealed, and this Act to take effect.

Powers of the Act 1 & 2 W. 4. applied to this Act.

II. And be it enacted, That the said recited Act of the First and Second Years of the Reign of His said Majesty King *William* the Fourth, and all and sundry the Powers, Provisions, Exemptions, Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, (save and except such Parts thereof as are expressly varied, altered, or repealed,) shall be as good, valid, and effectual for carrying this Act into execution as if the same had been repeated and re-enacted in this Act.

Trustees appointed.

III. And be it enacted, That the Proprietor of the Estate of *Valleyfield*, or the acting Trustee on the said Estate, the Proprietor of the Estates of *Fulfiallan* and *Kincardine*, or the acting Trustee thereon, and every Person who is at present or hereafter shall be in his own Right in the actual Possession and Enjoyment as Proprietor or Liferenter of the Dominium utile of Lands situated in the Counties of *Clackmannan* or *Perth*, through which the said Roads or any of them pass, valued in the Cess Books of the said Counties of *Clackmannan* or *Perth* at the Sum of One hundred Pounds *Scots*, and who shall have become bound for a Proportion of the Monies already expended or laid out in making and repairing the said Roads, and the eldest Son of every such Proprietor or Liferenter, and their Successors, the Chief Magistrate of *Stirling* for the Time being, and

and the Chief Magistrate of *Culross* for the Time being, shall be and are hereby appointed Trustees for making, repairing, widening, altering, and keeping in repair the following Roads, made or authorized to be made by the said recited Acts of the Thirty-fourth, Thirty-seventh, Forty-fifth, and Fifty-third Years of the Reign of His said Majesty King *George* the Third; *viz.* The present Line of Road leading from the *Long Causey* of *Stirling* Eastward through the County of *Clackmannan* and Part of the County of *Perth*, and through the Parishes of *Logie*, *Alloa*, and *Clackmannan*, where the same joins *Perthshire* at the Lands of *Tulliallan* near *Kilbagie*, and from thence Eastward through the Parishes of *Tulliallan* and *Culross* by the Town of *Kincardine*, and through or near by the Muir of *Culross* in the said County of *Perth*, till the same joins the Great Road at or near the Confines of *Fifeshire*; and also the Road or Branch of Road from the West End of the Town of *Alloa* Westward, by or near to the Village of *Cambus* in the Parish of *Alloa*, until it joins the above-mentioned Road leading from *Causeyhead*; as also the Road branching from the said Turnpike Road at or near to the Distillery of *Kilbagie* in the Parish of *Clackmannan*, in a North-east Direction by the East End of *Gartstang Dam*, through Part of the said Parish and County of *Clackmannan*, until it joins the Turnpike Road leading from *Alloa* to *Kinross* at the Farm of *Gartlove*; and for putting into execution all the other Powers and Authorities in and by the said recited Act of His late Majesty and this Act given and granted.

Factors, &c. may act.

IV. And be it enacted, That it shall and may be lawful for every Trustee who shall have become bound for a Proportion of the Monies expended and laid out in making and repairing the said Roads as aforesaid, in case he shall be prevented by Absence or Indisposition from giving his personal Attendance at any Meeting of the said Trustees, to authorize and appoint, by any Writing under his Hand, some fit Person to attend for him; and every Person so authorized and appointed, or the authorized Commissioner or Factor of any such Trustee, or the Tutor or Curator of any Trustee who may happen to be a Minor, shall be and is hereby authorized and empowered to act and vote for the Trustee for whom such Person is Commissioner or Factor, or Tutor and Curator, or is so authorized and appointed to attend and act and vote, in the same Manner as if such Trustee had himself been personally present: Provided always, that no Person so authorized and appointed, nor any Commissioner or Factor, or Tutor or Curator, shall be capable of acting as a Trustee in the Execution of this Act, unless such Person, Commissioner or Factor, Tutor or Curator, shall be possessed of a Real or Personal Estate of the Value of Five hundred Pounds Sterling.

Quorum of Trustees.

V. And be it enacted, That at all the General Meetings of Trustees under this Act the Majority of Trustees present shall decide as to all Matters and Things to be done or ordered by the said Trustees in the Execution of this Act, the whole Number present not being less than Three; and at all such Meetings the said Trustees shall choose a Chairman, who, in case of Equality of Votes on any Question,

Question, shall, in addition to his own Vote, have the decisive or casting Vote.

Trustees may continue or erect Toll-Houses, &c.

VI. And be it enacted, That the said Trustees shall be and they are hereby authorized and empowered to continue the Toll Houses and Toll Bars already erected upon the said Roads contained in the said recited Acts, and to remove the same to any Part or Parts of the said Roads as they shall think proper, and to erect or cause to be erected other Gates or Turnpikes in, upon, or across any Part or Parts of any of the said Roads described in this Act, or on the Sides thereof, across any Way leading into or out of the same, in such Places as they shall think fit; and also to erect Toll Houses at all or any of such Gates, with proper Gardens adjacent thereto, as to them shall appear to be expedient, the Site of such Toll House and Garden not exceeding the Eighth Part of an Acre, and from Time to Time to alter the Situation of such Gates or Turnpikes and Toll Houses and Gardens.

Tolls may be taken.

VII. And be it enacted, That it shall and may be lawful to and for the said Trustees, or for any Person or Persons under their Authority, to demand and take the Tolls following at the several Turnpike Gates or Side Bars continued, erected, or placed by virtue of this Act in, upon, across, or on or near the Side or Sides of the said Roads, or any Part thereof:

For every Horse, Mule, Ass, or other Beast of Draught drawing any Coach, Barouche, Chariot, Landau, Berlin, Chaise, Curricle, Calash, Chair, Hearse, Gig, Phaeton, or other such Carriage, or any Stage Coach, Long Coach, or Diligence, or Carriage of the like Kind, where the Number drawing is Six, One Shilling, and so in proportion for any greater or less Number:

For One Horse or Beast of Draught drawing any Taxed Cart, Nine-pence:

For every Horse, Ox, or Beast of Draught exceeding Two and not exceeding Six drawing any Waggon, Wain, or Cart, or other such Carriage, One Shilling; and when the Number exceeds Six, at the Rate for each of the Proportion of Six Shillings divided among the whole Number employed in drawing the same:

For every Horse or Beast of Draught drawing any Waggon, Wain, Cart, or other such Carriage, where such Carriage and the Loading thereof taken together shall not exceed Fifteen Hundred Weight, where One only is drawing such Carriage, Sixpence, and where Two are drawing such Carriage, Nine-pence; and where such Carriage and Loading exceeds Fifteen Hundred Weight and does not exceed Twenty Hundred Weight, where only One Horse or Beast of Draught is drawing, Eight-pence, and where Two are drawing, Eleven-pence; and where such Carriage and Loading exceeds Twenty Hundred Weight and does not exceed Twenty-four Hundred Weight, where One Horse or Beast of Draught only is drawing, Ten-pence, and where Two are drawing, the Sum of One Shilling and One Penny; and where such Carriage with the Loading exceeds Twenty-four Hundred Weight and does not exceed Twenty-seven Hundred Weight, where One Horse or Beast of Draught is drawing, One Shilling, and where Two are drawing,

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One Shilling and Three-pence; and where such Carriage with the Loading exceeds Twenty-seven Hundred Weight and does not exceed Thirty Hundred Weight, and One Horse or Beast of Draught is drawing, One Shilling and Three-pence, and where Two are drawing, One Shilling and Sixpence; and where any such Carriage with the Loading exceeds Thirty Hundred Weight and does not exceed Thirty-five Hundred Weight, then the Sum of Two-pence for each additional Hundred Weight, and where any such Carriage with the Loading exceeds Thirty-five Hundred Weight, the Sum of Three-pence for every such additional Hundred Weight:

For every Horse or Mule, laden or unladen, and not drawing, the Sum of Three-pence:

For every Score of Oxen or Neat Cattle the Sum of Three Shillings and Four-pence; and so in proportion for any greater or less Number:

And for every Score of Calves, Hogs, Sheep, Lambs, or Goats, the Sum of One Shilling and Eight-pence; and so in proportion for any greater or less Number:

For every Carriage, of any Description whatever, propelled by Steam or Machinery, the Sum of Five Shillings.

Pass Tickets to be granted.

VIII. And be it enacted, That the Driver of any Cart or such like Carriage who shall pass any Toll Bar with a loaded Carriage and pay Toll thereat shall receive a Ticket which shall entitle him again to pass such Toll Bar in the same Direction and to return empty Toll-free as often as he shall think fit within the succeeding Four Hours, to be computed from his first passing such Toll Bar.

Regulation as to passing Bars.

IX. Provided always, and be it enacted, That in case such Carriage, in returning in the contrary Direction, shall be loaded, the same shall be chargeable with a new Toll for such new Loading, on Payment of which the Driver shall be entitled again to return through such Toll Bar in the same Direction Toll-free as often as he shall think fit within the succeeding Four Hours, to be computed from his first returning with a new Loading: Provided also, that the Tolls payable for such Carriage shall be chargeable at the Rate corresponding to the heaviest Loading with which such Carriage shall have passed or returned through such Gate during the aforesaid Space of Four Hours: Provided farther, that it shall not be lawful to any Person or Persons to make any Depository in the Neighbourhood of any of the said Turnpike Gates, and there lay up or deposit his or their Loadings, for the Purpose of fraudulently taking the Benefit of this Exemption; and if any Person shall be convicted of so doing for such Purpose, contrary to the true Intent and Meaning of this Act, such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds Sterling.

Toll for Overweight not to be exigible on Manure, &c.

X. And be it enacted, That no Carts, Waggons, or other Carriages employed in Husbandry only, or in carrying Manure for Land, Hay, Straw, Fodder, or Corn in the Straw, shall be liable to pay the said additional Toll or Tolls for Overweight, any thing herein contained to the contrary notwithstanding.

Pass Tickets to be granted.

XI. And be it enacted, That upon receiving Payment of the Tolls by this Act granted the Receiver thereof at any Gate or Turnpike to be continued or erected as aforesaid shall deliver to the Person paying such Tolls a Note or Ticket denoting such Payment, and on the Production of such Note or Ticket at the same Gate or Turnpike, and also at any other Gate or Gates which the said Ticket for such Payment shall free, on repassing the same on the same Day before Twelve of the Clock at Night, no Toll shall be exigible for the Horses or other Cattle in respect of which such Note or Ticket shall have been delivered: Provided always, that in case the same Horse, Ass, or other Beast drawing any Carriage, Cart, or Waggon shall pass through any Turnpike Gate or Gates with a fresh or new Loading or Hiring exceeding One Hundred Weight a Second Time or oftener the same Day, such Horse, Ass, or other Beast shall be liable in the Payment of Toll for each Time in the same Manner as for the first Time of passing.

Pass Ticket to free Riding Horses, &c. passing on the same Day.

XII. Provided always, and be it further enacted, That if any Person shall have paid the Tolls hereby authorized to be taken for the passing of any Riding Horse, or of any Horse or Beast of Draught drawing any Coach, Chariot, Chaise, Gig, Phaeton, Taxed Cart, or other such Carriage, all and every such Person or Persons shall, upon the Production of a Ticket denoting the Payment thereof on that Day, be permitted to pass or repass Toll-free any Number of Times during the same Day (to be computed from Twelve of the Clock in one Night to Twelve of the Clock the next succeeding Night) through the said Toll Gate, Turnpike, or Side Bar, and also through any other Gate or Gates which the Ticket for such Payment shall free, any thing in this Act contained to the contrary notwithstanding.

Horses drawing Stage Coaches to pay every Time of passing with a new Hiring.

XIII. And be it enacted, That the said Tolls shall be payable for and in respect of every Horse or Beast drawing any Stage Coach, Diligence, Van, Caravan, Stage Waggon, Cart, or other Stage Carriage conveying any Passengers or Goods for Payment, Hire, or Reward, every Time of passing; and also for every Riding Horse and Horse or Beast of Draught let out to Hire drawing any Post Chaise, Car, or Carriage of any Kind (Job Horses always excepted), every Time of passing, whenever any new Hiring thereof shall take place.

Exemption of Horses carrying Prisoners.

XIV. And be it enacted, That no Tolls shall be demanded or taken for any Horse or Carriage employed only in carrying any Vagrant or Prisoner sent by legal Warrants.

Additional Toll to be paid for Horses drawing Carriages not capable of being weighed.

XV. And whereas it frequently happens that Timber and other Carriages are drawn or may be drawn upon the said Roads laden with excessive Weights, which by reason of their Construction cannot be weighed at the Weighing Machines commonly used on Turnpike Roads, and the said Roads receive considerable Damage thereby, for which the Tolls herein-before authorized to be taken are not a sufficient Compensation; be it therefore enacted, That in all Cases where Carriages are used upon the said Roads constructed so that by the ordinary Weighing Machines they cannot be accurately weighed,

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there shall be paid in respect of every Horse or other Beast drawing such Carriage One Half more than the Amount of the Tolls hereinbefore authorized to be taken.

Tolls made liable for the Debts.

XVI. And be it enacted, That the Term and Tolls by this Act granted shall be and they are hereby made subject and liable to the Payment of all Monies which have been borrowed and now are due and owing on the Credit of the Tolls authorized to be taken on the said Roads by the said recited Acts hereby repealed, and of all Interest due and to grow due thereon, as fully and effectually, to all Intents and Purposes, as if such Monies had been borrowed or become due and owing on the Credit of this Act and the Tolls hereby granted; and all and every Person and Persons owing any Sum or Sums of Money to the Trustees under the said recited Acts hereby repealed shall be liable to the Payment thereof to the Trustees for executing this Act.

Trustees to render an Annual Account.

XVII. And be it enacted, That the said Trustees shall once in each Year cause to be prepared an Account in Abstract of the total Receipts and Expenditure of all Funds levied by virtue of this Act for the Year preceding, under the several distinct Heads of Receipts and Expenditure, with a Statement of the Balance of the said Account duly attested and certified by the Clerk to the said Trustees; and shall cause a Copy of such Annual Account to be transmitted free of Charge to the Sheriff Clerks respectively of the Counties of *Clackmannan* and *Perth* on or before the First Day of *January* in each Year, under a Penalty of Twenty Pounds, in case of Default, to be sued for and levied by summary Process at the Instance of any Person authorized by the said last-recited Act to prosecute for Tolls and Penalties, in the same Manner as Penalties are authorized by the said Act to be sued for and levied, and be applied in the Manner in which Penalties not otherwise directed to be applied are thereby directed to be applied; and such Account shall be open at all seasonable Hours to the Inspection of the Public, upon Payment of One Shilling for such Inspection, or if written Extracts are required therefrom at the Rate of Sixpence for each Folio of Seventy-two Words.

Road not to be exempted from general Act.

XVIII. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the Turnpike Roads by this and the said herein-before recited Acts authorized to be made and maintained from the Provisions of any general Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament.

Expences of the Act.

XIX. And be it enacted, That the Expences of passing this Act shall be payable out of the Monies raised under the said recited Acts or this Act, or out of the Tolls, Rates, and Duties hereby granted.

Continuance of Act.

XX. And be it enacted, That this Act shall continue and be in force during the Period of Thirty-one Years from the passing thereof, and from thence to the End of the then next Session of Parliament.

XXI. And

Public Act. XXI. And be it enacted, That this Act shall be, and be deemed and taken to be, a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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