ANNO QUADRAGESIMO QUINTO

GEORGII III. REGIS.

Cap. 46.

An Act for making and repairing certain Roads in the County of *Elgin*; and for levying a Conversion in lieu of the Statute Labour, and otherwise regulating the making and repairing the High Roads and Bridges in the said County.

[5th *June* 1805.]

WHEREAS the Road from the Bridge of *Spey*, at *Boat of Bog*, near *Fochabers*, leading through the Burghs of *Elgin* and *Forres* to the Confines of the County of *Elgin* towards *Nairn*, passing through the Parishes of *Speymouth*, *Urquhart*, *Longbride*, *St. Andrews*, *Elgin*, *New Spynie*, *Alves*, *Kinloss*, *Rafford*, *Forres*, and *Dyke*, is in bad Repair, narrow, incommodious, and dangerous to Travellers, and cannot be sufficiently amended, widened, repaired, and kept in Repair by the Funds and Means provided and prescribed by the Laws now in Force, nor unless further Powers are given, and Regulations made for that Purpose by Authority of Parliament: And whereas the Laws now in Force, for the making of Roads and building of Bridges, and repairing the same, have been found ineffectual in the said County of *Elgin*, to make and maintain the Roads through the same generally, and other and further Powers are necessary, in order to carry the Purposes of the said Laws into Execution, and it is attended with difficulty to make effectual, and properly to apply the Statute Work in the said County: And whereas a reasonable Composi-

tion in Money, in lieu of actual Labour, is in many Places found to be more useful and effectual, for the Purpose of making and repairing the Roads, as well as more easy and convenient for the Persons liable in Statute Services, than the actual Performance; and it would therefore be of Advantage to the said County of *Elgin* to convert the Statute Labour into Money, and to ascertain the Rates thereof, and the Mode of levying the same, and to authorise an additional Assessment beyond that at present allowed, to be imposed on the Heritors of Lands and other Persons in the said County, for making Highways, Bridges, and Ferries through the same; but as these several Purposes, cannot be effectually accomplished, without the Aid of Parliament: 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 every Person who, in his own Right, or in the Right of his Wife, now is or hereafter shall be in the actual Possession and Enjoyment, as Proprietor or Life-renter of the full Property, or *Dominium utile* of Lands in the said County of *Elgin*, valued in the Cess Books of the same at One Hundred Pounds *Scots*; and all and every the eldest Sons of such Persons, One Guardian of each Minor enjoying and possessing Lands of the Valuation aforesaid; One Trustee of every Estate; One Manager or Factor for each Corporation or associated Body, holding Lands of the said Valuation; the Provost and eldest Baillie of the Burgh of *Elgin*; the eldest Baillie and Dean of Guild of *Forres*; the Sheriff Depute of the County of *Elgin*, and his Substitute, all for the Time being, shall be, and they are hereby nominated and appointed Trustees for surveying, ordering, making, amending, widening, repairing, and keeping in Repair, and causing to be surveyed, made, amended, repaired, and kept in Repair, the Road above specified, and the Bridges thereupon; and for putting in Execution all the Powers and Authorities by this Act given and granted, respecting the said Road.

Trustees for the Turnpike Road.

Penalty on acting, if not qualified.

II. And be it enacted, That if any Person not qualified as aforesaid, or as hereinafter mentioned, shall, notwithstanding, presume to act as a Trustee in the Execution of this Act, every such Person shall, for every Offence, forfeit and pay any Sum not exceeding Twenty Pounds Sterling, besides the Expence of Prosecution, to be recovered by summary Complaint, at the Suit of any Heritor of the said County, before the Justices of the Peace at their Quarter Sessions, or before the Sheriffs Depute, or Substitute of *Elginshire*, to be applied for the Purposes of this Act; and the Proof of Qualification shall be upon the Person complained of.

Trustees not to hold any Place of Profit.

No Victualler, &c. to hold any Office under the Act.

III. And be it enacted, That if any of the said Trustees shall accept or hold any Place of Profit arising out of this Act, by reason of any Tolls or Duties hereby granted, he shall be incapable of acting as a Trustee during his Enjoyment of such Place of Profit; and that no Victualler or Retailer of Beer, Ale, or Spirituous Liquors, shall be capable of holding or enjoying any Office of Trust, Profit, or Collection under this Act.

IV. And

Time and Place of General Meetings, and Order of Procedure.

IV. And be it further enacted, That the ſaid Truſtees, or any Seven or more of them, ſhall hold their firſt ſtated or General Meeting, by virtue of this Act, at *Elgin*, upon the Third *Monday* of *June* One thouſand eight hundred and five, or as ſoon after as conveniently may be; and their ſecond ſtated General Meeting, on the Day on which the *Michaelmas* Meeting of the Freeholders for the ſaid County for the ſaid Year is held; and ſhall thereafter hold Two General ſtated Meetings in each Year during the Continuance of this Act, One upon the Day on which the Commiſſioners of Supply ſhall meet for aſſeſſing the ſaid County in the Land Tax, and the other upon the Day of the *Michaelmas* Meeting of Freeholders of the ſaid County, with Power to the ſaid Truſtees, or Majority of thoſe preſent at any of the ſaid ſtated or General Meetings, to adjourn to ſuch other Time and Place as they ſhall think convenient; with Power alſo to name Committees of their Number, being Heritors in the reſpective Pariſhes through which the Road paſſes, or Subſcribers to the Road mentioned in this Act, to the Extent of One hundred Pounds, each Heritor not preſent having Power to act by his Agent or Factor, ſpecially authorized by a Writing under his Hand for that Purpoſe, to have the more immediate Care and Management of particular Parts of the ſaid Road, and to give their Committees (whereof Three to be a Quorum) ſuch Inſtructions and ſuch Powers as they ſhall think fit and expedient; and alſo with Power to the ſaid Truſtees, both in their General Meetings and Committee Meetings, to appoint Clerks, Caſhiers, Collectors, Surveyors, Overſeers, and other Officers, with reaſonable Salaries for their Trouble; all which Clerks, Caſhiers, Collectors, and others appointed to Offices of Truſt, ſhall find Security for the due Execution of their Offices, and ſhall account to ſuch Committee or other Perſons appointed to receive their Accounts, once every Twelve Months or oftener (if required), for all Monies received by them, and pay over the Balance to the Truſtees or their Order: And in caſe of Default in accounting or Payment, it ſhall be lawful for any Two or more Juſtices of the Peace, or the Sheriff's Depute or Subſtitute, at the Suit of the ſaid Truſtees, to commit the Defaulter to Priſon till a faithful Account be rendered, or until he ſhall have compounded with the ſaid Truſtees for the Balance due from him as aforeſaid, which Compoſition the ſaid Truſtees are hereby authorized and empowered to make: Provided always, That no Perſon ſhall be committed for want of ſufficient Goods or Property whereon to make Diſtreſs for ſuch Balance, for any longer Space of Time than Three Calendar Months.

Truſtees to appoint Clerks, &c.

who ſhall find Security.

On Default, to be committed till Account rendered.

Quorum of Truſtees.

V. And be it further enacted, That the Quorum, or Number of Truſtees neceſſary to do Buſineſs in General Meetings, ſhall be Five; but if only One, or any Number leſs than Five ſhall be preſent at any of the ſtated or other General Meetings, ſuch Truſtee or Truſtees ſhall have Power to adjourn the Meeting; and, in that Caſe, Notice ſhall be given of the Day, Place, and Purpoſe of ſuch adjourned Meeting, by Two ſeveral Advertiſements in any Newſpaper publiſhed in *Aberdeen*, the Firſt of ſuch Advertiſements being at leaſt Fourteen Days before the Day of ſuch adjourned Meeting; and the Clerk of the ſaid Truſtees ſhall have Power, and he is hereby required, when directed (by a Writing under the Hands of any Two or more Truſtees) to call at any

any Time a General Meeting, giving the like previous Notice of the Time, Place, and Purpoſe of the Meeting; and at ſuch Meetings, no Buſineſs ſhall be entered or decided upon, other than what is ſpecified in the Notice given as aforeſaid; and it ſhall not be in the Power of any ſtated or General Meeting, to reſcind, alter, or vary the Determination of any former ſtated or General Meeting, unleſs previous Notice of the Intention of ſo doing, and the Time and Place of the Meeting, be given by Advertiſements, in any *Aberdeen* Newſpaper as aforeſaid.

Truſtees to keep Books.

VI. And be it further enacted, That all the Proceedings of the ſaid Truſtees, and an exact Account of all the Money received by virtue of this Act, and of the Application of the ſame, ſhall be entered in a Book to be kept by the Clerks to the Committees appointed by the ſaid Truſtees, whoſe Duty it ſhall be to enter and record regularly all theſe Proceedings and Accounts, and for that Purpoſe, to call for and oblige the Receivers, Tackſmen, and Caſhiers to produce their Accounts and Vouchers thereof; and in caſe of their neglecting ſo to do, they ſhall forfeit a Sum not exceeding their Year's Salary; which Books of Account and Proceedings ſhall be open to the Inſpection of every Heritor in the County of *Elgin*, without Fee or Reward; and in caſe of Miſapplication of Money borrowed, collected, received, or levied by or under this Act, all and every Perſon or Perſons who ſhall ſo miſapply, or by whoſe Authority the Miſapplication ſhall be made, ſhall forfeit double the Sum miſapplied, with Coſts of Suit, to be recovered at the Suit of any Two or more Heritors of the County of *Elgin*, by a ſummary Proceſs before the Sheriff of the County, or his Subſtitute, out of which Sum, when recovered, the Sum ſo miſapplied ſhall be paid to the Truſtees, for the Purpoſes of this Act, and the Remainder be divided into Two Moieties, One to be paid to the Truſtees for the like Purpoſes, and the other to the Perſons ſuing for the ſame; and Committees appointed as aforeſaid, ſhall be accountable to the General Meetings, and for that Purpoſe ſhall lay before them, once in the Year at leaſt, a State of their Accounts and all other their Tranſactions, to be by them at One of their ſtated General Meetings examined, audited, and approved; and in caſe of Failure or Neglect, the Clerk of the General Meeting ſhall, and he is hereby required, to apply to the Sheriff Depute or Subſtitute of the County, or to the Juſtices of the Peace at their Quarter Seſſions, or adjourned Quarter Seſſions, which Sheriff or Juſtices ſhall grant a Warrant for ſummoning the Clerk of the Committee ſo failing, or other Perſon or Perſons to whom the ſaid Failure or Neglect is imputed, and on Proof of ſuch Failure or Neglect, ſhall fine him or them in a Sum not exceeding Five Pounds Sterling, nor leſs than Forty Shillings Sterling, to be paid to the ſaid Truſtees, to be by them applied to the Purpoſes of this Act.

Truſtees may ſue or be ſued in the Name of their Clerk or Treaſurer.

VII. And be it further enacted and declared, That the ſaid Truſtees may ſue and be ſued for any Matter or Thing to be done in the Execution of this Act, in the Name of their Clerk or Treaſurer, for the Time being; and that no Action or Suit, wherein the ſaid Truſtees ſhall be concerned, as Purſuers or Defenders, in the Name of their Clerk or Treaſurer, by virtue of this Act, ſhall abate by the Death or Removal of any ſuch Clerk or Treaſurer; but that the Clerk or Treaſurer

ſurer to the ſaid Truſtees, for the Time being, ſhall be deemed to be the Purſuer or Defender (as the Caſe may be) in every ſuch Action.

For erecting Turnpikes.

VIII. And be it enacted, That the ſaid Truſtees, at their Firſt Meeting, or at any of the Stated Meetings aſſembled, or at a Meeting advertiſed for that ſpecial Purpoſe, may direct and authoriſe Gates and Turnpikes to be erected acroſs any Part of the ſaid Road, and ſuch Number of Toll-houſes as they ſhall think fit, and may authoriſe their Collectors or Tackſmen under their Authority, to take and levy at each of the ſaid Gates, before any Paſſage be permitted, a Sum or Sums of Money, not exceeding the following Rates: that is to ſay,

Tolls.

For every Coach, Berlin, Landau, Chariot, Chaiſe, Calaſh, or other ſuch Carriage, with Four Wheels, drawn by Six or more Horſes, or other Beaſts of Draught, the Sum of Six Shillings Sterling; and drawn by Four Horſes, or other Beaſts of Draught, the Sum of Three Shillings Sterling; and drawn by Three Horſes, or other Beaſts of Draught, the Sum of Two Shillings Sterling; and drawn by Two Horſes, or other Beaſts of Draught, the Sum of One Shilling and Six-pence Sterling; and drawn by One Horſe, or other Beaſt of Draught, the Sum of Eight-pence Sterling:

For every Chaiſe, Gig, Curricle, or other like Carriage, with Two Wheels, drawn by Two Horſes, or other Beaſts of Draught, the Sum of One Shilling Sterling; and drawn by One Horſe, or other Beaſt of Draught, the Sum of Six-pence Sterling:

For every Carriage, commonly called a Taxed Cart, the Sum of Six-pence Sterling:

For every Waggon, Wain, Cart, or other like Carriage, drawn by Six, or more Horſes, Oxen, or other Beaſts of Draught, the Sum of Seven Shillings Sterling; and drawn by Five Horſes, Oxen, or other Beaſts of Draught, the Sum of Five Shillings Sterling; and drawn by Four Horſes, Oxen, or other Beaſts of Draught, the Sum of Three Shillings Sterling; and drawn by Three Horſes, Oxen, or other Beaſts of Draught, the Sum of One Shilling and Six-pence Sterling; and drawn by Two Horſes, Oxen, or other Beaſts of Draught the Sum of Eight-pence Sterling; and drawn by One Horſe, Ox, or other Beaſt of Draught, the Sum of Four-pence Sterling:

For every Horſe, Mare, Gelding, or Mule, with, or without a Rider, laden, or unladen, and not drawing, the Sum of Two-pence Sterling:

For every Drove of Oxen, Neat Cattle, Aſſes, Horſes, or Fillies, unſhod, the Sum of Five-pence Sterling *per* Score, and ſo in proportion for any greater or leſs Number:

For every Drove of Calves, Hogs, Sheep, Lambs, or Goats, the Sum of Five-pence *per* Score, and ſo in proportion for any greater or leſs Number.

Truſtees may lower the Tolls, and raiſe them again.

IX. And be it enacted, That the ſaid Truſtees ſhall be, and they hereby are empowered to diminiſh or leſſen any, or all of the ſaid Rates, upon the ſaid Road, or any Part thereof, with the Conſent of the Perſons entitled to Five Sixth-Parts of the Money then due and owing on the Credit of the ſaid Tolls, but not otherwiſe; and alſo to raiſe the

the Rates again, if they ſhall ſee Cauſe, but ſo as not, at any Time, to exceed the Rates authoriſed as aforeſaid by this Act.

Truſtees may diminiſh the Tolls for Carriages drawn by Oxen, and raiſe them again.

X. Provided always, That it ſhall and may be lawful for the ſaid Truſtees, in any of their ſtated General Meetings aſſembled, if they ſee Cauſe, to diminiſh for ſuch a Length of Time, as they ſhall judge fit, the Tolls payable for Wains, or other Carriages drawn by Oxen, ſuch Diminution not exceeding One-half of the Tolls payable for the ſame Carriages drawn by Horſes, and to raiſe the ſaid Tolls again, ſo as that the ſame ſhall not, at any Time, exceed the Rate of Tolls by this Act granted.

Truſtees may erect weighing Engines.

XI. And be it further enacted, That the ſaid Truſtees, or any Seven or more of them, ſhall, if they find it neceſſary, cauſe weighing Engines to be erected upon ſuch Parts of the ſaid Roads as they ſhall think fit, for weighing all Carriages that ſhall paſs along the ſaid Roads, and ſhall receive and take (over and above the Tolls hereby granted) the following Sums of Money, as additional Tolls; for every Hundred Weight, (of One Hundred and Twelve Pounds to the Hundred) which any Waggon, Cart, or Carriage, together with the Loading thereof, ſhall weigh at any of the ſaid weighing Engines, over and above the Weight which ſuch Waggon, Cart, or Carriage, is allowed to weigh, without paying additional Toll; that is to ſay, for the Firſt and Second Hundred, the Sum of Three-pence Sterling for each Hundred; for every Hundred of ſuch Overweight above Two Hundred, and not exceeding Five Hundred, the Sum of Six-pence Sterling; for every Hundred of ſuch Overweight above Five Hundred, and not exceeding Ten Hundred, the Sum of Two Shillings and Six-pence Sterling; for every Hundred of ſuch Overweight above Ten Hundred, and not exceeding Fifteen Hundred, the Sum of Five Shillings Sterling; and for every Hundred of ſuch Overweight above Fifteen Hundred, the Sum of Twenty Shillings Sterling, before they reſpectively ſhall be permitted to paſs through ſuch Gate or Turnpike; and the ſame ſhall be applied as the other Tolls are by this Act directed to be applied; and in caſe any Perſon or Perſons ſhall hinder or obſtruct the weighing of any Carriage as aforeſaid, ſuch Perſon or Perſons ſhall for every ſuch Offence, forfeit any Sum not exceeding Ten Shillings Sterling nor leſs than Five Shillings Sterling, beſides all neceſſary Expences.

Regulations concerning the Weight of Carriages.

XII. And be it further enacted, That every Waggon, Cart, or Carriage, ſhall be allowed to paſs without paying any additional Toll, provided ſuch Waggon, Cart, or Carriage, with its Loading, does not weigh more than the Weights following; *videlicet*, Every Waggon or Four Wheeled Carriage, having the Fellies or Rollers of the Wheels of the Breadth of Sixteen Inches, Eight Tons in Summer, and Seven Tons in Winter; every Waggon or Wain having the Sole or Bottom of the Fellies of the Breadth of Nine Inches, Six Tons in Summer, and Five Tons and One-half in Winter; every Cart having the Fellies of the Breadth of Nine Inches, Three Tons in Summer, and Two Tons Fifteen Hundred Weight in Winter; every Waggon having the Fellies of the Breadth of Six Inches, Four Tons Five Hundred Weight in Summer, and Three Tons Fifteen Hundred Weight in Winter; every Cart having

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ing the Fellies of the Breadth of Six Inches, Two Tons Twelve Hundred Weight in Summer, and Two Tons Seven Hundred Weight in Winter; every Waggon having the Fellies of leſs Breadth than Six Inches, Three Tons and one Half in Summer, and Three Tons in Winter; every Cart having the Fellies of leſs Breadth than Six Inches, and drawn by Two or more Horſes, One Ton and one Half in Summer, and One Ton Seven Hundred Weight in Winter; and every ſuch Cart drawn by one Horſe, One Ton both in Summer and Winter; and for the aforeſaid Purpoſes, it ſhall be deemed Summer from the Firſt Day of *May* to the Thirty-firſt Day of *October*, and Winter from the Firſt Day of *November* to the Thirtieth Day of *April*, both inclusive.

Tolls veſted in the Truſtees.

XIII. And be it further enacted, That the Money ſo to be raiſed and collected as aforeſaid, ſhall, and is hereby declared to be veſted in the ſaid Truſtees, and ſhall be ſtrictly applied to and for the Uſes and Purpoſes by this Act directed; nor ſhall any Part thereof be expended without their Orders, or the Orders of their Committees, or other Perſons authoriſed by General Meetings; and if any Perſon or Perſons, ſubject to the Payment of Tolls hereby granted, ſhall, after Demand made, neglect or refuſe to pay the ſame, the ſaid Truſtees ſhall be, and are hereby empowered by themſelves, or ſuch other Perſon or Perſons as they ſhall appoint, to levy the ſame by Diſtreſs and Sale of any Horſe or Horſes, or other Cattle or Carriage upon which ſuch Toll is impoſed, and to keep ſuch Cattle or Carriage until the Toll and Charges of the Diſtreſs be paid; and after the Expiration of Six Days, to ſell the Cattle or Carriage diſtrained by Public Roup, at the Toll-Houſe where the Toll ſhould have been paid, returning the Overplus to the Owner on Demand (if any be), after Deduction of ſuch Toll, and all Charge for diſtraining, keeping, appraiſing and ſelling the ſame.

Tolls may be levied by Diſtreſs.

Turnpikes and Toll-Houſes veſted in Truſtees.

XIV. And be it further enacted, That the Right and Property of all and every the ſaid Turnpikes, Toll-Houſes, and Premiſes to be erected in virtue of this Act, and Materials thereof, with the Materials that ſhall be collected and dug up for making and repairing the ſaid Roads and Bridges, ſhall be veſted in the ſaid Truſtees, who may, and are hereby authorized, to diſpoſe of them as they ſhall think proper, for the Purpoſes of this Act only.

Truſtees may purchaſe Lands and erect Toll-Houſes.

XV. And, for the better enabling the ſaid Truſtees to erect the Toll-Houſes neceſſary for collecting the ſaid Tolls, be it further enacted, That the ſaid Truſtees ſhall be, and they are hereby empowered to purchaſe or take in Leaſe ſuch Pieces of Ground as they ſhall judge moſt convenient, not exceeding One-fourth of an Acre for each Houſe; and if they cannot agree with the Proprietor and Occupier of the Ground, they ſhall apply to the Quarter Seſſions of the County, who ſhall have Power, and are hereby required to oblige ſuch Proprietor or Occupier to give a Leaſe of the ſaid Ground, for any Term not exceeding the Continuation of this Act, and fix the Rent of the ſame.

Application of the Tolls.

XVI. And be it further enacted and declared, That at any of the Three firſt ſtated General Meetings of the ſaid Truſtees (the Purpoſe of the ſaid Meeting being ſpecially announced by Public Advertiſement in

in an *Aberdeen* Newſpaper), it ſhall be lawful for them to direct the Tolls ariſing at the Turnpikes or Toll-Bars erected or to be erected on the ſaid Road, to be applied towards the making, repairing, and upholding of the aforeſaid Road, in ſuch Manner as the ſaid Truſtees ſhall think fit; and as ſoon as the ſame ſhall be ſo adjuſted, the Clerk of the ſaid Truſtees is hereby authoriſed and required to enter and record the ſame in a Book to be kept for that Purpoſe: Provided always, That in all Time thereafter, during the Continuance of this Act, it ſhall not be in the Power of the ſaid Truſtees, or of any Number of them, to vary or alter the final Determination or Allocation ſo made.

Truſtees may erect Side Gates.

XVII. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees to erect, or cauſe to be erected, One or more Gate or Gates on the Side or Sides of the ſaid Road, and acroſs any Lane or Way leading out of the ſame; and alſo a Toll Houſe at each ſuch Gate, and there to take and receive ſuch Tolls as are hereby granted and made payable, but ſo as that a Ticket received at any ſuch Side Gate or Croſs Bar ſhall entitle the Receiver thereof to paſs Toll free, through the next Gate or Turnpike, if within Six Miles, on the ſame Day, to be computed from Twelve of the Clock at Night to Twelve of the Clock on the ſucceeding Night.

Penalty on Perſons going, or permitting others to go through any Gate.

XVIII. And be it further enacted, That if any Perſon occupying any Lands or other Premiſes near to the ſaid Road, ſhall aſſiſt or be acceſſary in permitting any Perſon to paſs over the ſame, or through any Gate or Paſſage with any Horſe, Beaſt, or Carriage, liable to pay Toll by virtue of this Act, or ſhall connive thereat, or if any Perſon ſhall forcibly paſs through or aſſiſt any Perſon in paſſing through any Turnpike Gate erected or to be erected on the ſaid Roads, whereby the Payment of ſuch Toll may be evaded, ſuch Perſon ſo permitting or conniving at, and the Perſon or Perſons riding or driving ſuch Horſe, Beaſt, or Carriage through ſuch Grounds or private Paſſage, and any Perſon or Perſons riding or driving any Horſe, Beaſt, or Carriage through any private Road, whereby the Payment of the Toll may be avoided, or forcibly paſſing through any Turnpike Gate, being convicted thereof by the Teſtimony of One or more credible Witneſs or Witneſſes, before the Sheriff Depute or Subſtitute, or any One or more of the Juſtices of the Peace for the County, ſhall, for every ſuch Offence, forfeit and pay to the ſaid Truſtees, or their Collector or Collectors, any Sum not exceeding Five Pounds Sterling, nor leſs than Forty Shillings Sterling.

Penalty in taking off Horſes, &c.

XIX. And be it further enacted, That if any Perſon or Perſons ſhall take off any Horſe or Horſes, or Oxen, or other Beaſts of Draught from any Carriage, at or before the ſame ſhall come to any of the Gates or Turnpikes erected by virtue of this Act, with an Intention to evade the Payment of any of the Tolls hereby impoſed, or any Part thereof, or ſhall leave or cauſe to be left upon or near any Part of the ſaid Road, any Carriage, or any Horſe, Beaſt, or Cattle, with ſuch Intent as aforeſaid, each and every Perſon or Perſons ſo offending in any of the Caſes aforeſaid, and being thereof convicted in Manner aforeſaid, ſhall forfeit and pay to the Truſtees appointed to put this Act in Execution, or to their

their Collector for the Time being, any Sum not exceeding Twenty Shillings Sterling, nor leſs than Ten Shillings Sterling.

Penalty on unloading Carriages before coming to a Gate.

XX. And be it further enacted, That in caſe any Perſon or Perſons travelling on the ſaid Road in a Coach, Chaiſe, or any other Carriage whatſoever, ſhall ſtop before coming to a Turnpike Gate, and walk through the Gate; or in caſe any Perſon or Perſons ſhall unload any Waggon, Cart, or other Carriage travelling along the ſaid Road before coming to a Turnpike, and ſhall carry the ſaid Load through ſuch Gate, ſuch Perſon or Perſons ſhall pay the Tolls by this Act impoſed, in the ſame Manner as if ſuch Coach, Chaiſe, Waggon, Cart, or other Carriage had gone through the Turnpike Gate without being unloaded; and if ſuch Perſon or Perſons ſhall refuſe to pay ſuch Tolls, he, ſhe, or they ſhall forfeit and pay any Sum not exceeding Twenty Shillings Sterling, nor leſs than Ten Shillings Sterling, to the ſaid Truſtees, or their Collector for the Time being, for each of ſuch Carriages.

Tolls to be paid only once a Day.

XXI. And be it further enacted, That no Perſon or Perſons having paid the Tolls hereinbefore granted at any of the ſaid Gates or Turnpikes ſhall, on the ſame Day (to be computed from Twelve of the Clock at Night, to Twelve of the Clock of the ſucceeding Night) be liable to pay again the ſaid Tolls at any Gate or Turnpike through which they ſhall have paſſed for the ſame Coach, Cart, or other Wheel Carriage, drawn by the ſame Horſes or other Beaſts of Draught, or for the ſame Horſe or other Beaſt or Cattle, for which any ſuch Toll ſhall have been paid.

Penalty on Perſons diſpoſing of or receiving Tickets, &c.

XXII. And, for preventing Frauds and Abuſes in the ſaid Tolls, be it further enacted, That if any Perſon or Perſons having paid the Toll by this Act impoſed, and having a Note or Ticket, Notes or Tickets, ſignifying the Payment of ſuch Toll, ſhall give or diſpoſe of the ſame to any other Perſon or Perſons, in order to avoid Payment of the ſaid Toll, every ſuch Perſon ſo giving or diſpoſing of ſuch Note or Ticket, Notes or Tickets, or receiving the ſame, being convicted thereof, upon Oath, before One or more Juſtice or Juſtices of the Peace, or before the Sheriff Depute or Subſtitute of the County, ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Twenty Shillings Sterling, nor leſs than Ten Shillings Sterling, to the ſaid Truſtees, or their Collector or Collectors.

Exemptions from Toll.

XXIII. Provided always, and it is hereby further enacted and declared, That no Perſon or Perſons ſhall be charged with any of the Tolls aforeſaid, for paſſing through any of the Turnpikes to be erected, by virtue of this Act, who ſhall not travel above Two Hundred Yards on the ſaid Road; nor any Perſon carrying or conveying Stones, or other Materials, for making, repairing, and building the ſaid Road and Bridges, or other Public Roads or Bridges within the ſaid County or any of the Cauſeways within, or belonging to the ſame, or going or returning empty for thoſe Purpoſes; nor ſhall any Occupier or Occupiers of Land, be charged with any of the Tolls aforeſaid, for paſſing from one Part to another of the ſame Farm; nor ſhall any Occupier or Occupiers of Fields, or Burgh Roods, on which no Offices or Barn-Yards are erected, for the Uſe of the ſaid Fields or Lands, be liable

to pay any of the ſaid Tolls, for any Horſes or Carriages carrying Dung to the ſaid Fields or Roods, from the Yard where ſuch Dung is made, for the Uſe of the ſaid Fields or Roods; nor carrying any Corns in the Straw, Hay, or Graſs, being the Produce of the ſaid Fields or Roods, to the Place where the ſaid Corn in the Straw, Hay, or Graſs is uſually kept, or uſed by the ſaid Occupier or Occupiers; nor for empty Carriages returning from carrying the Matters aforeſaid, or any of them; nor ſhall any Toll be demanded from any Perſon or Perſons who ſhall paſs or return through the ſaid Turnpikes to or from their Pariſh Church, Chapel, or any other Place of religious Worſhip, belonging to, or ſituate within the Pariſh where ſuch Perſon reſides, upon *Sunday*, or any other Day on which Divine Worſhip is ordered by Authority to be celebrated; nor from any Clergyman going to, or returning from viſiting any ſick Perſon, or upon other his Parochial or Miniſterial Duty on *Sunday*, or on any other Day on which Divine Service is ordered by Authority to be celebrated; nor for any Perſons who ſhall paſs or return on attending the Funeral 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 do lie; nor for Horſes or Cattle going to or returning from Paſturing or Watering Places, or going to Smithies for the Purpoſe of being ſhod; nor for any Horſes or Carriages of whatſoever Deſcription, employed, or to be employed, in carrying the Mails of Letters and Expreſſes under the Authority of His Majeſty's Poſtmaſter General, either when employed in carrying, fetching, or guarding ſuch Mails or Expreſſes, or in returning from conveying the ſame; nor for the Horſes or Carriages of Officers or Soldiers upon their March, or upon Duty; or for any Horſes, Cattle, or Carriages, employed in carrying or conveying the Arms or Baggage of any ſuch Officers or Soldiers, or in carrying any Sick, Wounded, or Diſabled Officers or Soldiers, or in returning from carrying or conveying the ſame; nor for any Horſe, Mare, or Gelding, furniſhed by or for any Perſons belonging to any Corps of Yeomanry or Volunteer Cavalry, and rode by them in going to or returning from the Place appointed for, and on the Days of Exerciſe; provided always, that ſuch Perſons ſhall be dreſſed in the Uniform of their reſpective Corps, and have their Arms, Furniture, and Accoutrements, according to the Regulations provided for ſuch Corps reſpectively; nor for Carts, Carriages, or Waggons, travelling with and conveying Vagrants or Criminals, ſent with legal Paſſes, or in returning from conveying the ſame; and if any Perſon ſhall claim or take the Benefit of any of the ſaid Exemptions, not being legally entitled to the ſame, every ſuch Perſon ſhall, for every ſuch Offence, forfeit and pay any Sum not exceeding Five Pounds Sterling, nor leſs than Twenty Shillings Sterling.

Tolls not to be levied till Part of the Sum eſtimated for making the Road be paid, and the Tolls to be paid only once in Six Miles.

XXIV. And be it further enacted, That no Toll-Bar ſhall be erected, or Toll levied on the ſaid Road, until at leaſt One-half of the Sum eſtimated for making ſuch Road ſhall be ſubſcribed, and paid to a Treaſurer appointed by the ſaid Truſtees; and that if any Turnpikes are erected within a leſs Diſtance of each other than Six Miles, any Perſon or Perſons producing a Ticket to ſhew that he, ſhe, or they, have paid the Tolls at one Gate, ſhall not pay any farther Tolls till the Diſtance exceeds Six Statute Miles from the Gate at which he, ſhe, or

or they ſhall have paid: Provided always, That the ſaid Exemptions ſhall only take place in the Caſe of any Perſon or Perſons continuing to travel on the ſame Line of Road or Branches thereof.

Truſtees to accept Subſcriptions for particular Parts of the Road, and lay out the Money thereon accordingly.

XXV. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees, and they are hereby authoriſed and empowered to accept Subſcriptions for ſuch Sum or Sums of Money as may be requiſite for the Making or Amendment of any particular Part or Parts of the ſaid Road, and for ſecuring the Repayment thereof, with Intereſt, to aſſign the Tolls hereby authoriſed to be levied on the ſaid Road; and that it ſhall alſo be lawful for the ſaid Truſtees to contract and agree with the Perſon or Perſons lending Money as aforeſaid, for the Making or Amendment of the ſaid Road, or any particular Part or Parts thereof as aforeſaid, to apply the ſame in making and amending ſuch Road, or Parts of Road; and they are hereby required to lay out, and apply the Money ſo lent for that expreſs Purpoſe accordingly: Provided, that no Subſcription ſhall be received, or Agreement entered into, for a Space of Road leſs than Six Miles in Length; and that no Turnpike, or Bar ſhall be erected, or Tolls taken on any ſuch particular Space or Portion of Road, until Four Miles of the Six Miles neareſt to the Place where ſuch Turnpike or Toll Bar ſhall be erected, ſhall be well and ſufficiently made, amended, or repaired.

Surplus Money, after paying Repairs, and Intereſt to go to pay Principal of the Debt.

XXVI. And be it enacted, That the ſurplus Produce of the Tolls, after defraying the Expence of Repairs and other neceſſary Charges on the Road, and paying the Intereſt of Money borrowed, ſubſcribed, and advanced, ſhall be appropriated annually to extinguiſh the Principal of the Debt and Money raiſed by Subſcription, and to no other Purpoſe.

Mode of repairing Roads to be determined at General Meetings.

XXVII. Provided always, and be it further enacted, That the ſaid Truſtees ſhall proceed to put this Act in Execution at ſuch Periods, and in reſpect to ſuch Points of the ſaid Road only as ſhall be agreed and determined at ſome of the annual ſtated General Meetings held under this Act, or ſome ſpecial adjourned General Meeting, to be called by the Clerk for the Purpoſe of ſettling and determining, by Advertiſement inſerted Twice in the *Aberdeen* Newſpapers; and at ſuch Meetings, it ſhall be lawful to all Perſons who have lent and ſubſcribed any Sum or Sums of Money, amounting to One hundred Pounds Sterling, or upwards, on the Credit of the Tolls by this Act granted, and who ſhall, at the Time of ſuch Meeting, be a Creditor to that Amount, to attend and vote, as they are hereby declared entitled to do, as Truſtees, although not otherwiſe qualified to act as ſuch; but ſuch Creditor or Perſon, who has paid his Subſcription, ſhall only be entitled to give one Vote in that Character, at the ſame Time, that he may give another Vote in the Character of Truſtee otherwiſe qualified.

Timber floated down the River Findhorn.

XXVIII. And be it further enacted, That if any Perſon or Perſons having Right to float Timber down the River *Findhorn*, or any other Perſon or Perſons, ſhall, by any Timber ſo floated upon the ſaid River, or by any Raft or Rafts of Timber, do any Damage to any Bridge or Bridges

Bridges thereon, or any Pier or Piers thereof, the Owner or Owners thereof respectively shall not only pay the Damage sustained, but shall also forfeit and pay any Sum, not excceding Five Pounds Sterling, nor less than Forty Shillings Sterling for each Offence.

Trustees may let the Tolls.

XXIX. And be it further enacted, That the said Trustees, at a General Meeting assembled, or a Committee to be named by any General Meeting, may, and they are hereby authorised and empowered, by Publi Roup, to let the said respective Tolls or Duties, in whole or by Parcels, 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, 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.

Trustees may borrow Money on the Tolls.

XXX. And be it further enacted, That it shall be lawful for the said Trustees, over and above the Money subscribed, to borrow such Sum or Sums of Money as they shall judge to be necessary on the Credit of the Tolls leviable at any, or each of the Turnpike Gates, to be erected by virtue of this Act, to be laid out in making and repairing the said Road, erecting Toll Houses, and defraying other Expences of carrying this Act into Execution; provided, that the whole Amount of the Money so borrowed shall not, at any one Time, exceed Five hundred Pounds Sterling *per* Statute Mile; declaring, that the Money so borrowed, shall be and continue a Lien upon the Tolls granted by this Act upon that Part of the Road for the Use of which the Money was borrowed or advanced, in Reference to former Subscriptions and future Contractions; and it shall be lawful for the said Trustees, and they are hereby empowered, to assign the Whole, or any Part of the Tolls by this Act imposed, to the Person or Persons from whom the Money, as aforesaid, shall be borrowed, as a Security for Payment of the Sum or Sums of Money so lent by them, with the Interest thereupon; and the Assignments of the Tolls, for Money so borrowed, shall be entered in a Book to be kept by the said Trustees, or such Persons as they shall appoint; which Book may be seen and perused, at all reasonable Times, by any Person or Persons any way interested as a Land Owner, in the said County, or as a Creditor or Subscriber as aforesaid, without Fee or Reward; and the Securities to be granted by the said Trustees, for the Purposes aforesaid, shall be transferable by Indorsement, duly subscribed by the Party transferring, in the Presence of one or more subscribing Witness or Witnesses: And be it hereby declared, That the said Trustees shall not be held or adjudged to have rendered themselves personally liable for the Repayment of the Money borrowed, or Interest thereof, by reason of having signed the Securities; which Securities are to be held and considered as granted upon the sole Credit and Security of the Tolls; nor shall any Trustee or Subscriber be held personally liable upon any Pretext for Payment of any Sum which he shall not have bound himself to pay personally as an Individual, independent of his Office as a Trustee under this Act.

Assignments to be entered in a Book.

Trustees not personally liable.

XXXI. And

Truſtees to cauſe the Road to be amended, &c.

XXXI. And be it further enacted, That the ſaid Truſtees in their ſtated General Meetings advertiſed as aforeſaid, ſhall be, and they hereby are authoriſed to cauſe the aforeſaid Road to be amended, widened, and repaired, in ſuch Manner as they ſhall think proper to ſettle the particular Direction of the ſame, to appoint Committees of their Number, with Power to employ Engineers, Surveyors, and other Perſons, with ſuitable Allowances for their Trouble, and alſo to make, or cauſe to be made, Cauſeways, and to cut and make Drains, Ditches, and Paſſages for the Water through any adjacent Ground, and to keep clean ſuch Ditches or Outlets; for which Purpoſe the Perſons employed by them may go upon the ſaid Lands, provided that reaſonable Satisfaction ſhall be made to the Owners and Occupiers of ſuch Lands for the Damage done, to be ſettled as hereinafter mentioned.

Penalty on breaking down Gates, &c.

XXXII. And be it further enacted, That if any Perſon or Perſons ſhall wilfully or maliciouſly break down, or otherwiſe deſtroy or deface any Turnpike Gates, Mile Stones, Poſts, Chains, Bars, Houſes, or other Works whatſoever, erected for the Uſe of ſuch Turnpikes, or ſhall reſcue any Perſon in Cuſtody for any of theſe Offences, every Perſon ſo offending being thereof lawfully convicted in any Proſecution ordered by the ſaid Truſtees, or any Two of them, upon the Oath of One or more credible Witneſs or Witneſſes, before the Sheriffs, or any Two or more Juſtices of the Peace of the County of *Elgin*, ſhall be condemned to pay any Sum not exceeding Triple the Damages ſuſtained, and to be impriſoned for any Time not exceeding One Calendar Month, and thereafter until the Damages awarded ſhall be paid; and for a ſecond Offence may, on Conviction as aforeſaid, be condemned to pay any Sum not exceeding Triple the Damages, and be impriſoned for any Time not exceeding Six Calendar Months.

Power to compound for Tolls.

XXXIII. And be it further enacted, That the ſaid Truſtees ſhall have Power at their General or Committee Meetings to compound or agree by the Year or otherwiſe, with any Perſon or Perſons travelling, or in uſe to travel or uſe the ſaid Road, the Compoſition agreed upon being made payable Quarterly and by Advance; and Copies of all ſuch Agreements ſhall be entered in a Book or Books to be kept for that Purpoſe, by the Clerk or reſpective Clerks, to be ſeen and peruſed by any Perſon or Perſons at all reaſonable Times, without Fee or Reward.

Penalty on the Keepers of the Gates for not attending, &c.

XXXIV. And be it further enacted, That if any of the Keepers of the Turnpike Gates erected by virtue of this Act, ſhall fail in due Performance of their Duty, or ſhall neglect to give conſtant Attendance at all Hours, and a free and ready Paſſage to all Perſons and Carriages, on Payment offered of the Toll, it ſhall be in the Power of the ſaid Truſtees, or any Two of them, and they are hereby required, on ſatisfactory Proof given, to levy from each Toll Keeper ſo offending, in all or every of the ſaid Particulars, ſuch a Sum as to them ſhall appear reaſonable, not exceeding Five Pounds Sterling for each Offence.

Compelling Payment of Subſcription Money.

XXXV. And be it further enacted, That if any Perſon or Perſons who has or have ſubſcribed, or ſhall ſubſcribe towards the making and repairing the Road by this Act intended to be made and repaired, ſhall, after Forty

Forty Days Notice, given by any Perſon or Perſons authorized by the ſaid Truſtees to receive and recover the Subſcription Money, neglect or refuſe to pay the ſame, by him, her, or them ſubſcribed, to the Perſon or Perſons ſo authorized, it ſhall be lawful to ſuch Perſon or Perſons, and he or they are hereby required to ſue for and recover the ſaid Subſcription Money, in any Court competent in *Great Britain*, declaring that the Perſons actually paying, ſhall have a Lien on the Tolls collected on the Road, for the Uſe of which the Money was ſubſcribed, next after any Aſſignments that may have been made of ſuch Tolls, for Money borrowed as aforeſaid, previouſly to the actual Payment of ſuch Subſcription Money.

Truſtees for converting the Statute Labour.

XXXVI. And, for the more effectually making, repairing, and keeping in Repair, the Roads and Bridges in the ſaid County of *Elgin* generally, be it further enacted, That every Perſon who in his own Right, or in Right of his Wife, now is, or hereafter ſhall be in the actual Poſſeſſion or Enjoyment as Proprietor or Life-renter of the full Property, or *Dominium utile* of Lands in the ſaid County, valued in the Ceſs Books of the ſame at One hundred Pounds *Scots*; and all and every the eldeſt Sons of ſuch Perſons, One Guardian of each Minor, enjoying and poſſeſſing Lands of the Valuation aforeſaid; One Truſtee of every Eſtate of the ſaid Valuation, veſted in Truſt; One Manager or Factor for each Corporation or Aſſociated Body, holding Lands of the ſaid Valuation; the Provoſt or eldeſt Baillie of the Burgh of *Elgin*; the eldeſt Baillie of the Burgh of *Forres*; the Sheriff Depute of the County of *Elgin*, and his Subſtitute, all for the Time being, ſhall be Truſtees for ordering and ſuperintending the making and repairing, and keeping in Repair, or cauſing to be ſurveyed, altered, and repaired, all and every the Roads, Bridges, and Ferries within the County of *Elgin*, other than and beſides the ſaid Road in the ſaid County, on which Turnpikes ſhall be erected and Tolls taken, in virtue of this Act; and for exacting and applying the Aſſeſſments hereinafter allowed to be impoſed and levied, and for carrying into Execution the whole Powers given by former Laws, and conferred by this preſent Act, relative to the Roads, Bridges, and Ferries within the ſaid County.

Penalty on acting, if not qualified.

XXXVII. Provided always, That if any Perſon, not qualified as aforeſaid, ſhall notwithſtanding preſume to act as a Truſtee as aforeſaid, every ſuch Perſon ſhall, for every ſuch acting, forfeit the Sum of Twenty Pounds Sterling, beſides the Expences of Proſecution, to be recovered by Complaint in a ſummary Way, at the Suit of any Heritor within the ſaid County, before the Juſtices of the Peace at their Quarter Seſſions, or before the Sheriff Depute of the County of *Elgin*, or his Subſtitute; which Penalty ſhall be paid to the Truſtees aforeſaid, or their Clerk, to be applied by them for the Purpoſes of this Act; and in caſe of ſuch complaint, the Proof of the Qualification ſhall be upon the Perſon complained of.

Diſtricts.

XXXVIII. And be it further enacted, That the ſaid County ſhall be divided into the following Diſtricts, *videlicet*:

First Diſtrict, containing the Pariſhes of *Bellie*, *Speymouth*, *Urquhart*, and *Long Bride-Saint Andrews*:

Second

Second Diſtrict, containing the Pariſhes of *Elgin*, *New Spynie*, *Drainie*, *Duffus*, *Alves*, and *Birney*:

Third Diſtrict, containing the Pariſhes of *Kinloſs*, *Rafford*, *Forres*, *Dyke*, *Dollas*, and *Edenkeillie*:

Fourth Diſtrict, containing the Pariſhes of *Knockando*, *Rothes*, *Boharm*, and *Inveravon*: And the

Fifth Diſtrict, containing the Pariſhes of *Alvie*, *Abernethie*, *Duthil*, and *Inverallan*.

May be altered by a General Meeting.

XXXIX. Providing and declaring always, That the foregoing Diviſion of the ſaid County into Diſtricts, ſhall be ſubject to Alteration by any of the annual ſtated General Meetings, Notice of ſuch intended Alteration being adverti ſed in the *Aberdeen Journal*, or other Newſpaper publiſhed at *Aberdeen*, Twice within Two Weeks immediately preceding ſuch General Meeting.

First and other Meetings of Truſtees.

XL. And be it further enacted, That the ſaid Truſtees, or any Five or more of them ſhall, in order to put this Act into Execution, meet within the Sheriff Court Room of *Elgin*, on the ſame Day on which the Truſtees hereinbefore named, for the Superintendance and Direction of the Turnpike Road, hold their firſt ſtated General Meeting under this Act, and ſhall meet thereafter Yearly on the Days appointed for the Annual ſtated General Meetings of the ſaid Truſtees, with Power to adjourn and name a Preſes, and alſo a Clerk, with a ſuitable Salary for his Trouble, who ſhall keep a regular Record of their Proceedings, and, when required, ſhall give out Extracts of the Orders or Proceedings of the Truſtees, containing Warrants for putting theſe Orders into Execution; with Power alſo to the ſaid Truſtees, to appoint convenient Times for the Firſt Meetings, in each Year, of the Truſtees for the reſpective Diſtricts before mentioned, with ſuch Inſtructions for carrying this Act into Execution as may be deemed neceſſary; and the Truſtees, at ſuch diſtrict Meetings, ſhall have Power afterwards to adjourn to ſuch Time as they ſhall ſee cauſe.

Quorum of Truſtees.

XLI. And be it further enacted, That at all General Meetings of the ſaid Truſtees, Five ſhall be a Quorum; and if a Quorum ſhall not attend, any One or more Truſtees attending, ſhall have Power to adjourn.

Clerk to call Meetings.

XLII. And be it further enacted, That the Clerk of the ſaid Truſtees, or in his Abſence, the Preſes of the former General Meeting, ſhall, when directed by any Two or more Truſtees, call a General Meeting, by any Advertiſement in the *Aberdeen Journal*, or other Newſpaper publiſhed at *Aberdeen*, Fourteen Days before ſuch Meeting, ſignifying the Purpoſe of the ſame; and no Perſon but the Clerk, or the Preſes of the ſame General Meeting, ſhall have Power to call ſuch Special Meetings; and the Expence of advertiſing, ſhall be paid out of the Funds of the Diſtrict on the Buſineſs of which the Meeting is called.

Expence, how to be paid.

Determination of Annual Meetings not to

XLIII. And be it further enacted, That no Determination of either of the Annual ſtated Meetings, or the Rules and Rgulations eſtabliſhed by

be altered, till next Annual Meeting, &c.

by them, shall be annulled or altered till the next Annual stated Meeting, or Meeting advertised for that special Purpose.

District Trustees.

XLIV. And be it enacted, That the Trustees, whose Property is situate in, or who, by their Offices, are connected with the several Districts before mentioned, shall have the Superintendance of the Roads, Bridges, and Ferries within their respective Districts; and shall, at their Meeting, have Power to name a Preses, Clerks, Surveyors, Overseers, Collectors, and other Officers, with suitable Salaries, and take such Securities from those appointed to the Offices of Trust, for the due Execution of their Offices, as they shall think proper; and in District Meetings Three shall be a Quorum, and any One or more of them attending, shall have Power to adjourn; and the Trustees, in each District, shall cause to be kept exact Minutes of their Proceedings; and shall cause to be entered accurate Accounts of the Money received by virtue of this Act, and the Application thereof, in a Book to be kept by their Clerk, which all the Heritors of the County shall have Liberty to inspect *gratis*; and a particular Report of the State of the Roads and Bridges within the respective Districts, or the Books of the Proceedings kept by the Trustees within the same, and Estimates of the Sums necessary for the Repair of them, and Accounts of the Money expended and Work done in the preceding Year, shall be laid before the Annual stated General Meeting, held on the Day the Commissioners of Supply meet for assessing the Land Tax, or upon the Thirtieth Day of *May* or next lawful Day yearly; and in case of Failure or Neglect, any Justice of the Peace, on the Application of any One Trustee, shall summon the Clerk of the District, or other Person or Persons to whom the said Failure or Neglect is imputed, and on Proof of such Failure or Neglect, shall fine him or them in a Sum not exceeding Ten Pounds Sterling.

and Quorum.

Their Clerk to keep Books of Account, &c.

Penalty in not reporting, &c.

Conversion in lieu of Statute Labour.

XLV. And be it enacted, That in lieu of the Satute Services there shall (with the Exceptions hereinafter specified) be paid an Assessment or Conversion in Money, to be levied from the Heritors, Landholders, or Feuars in the said County of *Elgin*, according to the respective valued Rents at which their Lands stand rated in the Cess and Valuation Books of the said County, such Assessment not exceeding Two Pounds Sterling upon each One Hundred Pounds *Scots* of valued Rent; and the said Trustees shall have Power, and they are hereby authorised at their respective District Meetings, to be held annually on the Days appointed by the General Meetings, to nominate and appoint their own Collector and Clerk, with such an Allowance for his Trouble as may seem reasonable, not exceeding Two and a Half *per Centum* of the Money to be received; as also to fix and determine the particular Rate of Assessment within the District for the current Year, the same not exceeding the maximum Rate of Two Pounds Sterling, hereinbefore allowed, nor under Ten Shillings Sterling for each One Hundred Pounds *Scots* of valued Rent.

Allowance to the Clerk.

Rate of Assessment.

Heritors entitled to Relief from their Te-

XLVI. And be it further enacted, That all the Heritors or Proprietors who shall have paid the Assessment to be imposed in Manner as hereinbefore directed, shall be entitled to Relief and Repayment from the actual

actual Tenants or Poſſeſſors of Three-fourth Parts of ſuch Aſſeſſment, each Poſſeſſor paying a Sum correſponding to the valued Rent of their Poſſeſſions; or in caſe the Lands ſo occupied by different Perſons be valued *in cumulo* or Sums bearing the ſame Proportion to the Aſſeſſment payable for the whole Lands, as the real Rent or Value of each Poſſeſſion bears to the real Rent or Value of the Whole, a juſt Share of the ſaid Three-fourth Parts, being always laid upon Lands in the natural Poſſeſſion of the Proprietor; and the like Action and Execution ſhall be competent to ſuch Heritors or Proprietors for their Relief and Repayment of the ſaid Aſſeſſment, as by Law is competent to them for the Payment and Recovery of their Rents; and ſuch Relief ſhall alſo be competent in all Caſes where an Occupier or Tenant is by Leaſe or Agreement exempted from the Payment of all Public Burdens, unleſs the Aſſeſſments impoſed by this Act be expreſsly included in ſuch Exemptions.

nants, for Three-fourths of the Aſſeſſment.

XLVII. And be it further enacted, That in caſe any Tenant ſhall think himſelf or herſelf aggrieved by the Diviſion of a *cumulo* Valuation, or that an adequate Value had not been put upon Lands in the natural Poſſeſſion of the Proprietor, the ſaid Truſtees, or any Three or more of them, in a Diſtrict Meeting aſſembled, are hereby empowered and required, upon a Complaint made to them by ſuch Tenant, to determine the Matter in ſuch Manner as they may ſee juſt and equitable, and the ſaid Valuation ſhall continue to be the Rule for aſcertaining the Proportion of valued Rent falling upon the ſaid Lands as long as they remain in the natural Poſſeſſion of the Proprietor, and no Alteration made in the Rents of the other Lands included in the ſame Valuation.

Diſputes reſpecting the Diviſion of cumulo Valuation, how to be determined.

XLVIII. And be it further enacted, That all Proprietors of Burgh Roods, Fiſhings, or Lands, not valued in the Ceſs Books of the ſaid County, ſhall be liable in an Aſſeſſment or Converſion in lieu of Statute Labour, in a Sum not exceeding Four-pence Sterling *per Annum* for each One Pound Sterling of the Yearly Rent of their Poſſeſſions; the ſaid Rent to be aſcertained by Two or more Aſſeſſors to be appointed by the ſaid Truſtees in each Diſtrict; ſuch Aſſeſſment ſhall be collected by any Perſon or Perſons to be named by the ſaid Truſtees, at their Diſtrict Meetings in Manner before mentioned, and ſhall be diminiſhed in the ſame Proportion that the aforeſaid Aſſeſſment or Converſion for Lands valued in the Ceſs Books of the County ſhall be diminiſhed: Provided always, That the Tax Roll by which the Ceſs payable from the Towns of *Elgin* and *Forres* is collected and levied, ſhall be the Rule by which the aforeſaid Aſſeſſment is to be impoſed upon the Fiſhings, Burgh Roods, and other Lands not valued in the Ceſs Books aforeſaid, ſo long as the ſaid Tax Roll ſhall continue; and the ſame Relief to the ſame Extent and Proportion, ſhall be competent to the Proprietors of ſuch Fiſhings, Burgh Roods, and other Lands before mentioned, againſt the Tenants and Poſſeſſors of the ſame, as to the Proprietors of Lands valued in the Ceſs Book of the County.

Proprietors of Burgh Roods, &c. not valued in Ceſs Books.

Elgin and Forres Tax-Roll to be the Rule.

XLIX. And be it further enacted, That upon and after the paſſing of this Act, all Occupiers and Inhabitants, whether Heritors or Tenants, of all Houſes, Shops, Cellars, Warehouſes, and other Buildings, within any

Rate of Aſſeſſment on Inhabitants of Houſes.

any Part of the ſaid County of *Elgin*, that now are, or hereafter may be erected in the ſaid County, not having any cultivated or profitable Lands, except a Garden annexed thereto, ſhall, in Place of their Statute Labour, pay yearly an Aſſeſſment or Converſion, not exceeding One Shilling Sterling for every Dwelling Houſe, Apartment, or Room occupied by them, whereof the Yearly Rent is Twenty Shillings, and under Three Pounds Sterling; an Aſſeſſment or Converſion, not exceeding One Shilling and Six-pence Sterling for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Three Pounds, and under Five Pounds Sterling; an Aſſeſſment or Converſion, not exceeding Two Shillings and Six-pence Sterling, for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Five Pounds, and under Seven Pounds Sterling; an Aſſeſſment or Converſion not exceeding Three Shillings and Four-pence Sterling for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Seven Pounds and under Ten Pounds Sterling; an Aſſeſſment or Converſion not exceeding Four Shillings and Eight-pence Sterling for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Ten Pounds, and under Fifteen Pounds Sterling; an Aſſeſſment or Converſion not exceeding Seven Shillings Sterling for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Fifteen Pounds and under Twenty Pounds Sterling; an Aſſeſſment or Converſion not exceeding Ten Shillings Sterling, for every Dwelling Houſe, Apartment, or Room, occupied by them, whereof the Yearly Rent is Twenty Pounds Sterling; an Aſſeſſment or Converſion, equivalent to Three Pounds Six Shillings and Eight-pence Sterling *per Centum*, on the Yearly Rent of every Dwelling Houſe, Apartment, or Room, occupied by them, exceeding the Yearly Rent of Twenty Pounds Sterling; and all and every Innkeeper, Carter, Carrier, or other Perſons keeping Horſes, Aſſes, or Mules, for Carriage or Hire, or for carrying on any particular Trade or Manufacture; and every Perſon keeping a Riding or Pleaſure Horſe, and who ſhall be aſſeſſed in a Sum not exceeding Twenty Shillings Sterling, for Lands or Houſes, in virtue of this Act, ſhall pay, as an Aſſeſſment, or Converſion for Statute Labour, a Sum not exceeding Two Shillings Sterling, yearly, for each of ſuch Horſes, Aſſes, or Mules.

Innkeepers, &c. and Perſons keeping Horſes, &c. and paying Twenty Shillings Aſſeſſment, to pay Two Shillings for each Horſe, &c.

Aſſeſſment on other Perſons.

L. And be it further enacted, That all Men, whether married or unmarried, above Sixteen Years of Age, not being engaged Servants by the Year, or Half Year, nor poſſeſſing Lands or Houſes of the Yearly Rent of Twenty Shillings Sterling, ſhall be obliged to pay a Sum, not exceeding Three Shillings Sterling yearly, for the Purpoſes of this Act, to the Collector or Clerk of the Pariſh within which he ſhall be reſiding, in the Month of *June* or in caſe of his Removal from ſuch Pariſh before Payment to the Collector or Clerk of the Pariſh, who ſhall firſt demand the ſame: Provided always, That it ſhall be in the Power of the ſaid Truſtees, and they are hereby authoriſed to aſſeſs ſuch Perſons either to the Rates or Duties chargeable on Occupiers of Houſes, in the like Situation and Circumſtances, or to the Rates laſt mentioned, payable by other Perſons.

LI. Pro-

Abatement for manufacturing Houſes.

LI. Provided always, That no Houſe or Houſes, within the ſaid County, entirely uſed or employed in carrying on Manufactures, belonging to any One Company, or Individual, and where no Part ſhall be occupied as a Dwelling Houſe, and no Kind of Victuals ſhall be dreſſed or prepared therein, ſhall be ſubjected, or liable to be rated or aſſeſſed for the Duties impoſed by this preſent Act, for any higher Rate or Aſſeſſment than upon Fifty Pounds Sterling, of Yearly Rent or Value of all ſuch Manufacturing Houſes: And for aſcertaining the Converſion payable by the Occupiers of Burgh Roods, Fiſhings, or Lands, not valued in the Ceſs Books of the ſaid County, and Inhabitants of Houſes, and others in the Royal Burghs, Towns, and Villages, and by Innkeepers, Carters, and others, as herein before particularly deſcribed; be it enacted, That any Three or more of the ſaid Truſtees, at their Firſt Diſtrict Meeting to be held after the paſſing of this Act, and yearly thereafter, ſhall, and they are hereby authoriſed to nominate and appoint Two or more fit Perſons as Aſſeſſors, for their reſpective Diſtricts, within the ſaid County, who, within the Space of One Calendar Month after their Appointment, ſhall yearly return, upon Oath, to the Truſtees of the ſaid Diſtrict Meeting, an exact Liſt of the Occupiers of the ſaid Burgh Roods, Fiſhings, Lands, Houſes, and others, particularly before deſcribed, and the Rents of the ſaid Burgh Roods and Houſes, where the ſame are in Tenantry, or to the beſt of their Judgment, the Annual Value of ſuch Burgh Roods and Houſes, where they are in the natural Poſſeſſion of the Proprietor, or where the Rent paid by the Tenant cannot be aſcertained; and the ſaid Aſſeſſors ſhall, in like Manner, and they are hereby required to make up, and return to the ſaid Truſtees, at their Diſtrict Meeting, full and diſtinct Annual Liſts of all Horſes, Aſſes, and Mules, kept by Innkeepers, Carters, Carriers, and other Perſons particularly herein before deſcribed, ſpecifying the Names of the Owners of ſuch Horſes, Aſſes, or Mules, and the Purpoſes for which they are employed; and alſo full and diſtinct Liſts of the other Perſons herein before deſcribed, liable in Payment of the ſaid Aſſeſſment; and the ſaid Aſſeſſors are hereby required, and ſhall be obliged to act and perform their Duty faithfully, according to the Intent and Meaning of this Act, under the Penalty of Five Pounds Sterling for every Offence, to be levied and applied in Manner as herein after mentioned; but no Perſon ſhall be obliged to hold the Office of Aſſeſſor for more than Two Years ſucceſſively, nor ſhall again be bound to accept of the ſaid Office during the Space of Six Years thereafter; and the ſaid Truſtees are hereby empowered to allow the ſaid Aſſeſſors ſuch Sum as to them ſhall appear reaſonable for their Trouble.

Aſſeſſors to be appointed for aſſeſſing Occupiers of Burgh Roods, &c.

Their Duty.

Penalty for Neglect of Duty.

Their Salary.

Aſſeſſment on each Pariſh, to be laid out within the ſame.

LII. And be it enacted, That the ſaid Truſtees, at their Diſtrict Meetings, ſhall, and they are hereby required to order and appoint the whole Monies to be annually impoſed and levied upon the Diſtrict, in lieu of Statute Labour, to be laid out and expended upon the reſpective Roads within the different Pariſhes of the Diſtrict where it is levied; and where a Public Road happens to be the Boundary between two Pariſhes, whether in the ſame or different Diſtricts, it ſhall be made and ſupported by each Pariſh, contributing equally to its Expence, ſo far as connected together: Provided always, That it ſhall be in the Power

Power of the ſaid Truſtees, with Conſent of the Heritors poſſeſſing Four-fifths of the valued Rent of any Pariſh, to apply the Whole, or Part of the Aſſeſſment ariſing therefrom to ſuch Roads within other Pariſhes of the Diſtrict, or within the Pariſhes of another Diſtrict lying contiguous, as they may judge moſt neceſſary and expedient.

Time of Payment of Aſſeſſments.

LIII. And be it further enacted, That the whole Sums of Money ariſing from the aforeſaid Aſſeſſments and Converſions, ſhall be paid on or before the Firſt Day of *July* yearly; and if any Perſon, liable in Payment thereof, ſhall neglect, or refuſe to pay the ſame to the Collectors, to be appointed by the ſaid Truſtees, on or before the Day of Payment above ſpecified, it ſhall then be lawful for the Sheriff Depute, or his Subſtitute, or for Two or more Juſtices of the Peace, for the ſaid County, to grant a Warrant for poinding the Effects of the Deficient, in a Summary Way, to appraiſe them on the Spot where found, and afterwards to ſell the ſame by Auction for Payment of the Aſſeſſment, or Converſion which ſhall be due, together with the full Charges attending the Recovery thereof; and the Surplus (if any) ſhall be paid, when demanded, to the Perſon whoſe Effects ſhall have been ſo poinded; which Warrants are to be granted by the Sheriff Depute, or his Subſtitute, or Juſtices aforeſaid, upon an Application made to them, or any of them, and an Atteſtation, ſigned by any of the Collectors, certifying, that the Perſon complained of had been deficient in paying the Aſſeſſments, or Converſions above mentioned, and expreſſing therein the Arrears of ſuch Perſons.

Mode of Recovery thereof.

Perſons exempted from the Converſions.

LIV. Provided always, and be it enacted, That no Parochial Clergyman, or Parochial Schoolmaſter, ſhall pay any Aſſeſſment or Converſion for their Manſes, or Houſes occupied in lieu thereof, Glebes, or Pariſh School houſes, and the Lands thereunto belonging in their Natural Poſſeſſion; but if they ſhall be Proprietors, or Occupiers, of other Lands and Houſes, as Tenants or Proprietors, they ſhall in that Caſe pay for ſuch other Lands or Houſes occupied by them, according to the Rate of the Claſs to which they belong; nor ſhall any Pauper, receiving Aid from the Pariſh Funds, pay, or be charged with any Aſſeſſment, or Converſion, for Houſes occupied by him.

Truſtees authorized to borrow Money.

LV. And be it further enacted, That it ſhall be in the Power of the Truſtees within each Diſtrict, and they are hereby authoriſed to borrow Money on the Credit of the Aſſeſſment, or Converſion, hereby allowed to be raiſed from all or any of the Pariſhes within the Diſtrict, and to aſſign Two-thirds of the ſaid Converſions, as a Security for the Payment thereof: Provided, That the Sum borrowed on the Credit of the Converſions in any Pariſh, ſhall not at any Time exceed the Amount of Ten Years Converſions, eſtimating the Value of each Year's Converſion, by that of the Year immediately preceding that in which the Money ſhall be ſo borrowed: And provided further, That ſuch Tranſaction be entered in the Books of the Diſtrict; and that till ſuch Time as the Money ſo borrowed, and the Intereſt thereof ſhall be repaid, the Truſtees ſhall not have Power to diminiſh the Rate of Aſſeſſment impoſed, at the Time when ſuch Money may be borrowed as aforeſaid; but that it ſhall, nevertheleſs, be in their Power to increaſe ſuch

Money borrowed not to exceed Ten Years Converſions, according to the preceding Year.

ſuch Aſſeſſment, if it ſhall be found neceſſary to borrow any further Sum, in manner, and for the Period as herein before allowed.

LVI. And be it further enacted, That the ſaid Truſtees, in their reſpective Diſtrict Meetings, ſhall Annually determine what Roads are to be made and repaired within ſuch Diſtricts, and fix ſuch Allocation of the Converſion Money as to them ſhall appear proper for that Purpoſe; and ſhall have Power to appoint Committees in every Pariſh, being Truſtees of the Diſtrict, or Heritors in ſuch Pariſh, or their Agents properly authorized to act for them, or Tenants renting Lands of the Value of One Hundred Pounds, or One Hundred Bolls of Grain *per Annum*, to ſuperintend the Roads in ſuch Pariſh; which Committee ſhall have Power to call for the Aſſeſſments impoſed on the Pariſh, and name Overſeers under them for the Application of the Money, and the making and repairing of the Roads in the ſaid Pariſhes, with ſuitable Salaries for their Trouble; and the ſaid Committees and Overſeers ſhall Annually make up and deliver to the Clerk of the Truſtees of the Diſtrict, regular Accounts of the Money expended by them reſpectively, and in caſe of Failure or Neglect in ſuch Committees or Overſeers in giving in theſe Accounts, any Juſtice of the Peace upon the Application of any One Truſtee, may fine the Defaulters in a Sum not exceeding Five Pounds Sterling.

Diſtrict Meetings to determine Roads to be made, and to allocate the Aſſeſſment.
Pariſh Committees.
Their Powers.

LVII. And be it enacted, That if the Truſtees of any Diſtrict or Pariſh ſhall neglect to execute the Powers committed to them by this Act, and ſhall not have applied the Money hereby allowed to be impoſed, it ſhall be lawful (unleſs ſufficient Cauſe is ſhewn by ſuch Diſtrict or Pariſh), for the ſaid Truſtees in each of their Annual ſtated General Meetings, to allocate the Converſion Money unapplied on each defaulted Pariſh or Diſtrict, to the Roads and Bridges of that or any other Pariſh or Diſtrict within the County, and to name a Committee of their own Number, with the neceſſary Powers to cauſe Application to be made.

General Meetings may allocate Aſſeſſments, if Diſtrict Meetings fail to do ſo.

LVIII. Provided always, That the Proceedings of the Truſtees in the Diſtrict Meetings ſhall be ſubject to the Direction and Controul of the General Meetings, to whom any Perſon or Perſons, who think themſelves aggrieved by ſuch Proceedings, may appeal, and whoſe Sentence ſhall be final; and in caſe the Diſtrict Meetings do not comply with the Orders of the General Meetings, it ſhall be in the Power of the ſaid General Meetings, to appoint a Committee of their Number, to carry the ſaid Orders into Execution.

Diſtrict Meetings ſubject to Direction and Controul of General Meetings.

LIX. Provided always, That it ſhall not be in the Power of the ſaid Truſtees, either at their General Meetings or Diſtrict Meetings, to diminiſh or reduce the Rate of Aſſeſſment ariſing from any Diſtrict or Pariſh, upon the Credit of which, any Sum or Sums of Money may have been borrowed, as hereinbefore allowed, until ſuch Sum or Sums of Money be paid off and extinguiſhed, or unleſs the Perſon or Perſons, to whom the Money is owing, ſhall conſent.

Aſſeſſments not to be reduced till Money borrowed be repaid, or Party conſents thereto.

LX. And be it enacted, That no Appeal taken from the Sentence or Proceeding of a Diſtrict Meeting, nor any Complaint or Action founded thereon,

No Appeal to ſtop Payment of Aſſeſſment.

thereon, ſhall ſtop the Payment of the Converſions in that Year, in which ſuch Converſions are ordered to be paid; ſaving to the Parties their Redreſs, either from the Perſons by whom they may have been aggrieved, or out of the Converſions for the Year next after the Determination of the Cauſe.

Truſtees to pay their own Expences.

LXI. And be it further enacted, That the ſaid Truſtees (as well thoſe appointed for the Turnpike Road as thoſe appointed to manage the other Roads and Bridges through the ſaid County generally, and the Converſion Money, the preſent and ſubſequent Regulations in this Act applying to both ſets of Truſtees, and to both Objects) ſhall, at their Meetings, pay their own Expences.

Truſtees may ſhut up uſeleſs Roads, on giving One Month's previous Notice at Pariſh Churches.

LXII. And be it further enacted, That it ſhall and may be lawful for the ſaid Truſtees to build Fences, and to ſhut up and ſuppreſs Public Roads of every Deſcription which may appear uſeleſs or of little Importance to the Public: Provided always, that Notice of the Reſolution to ſhut up any ſuch Road, be given by Advertiſement at the Churches of the Pariſhes through which the ſaid Road paſſes, for Two Conſecutive *Sundays*, One Month at leaſt, before the ſaid Road ſhall actually be ſhut up; and that any Perſon or Perſons, who ſhall think himſelf, herſelf, or themſelves aggrieved by ſuch Reſolution, may apply to the Sheriff Depute of the County of *Elgin*, or his Subſtitute, who, if he ſees Cauſe, is hereby empowered to ſuſpend the Execution thereof, until the next General Meeting of the Truſtees, who ſhall hear and determine therein, ſubject to appeal to the Quarter Seſſions, as hereinafter mentioned.

Truſtees may cauſe Roads to be altered and repaired.

May make Drains, &c.

LXIII. And be it further enacted, That the ſaid Truſtees ſhall be, and they are hereby authorized to cauſe the Roads to be amended, widened, and repaired, in ſuch Manner as they ſhall think proper; to ſettle the particular Direction of the ſame, and to employ Engineers, Surveyors, and other Perſons, with ſuitable Allowances for their Trouble; and alſo to make, or cauſe to be made Cauſeways, and to cut and make Drains, Ditches, and Paſſages for Water through any Ground adjacent, and to keep clear ſuch Ditches or Outlets, and for ſuch Purpoſe the Workmen employed by them may go upon the ſaid Lands: Provided always, that reaſonable Satisfaction be made to the Owner and Occupier of ſuch Lands for the Damage done; and if the ſaid Owner or Occupier ſhall not be ſatisfied with the Allowance offered by the Truſtees, he and they ſhall be at Liberty to apply to the Quarter Seſſion of the ſaid County, who ſhall have Power finally to ſettle the ſame.

To erect New Bridges, &c.

To widen the Turnpike Road, and alter the Courſe thereof.

LXIV. And be it further enacted, That the ſaid reſpective Truſtees ſhall have Power to cauſe to be built new Arches and Bridges of Stone, Brick, or Timber, on the ſaid Roads, and to cauſe to be taken down old Bridges, become unneceſſary, and to apply the Materials thereof as they ſhall ſee proper, for the Purpoſes of this Act; and alſo to cauſe ſuch Parts of the Turnpike Road, as are not of ſufficient Width, to be widened to any Breadth, not exceeding Forty Feet, excluſive of the Footways, and clear of the Ditches, and to cauſe the Courſe of ſuch Parts of the ſaid Road as they ſhall think proper, to be altered, for

ſhortening

shortening the same, or making them more commodious and level; and, for these Purposes, to cause all Dwelling-Houses, Office-Houses, or other Buildings falling within the Line of Road, the Side Walls whereof shall not exceed Twenty Feet in Height, to be taken down and removed, after giving the Owners or Occupiers of such Houses Six Months Notice, to remove from the Premises; and the Road so altered and widened, shall thereafter be taken and held to be a public Highway, and comprehended within this Act: Provided, that it shall be in the Power of all Proprietors and Occupiers of Lands, as well entailed as unentailed, to give up and renounce every Claim of Damage, or otherwise competent to them by this Act, for such Ground and Materials as any New Road may occupy or require on their respective Properties; and that such Renunciation is and shall be equally binding on the Heirs of such Proprietors.

To pull down Houses, &c.

Proprietors under Entail or not, may renounce Claims of Damage.

LXV. And be it further enacted, That the said Trustees shall be, and they are hereby empowered to take and acquire, and all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Husbands, Trustees, Tutors, and Curators, and all and every Person and Persons whatsoever, though under any legal Disability or Incapacity, are hereby empowered and required to sell, let, and convey, all such Lands or Houses as may be necessary for the making, altering, or widening the said Roads, or any of them, and erecting any Toll Bar, or Toll House thereon, or for storing Materials, or otherwise, where Ground is necessary for the Purposes of this Act.

Incapacitated Persons may sell Lands.

LXVI. And be it further enacted, That in taking the necessary Ground for making, altering, or widening the said Roads, or in taking down any House or Houses, or Part or Parts of any House or Houses, by Authority of this Act, if the said respective Trustees shall not come to an Agreement with the Owner or Owners, and Occupier or Occupiers of the Lands, where the Roads are to be so altered or widened, or whose Fences are to be altered or removed, or with the Owner or Owners, Occupier or Occupiers, of any House or Houses, or Part or Parts of any House or Houses, which are to be taken down as aforesaid; or in case the Claim of Damages which may be thence incurred, has not been renounced in Manner aforesaid, Application shall be made to the Sheriff-Depute of the County, or his Substitute, to summon a Jury, in order to value the Ground necessary to be taken and used, or Houses, or Parts of Houses necessary to be taken down, for so widening and enlarging the said Roads or Highways, and the Loss or Damage ensuing from the altering, or removing of Fences; and the said Sheriff Depute, or his Substitute, is hereby empowered and required, upon Application, to order Notice thereof to be given to the Owner or Owners, and Occupier or Occupiers of such Ground or Houses, and afterwards to issue a Summons, in the usual Manner, for calling together and impannelling a Jury, consisting of Fifteen Persons in Number, to examine into, and after such Examination, to return a Verdict, upon Oath, as to the Damage sustained by the Proprietor of such Lands, Fences, Houses, or Parts of Houses; and in making up their Verdict to be pronounced as herein directed, and estimating the Sums to be paid to the Proprietors, Tenants, or Occupiers of Lands

Sheriff to summon a Jury to fix Value of Lands and Houses.

Lands and Houſes as aforeſaid, the ſaid Jury ſhall have Right, and they are hereby empowered to take under their Conſideration all Circumſtances, particularly the Advantages ariſing to the Proprietors, Tenants, and Occupiers, by the ſaid Roads; and in aſcertaining the Value of the Dykes or Incloſures, which it may be neceſſary to pull down in making new Roads, the Jury ſhall alſo have Power to direct ſuch Dykes, as may thereby become uſeleſs to the Proprietor, to be taken down and removed by the ſaid Truſtees, upon Payment of ſuch Allowance therefor, as the ſaid Jury may determine; and it ſhall be optional to the Proprietor, either to accept of the Allowance ſo awarded, or to retain the Materials of the ſaid Dykes to his own private Uſe;

Sheriff to adjudge Payment of the Sum awarded by the Jury.

and after a Verdict is pronounced as aforeſaid, the Sheriff-Depute, or his Subſtitute, is hereby required to adjudge Payment of the Value and Amount of the Loſs or Damage thereby awarded to the Perſons having a Right thereto; and upon Payment being made by the ſaid Truſtees, out of the Money raiſed by virtue of this Act, of the Sum awarded to the Party or Parties intereſted, or Conſignation of the ſaid Sum in any of the Banks of *Scotland*, or Branches of Banks in *Elgin*, the ſaid reſpective Truſtees ſhall, from thenceforth, have Right, and be at Liberty to take and uſe the Ground, and to take down the Houſes and Fences, or Parts of Houſes and Fences ſo valued, for the Purpoſes of altering, widening, and extending the Roads and Highways aforeſaid, as fully and effectually ever after, to all Intents and Purpoſes, as if the Owner or Owners, and Occupier or Occupiers of ſuch Ground, Houſes, or Fences, had executed regular Diſpoſitions of the ſame, and thereupon Infeftment had followed; and the ſaid Proceedings and Orders of the Sheriff-Depute, or his Subſtitute, ſhall be final, and not removable or queſtionable, by Bills or Letters of Advocation or Suſpenſion, to or by any other Court whatſoever, any Law or Uſage to the contrary notwithſtanding.

Expences of Jury.

LXVII. Provided always, That in the Event that ſuch Jury ſhall award a greater Compenſation than the Truſtees ſhall have offered, but leſs than the Owner or Owners, Occupier or Occupiers ſhall have required, the Expence of ſuch Jury ſhall be defrayed and borne by the ſaid Truſtees, and the ſaid Owner or Owners, Occupier or Occupiers, equally, but in caſe the ſaid Jury ſhall award to ſuch Owner or Owners, Occupier or Occupiers, the Sum ſo required, or any greater Sum, the Whole of the ſaid Expence ſhall be paid by the ſaid Truſtees; and, on the other Hand, if the ſaid Jury ſhall award the Sum offered by the ſaid Truſtees, or a leſs Sum, the Whole of the ſaid Expence ſhall be paid by the ſaid Owner or Owners, Occupier or Occupiers; provided always, That in all Caſes where any Perſon or Perſons ſhall, by reaſon of Abſence, be prevented from treating with the ſaid Truſtees, ſuch Coſts and Expences ſhall be borne and paid by the ſaid Truſtees; provided alſo, That after having offered to the Proprietor or Proprietors, Occupier or Occupiers of any Land or Houſes, ſuch Sum as the ſaid Truſtees ſhall think reaſonable, it ſhall and may be lawful for them to enter into and upon ſuch Lands or Houſes, for the Purpoſes of this Act; and no Stop ſhall in the mean Time be put to the Operations of the ſaid Truſtees, on pretence of ſettling the ſaid Damage, or that they have not been ſatisfied and paid.

LXVIII. And

Any Warrant for ſtopping the Work to be recalled, on Caution found.

LXVIII. And to prevent unneceſſary Trouble and Delay, be it further enacted, That in caſe any Perſon intereſted ſhall apply for, and obtain from any Judge competent, a Warrant for ſtopping the Execution of any of the Roads to be made under the Authority of this Act, the ſaid Judge is hereby directed and empowered to recall ſuch Warrant, and remove any Siſt obtained as aforeſaid, provided ſufficient Caution is found by the reſpective Truſtees therein named, for the Amount of ſuch Damages as may be ultimately awarded to the Perſon ſuing for the ſame, and aſcertained in Manner herein before preſcribed.

Application of Compenſation, where exceeding Twohundred Pounds.

LXIX. And be it further enacted, That if any Money ſhall be agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchaſed, taken, or uſed by virtue of the Powers of this Act, for the Purpoſes thereof, which are held under Entail, or are ſubject to Life-rents, Annuities, or other Incumbrances, or ſhall belong to any Incorporation, Married Woman, Infant, Lunatic, or Perſon or Perſons under any Diſability or Incapacity, ſuch Money ſhall, in caſe the ſame ſhall amount to the Sum of Two hundred Pounds Sterling, under the Direction and by the Authority of the Court of Seſſion, be, with all convenient Speed, paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Intent that ſuch Money ſhall be applied, under the Direction and with the Approbation of the ſaid Court, to be ſignified by an Order made upon a Petition, to be preferred, in a ſummary Way, by the Perſon or Perſons who would have been entitled to the Rents and Profits of the ſaid Lands, Tenements, or Hereditaments, in the Purchaſe of the Land Tax, or Diſcharge of any Debt or Debts, or ſuch other Incumbrance, or Part thereof, as the ſaid Court ſhall authorize to be paid, affecting the ſame Lands, Tenements, or Hereditaments, ſtanding ſettled therewith, to the ſame or the like Uſes, Intents, or Purpoſes; or where ſuch Money ſhall not be ſo applied, then the ſame ſhall be laid out and inveſted, under the like Direction and Approbation of the ſaid Court, in the Purchaſe of other Lands, Tenements, or Hereditaments, which ſhall be conveyed and ſettled to, for, and upon ſuch and the like Uſes, Truſts, Intereſts, and Purpoſes, and in the ſame Manner as the Lands, Tenements, and Hereditaments, which ſhall be ſo purchaſed, taken, or uſed as aforeſaid, ſtood ſettled or limited; or ſuch of them as, at the Time of making ſuch Conveyance and Settlement, ſhall be exiſting undetermined and capable of taking effect; and in the mean Time, and until ſuch Purchaſe ſhall be made, the Intereſt or Annual Produce of ſuch Money ſhall, from Time to Time, be paid by Order of the ſaid Court, to the Perſon or Perſons who would for the Time being, have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments ſo hereby directed to be purchaſed, in caſe ſuch Purchaſe or Settlement were made.

Where the Compenſation does not exceed Two hundred Pounds, and is not leſs than Twenty Pounds.

LXX. Provided always, and be it further enacted, That if any Money ſo agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchaſed, taken, or uſed for the Purpoſes aforeſaid, and belonging to any Corporation, or to any Perſon or Perſons under Diſability or Incapacity as aforeſaid, ſhall be leſs than the Sum of Two hundred Pounds Sterling, and not leſs than the Sum of Twenty Pounds Sterling, then and in all ſuch Caſes, the ſame ſhall, at the Option of the Perſon

Perſon or Perſons for the Time being entitled to the Rents and Profits of the Hereditaments ſo purchaſed, taken, or uſed, and of his, her, or their Tutors or Curators, in caſe of Infancy or Lunacy, to be ſignified in Writing under their reſpective Hands, under the like Direction and Authority, be paid into either of the ſaid Banks, and be placed to his or their Accounts as aforeſaid, in order to be applied in Manner hereinbefore directed, or otherwiſe, the ſame ſhall be paid at the like Option to Two Truſtees, to be nominated by the Perſon or Perſons making ſuch Option, and approved of by Three or more of the ſaid Truſtees, (ſuch Nomination and Approbation to be ſigned in Writing, under the Hands of the nominating and approving Parties), in order that ſuch principal Money, and the Intereſt ariſing thereon, may be applied in Manner hereinbefore directed, ſo far as the Caſe may be applicable.

Where it is leſs than Twenty Pounds.

LXXI. Provided alſo, and be it further enacted, That where ſuch Money ſo agreed or awarded to be paid as next before mentioned, ſhall be leſs than Twenty Pounds Sterling, then and in all ſuch Caſes the ſame ſhall be applied to the Uſe of the Perſon or Perſons who would, for the Time being, have been entitled to the Rents and Profits of the Hereditaments ſo purchaſed, taken, or uſed for the Purpoſes of this Act, in ſuch Manner as the ſaid Truſtees, or any Five or more of them, ſhall think fit; or in caſe of Infancy or Lunacy, then to his, her, or their Tutors or Curators, to and for the Uſe and Benefit of ſuch Perſon or Perſons ſo entitled reſpectively.

In caſe of not making out Titles;

or if Perſons cannot be found, Purchaſe-Money to be paid into the Bank,

ſubject to the Order of the Court of Seſſion.

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

Sums

Sums of Money, mentioning and ſpecifying for what and for whoſe Uſe the ſame is or are received, to ſuch Perſon or Perſons as ſhall pay any ſuch Sum or Sums of Money into the Bank as aforeſaid.

Where any Queſtion ſhall ariſe touching the Title to the Money to be paid, the Perſon who ſhall be in Poſſeſſion of the Lands, &c. at the Time of ſuch Purchaſe ſhall be deemed entitled thereto according to ſuch Poſſeſſion.

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

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

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

Old Roads to be ſold.

LXXV. And be it further enacted, That whenever the Courſe of the ſaid Roads ſhall be altered, as ſoon as the New Road ſhall be completed and made paſſable for Carriages, in caſe the Old Road ſhall thereby become uſeleſs, and may be ſhut up without Inconvenience, the ſaid reſpective Truſtees ſhall be and are hereby empowered, if they ſee proper, to value, by a Jury as aforeſaid, or otherwiſe, as they may deem neceſſary, and diſpoſe of or ſell the Land or Ground compoſing ſuch Old or former Road, and that according to the Value of unimproved or uncultivated Lands in the Neighbourhood; the Proprietor or Proprietors of the Grounds through which the ſaid Old Road did paſs, having always the Preference of Purchaſe at the ſaid Valuation, and Affidavit ſhall be made by the Clerk of the Diſtrict within which the old Road is ſituated, of ſuch Offer of Preference having been made; and the Money ariſing from ſuch Sale ſhall be applied and diſpoſed of for the Purpoſes of this Act, and the Sale and Conveyance

or

or Conveyances to be made of such Lands and Grounds, comprising the said Old Road, shall be good and effectual in Law, to all Intents and Purposes whatsoever.

Road may pass through a Minister's Glebe.

LXXVI. And be it further enacted, That, in altering the Course of the said Roads, or widening the same, it shall be in the Power of the said Trustees, to cause the same to be carried through any Minister's Glebe: Provided always, That such Quantity of Ground shall be added to the Glebe, lying most contiguous and convenient thereto, as shall be, by the said respective Trustees, deemed a sufficient Compensation for that taken for the said Roads; which Grounds, the said Trustees shall have Power to purchase in manner hereinafter mentioned, from the contiguous Owner or Owners, Occupier or Occupiers thereof, whether the same be under Entail or otherwise; and in case of any Difference with regard to the Addition to be made to such Glebe, or the Price to be paid to such Owner or Owners, Occupier or Occupiers, Application shall be made to the Sheriff Depute, or his Substitute, of the said County, who shall summon a Jury, and determine the Extent of the said Addition, and Amount of such Price, in Manner as hereinbefore directed, in Cases of Land to be taken for the Purposes of this Act; and upon such Determination, and upon Payment being made by the said Trustees of such Price to the Owner or Owners, Occupier or Occupiers of the Ground, or Consignation thereof, in any of the Banks of *Scotland*, or Branches of Banks in *Elgin*, the said Trustees shall, from thenceforth, have a Right to cause the Addition to be made to the Glebe, and to take and use the Part of the Glebe necessary for the Purpose of altering or widening the said Road; and the Proceedings and Order of the said Sheriff Depute, or his Substiture, shall be final and conclusive: Provided always, and be it declared, That in every Case where it may be necessary to exchange or take Ground as hereinbefore allowed for the Purposes of this Act, the same shall not affect, alter, or diminish the valued Rent of the Lands from which such Ground shall be so taken.

Ground taken not to diminish valued Rent.

Trustees may take Materials, &c.

LXXVII. And be it further enacted, That the said respective Trustees, or such Person or Persons as they shall appoint, may dig, gather, take, and carry away Gravel, Furze, Heath, Stones, or such other like Materials, for the making, amending, and repairing of the said Roads, and for building Arches and Bridges as aforesaid, out of any Grounds where the same may be found, whether the same be within the said County of *Elgin*, or in any other adjoining thereto (such Materials not having been dug or raised for the private Use of the Proprietor of such Grounds), and to open Accesses, for carrying off the said Materials; such Accesses, and the Places from whence the said Materials shall be proposed to be taken, being first marked out by any Two or more of the Trustees, after Notice in Writing given by them, or Intimation before Two Witnesses, or by some Person by their Order, to the Proprietor of such Grounds, or his or her Factor, and to the Occupier thereof, Six Days previous to marking out the same; the Trustees making reasonable Satisfaction, if demanded, to the Owners and Occupiers of such Grounds respectively, from which the Materials shall be taken, or over which the same may be carried, for the Damages to be

on paying Damages.

be done thereby, and for the Value of ſuch Materials; but if ſuch Proprietor, Factor, or Occupier, ſhall not be ſatisfied with the Compenſation offered by the ſaid Truſtees, the ſame ſhall be aſcertained by a Jury, to be impannelled by the Sheriff Depute, or his Subſtitute as aforeſaid whoſe Proceedings ſhall be final; but ſuch Applications ſhall not prevent the ſaid Truſtees from cauſing the ſaid Materials to be carried off and uſed in the mean Time.

Notice to be given before Materials taken.

LXXVIII. Provided nevertheleſs, and be it further enacted, That it ſhall not be lawful for any Surveyor, or any other Perſon or Perſons under the Authority of this Act, to dig, gather, take, and carry away Materials for making and repairing the ſaid Roads from any incloſed Lands or Grounds, until either the Conſent of the Proprietor is obtained, or Notice in Writing ſhall have been given to the Occupier of the Premiſes from which ſuch Materials are intended to be taken, or left for ſuch Occupier at his uſual Place of Reſidence, to appear before the ſaid Truſtees, or any Three or more of them, or Two Juſtices of the Peace acting for the ſaid County of *Elgin*, to ſhew Cauſe why ſuch Materials ſhould not be had from ſuch Lands or Grounds; and in caſe ſuch Occupier ſhall attend purſuant to ſuch Notice, the ſaid Truſtees, or any Three or more of them, or ſuch Juſtices, ſhall, if they think proper, authoriſe ſuch Surveyor, or other Perſons, to dig, take, and carry away ſuch Materials, at ſuch Time or Times as to ſuch Truſtees, or any Three or more of them, or to ſuch Juſtices ſhall ſeem proper; and if ſuch Occupier ſhall neglect, or refuſe to appear by himſelf, or his Agent, the ſaid Truſtees, or any Three or more of them, or ſuch Juſtices ſhall, and may, make ſuch Order therein as they ſhall think fit, as fully and effectually, to all Intents and Purpoſes, as if ſuch Occupier, or his Agent had attended.

Proprietors or Occupiers to cleanſe Ditches, &c.

Occupiers to make Drains along the Road, by the Direction of the Truſtees.

LXXIX. And be it further enacted, That where any Ditches have been, or hereafter ſhall be made, near the Sides of the ſaid Roads, or through any Fields adjoining thereto, by the Proprietors or Occupiers of the ſaid Fields, ſuch Proprietors or Occupiers ſhall, and they are hereby required, to keep theſe Ditches properly ſcoured, and not to allow the Water to ſtagnate therein, ſo that the Roads may be thereby damaged; and if they fail to do ſo, after Six Days Notice previouſly given, the ſaid Truſtees, or the Overſeers of the Roads, by the Direction of any of the Truſtees, may, and are hereby required, to order the ſaid Ditches to be opened, ſcoured, and cleanſed, at the Coſt of the ſaid Proprietors or Occupiers; ſuch Coſts to be recovered by Diſtreſs and Sale of any moveable Effects, in the ſame Manner as herein before directed for levying the Aſſeſſment hereby granted; and if any Occupier of Land ſhall turn any Water acroſs, or upon the Side or Sides of any of the ſaid Roads, he or ſhe ſhall conduct ſuch Water, either in an open or covered Drain, of ſuch Form and Dimenſions, as the ſaid Truſtees in a General or Committee Meeting aſſembled, ſhall order and direct; and if ſuch Occupier of Land ſhall, after Ten Days Notice, refuſe or neglect to make ſuch Drain, according to the Directions of the ſaid Truſtees as aforeſaid, it ſhall be lawful for the ſaid Truſtees, to order and cauſe ſuch Drain to be made; and the Per-

ſon or Perſons refuſing, or neglecting, to make the ſame agreeably to the Orders and Directions of the ſaid Truſtees as aforeſaid, ſhall repay to the ſaid Truſtees all the Coſts, Charges, and Expences attending the making of ſuch Drain, and ſhall likewiſe pay a Penalty of Triple the Amount of ſuch Coſts, Charges, and Expences; the ſaid Coſts and Penalty to be levied by Diſtreſs and Sale, in Manner herein before directed, and to be applied for the Purpoſes of this Act.

Ditches and Drains made by Truſtees to be ſcoured at their Expence.

Penalty on filling up Ditches.

LXXX. Provided always, That the Drains and Ditches to be made by Order of the ſaid Truſtees, ſhall be ſcoured and kept in Repair out of the Money ariſing by virtue of this Act; and if any Occupier of Land through which ſuch Drains and Ditches are or ſhall be made, ſhall obſtruct or fill up any of them, the Perſon or Perſons ſo offending ſhall forfeit and pay Triple the Expence of repairing and ſcouring the ſame, to be recovered in Manner hereinafter mentioned; and the ſaid Occupier ſhall be deemed the Tranſgreſſor, unleſs it ſhall appear to the Truſtees that he was not in the Fault; and where any Paſſage for Cattle or Carriages acroſs any Road for the Convenience of the Occupiers of the Ground through which it paſſes, ſhall be made, the Occupier of ſuch Ground ſhall always cover the Drains croſſing the Sides of ſuch Roads, with ſufficient Stones, ſo as the Courſe of the Water may not be interrupted, or the Road thereby prejudiced; and no Occupier of Land ſhall turn any Water upon the Side of any of the ſaid Roads, or conduct it acroſs any Part thereof, until he ſhall have obtained the Conſent of the ſaid Truſtees in a General or Committee Meeting aſſembled; and every ſuch Occupier ſhall be obliged to carry the Water acroſs the Road in a covered Drain of ſuch Depth and Conſtruction as the Water may not prejudice the Road.

Breadth of Wheel-Carriages regulated,

LXXXI. And whereas the Roads to be made under the Authority of this Act, may be much prejudiced by the Narrowneſs of the Wheels of the ſeveral Carriages travelling thereon, and by the exceſſive Burdens loaded on ſuch Carriages, be it enacted, That no Waggon, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Nine Inches, ſhall go or be drawn with more than Eight Horſes; and that no Cart, having the Sole or Bottom of the Fellies of the Wheels thereof of the Breadth of Nine Inches, ſhall go or be drawn with more than Five Horſes; and that no Waggon, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Six Inches, and rolling on each Side a Surface of Nine Inches, ſhall go or be drawn with more than Seven Horſes; and that no ſuch Waggon, rolling a Surface of Six Inches only, ſhall go or be drawn with more than Six Horſes; and that no Cart, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Six Inches, ſhall go or be drawn with more than Four Horſes; and that no Waggon, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Six Inches, ſhall go or be drawn with more than Five Horſes; and that no Cart, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Five Inches, ſhall go or be drawn with more than Three Horſes; and that no Waggon, having the Sole or Bottom of the Fellies of the Wheels of the Breadth of Four Inches, ſhall go or be drawn with more than Four Horſes; and that no Waggon having the Sole or Bottom of the Fellies of the Wheels

Wheels of leſs Breadth than Four Inches, ſhall be drawn with more than Three Horſes upon the ſaid Roads, under the Penalties after-mentioned; that is to ſay, that the Owner of ſuch Waggon or Cart, reſpectively ſhall forfeit a Sum not exceeding Forty Shillings Sterling, and the Driver, not being the Owner, a Sum not exceeding Five Shillings Sterling for every Horſe or Beaſt by which the ſame ſhall be drawn, above the Number hereby ſo limited reſpectively as aforeſaid, One Half whereof ſhall be paid to the Informer, and the other Half applied to the Repair of the Roads within the Diſtrict where the Offence is committed; and where the ſaid Truſtees may find it neceſſary to place Stones or other Obſtructions, to prevent any new Road from being cut or rutted by the Wheels of Carriages running in the ſame Tract, the Owner or Driver of ſuch Carriages, on being convicted before any Juſtice of the Peace, by the Oath of One or more credible Witneſs or Witneſſes, of having removed or deſtroyed ſuch Stones or Obſtructions, placed for the Purpoſe aforeſaid, ſhall reſpectively be liable in the ſame Penalties to be incurred by ſuch Owner or Driver in Manner as before directed.

under certain Penalties.

LXXXII. And be it enacted, That no Driver of any Waggon, Wain, Cart, Coach, Chaiſe, or other Carriage, Horſe, Aſs, Mule, or other Beaſt of Burden, whether the ſame be loaded or unloaded, ſhall drive or permit the ſame to travel or paſs upon the ſaid Road or any Part thereof abreaſt or alongſide of any other Waggon, Wain, Cart, Coach, Chaiſe, or other Carriage, Horſe, Aſs, Mule, or other Beaſt of Burden, ſo as wilfully to obſtruct the free Paſſage of the ſaid Road or any Part thereof; and every Perſon and Perſons offending in the Premiſes ſhall forfeit a Sum not exceeding Twenty Shillings Sterling, and not leſs than Five Shillings Sterling for each Offence.

No Drivers to drive their Carriages or Horſes abreaſt.

LXXXIII. And be it enacted, That the Driver of every Waggon, Wain, Cart, Coach, Chaiſe, or other Carriage, Horſe, Aſs, Mule, or other Beaſt of Burden upon the ſaid Road or any Part thereof, ſhall be obliged, upon meeting another Waggon, Wain, Cart, Coach, Chaiſe, or other Carriage, Horſe, Aſs, Mule, or other Beaſt of Burden, to make way by holding or driving to his own Left Hand, or what is commonly called holding to the Near Side, and that without Diſtinction whether the Carriage, Waggon, Wain, Cart, Coach, Chaiſe, or other Carriage, Horſe, Aſs, Mule, or other Beaſt of Burden ſo meeting one another are loaded or unloaded; and every ſuch Carriage, Horſe, or other Beaſt of Burden overtaking any other Carriage, Horſe, or other Beaſt of Burden, ſhall paſs on the Right Hand thereof; and every Perſon offending in the Premiſes ſhall forfeit a Sum not exceeding Twenty Shillings Sterling, and not leſs than Five Shillings Sterling, for every ſuch Offence.

Drivers of Carriages, &c. on meeting other Carriages, &c. to drive to the Left Hand or Near Side.

LXXXIV. And be it further enacted, That where the Lands, adjacent to any of the ſaid Roads, or any Part or Parts thereof, are not inclоſed, the Proprietor or Occupier of ſuch Lands ſhall not make Inclоſures along the Sides of the ſaid Road, without giving at leaſt Two Months previous Notice to the ſaid Truſtees; which Notice may be given by a Letter to the Clerk of the General Meeting, or of the Committees who have the Charge of that Part of the Road adjacent to which the

Notice of New Inclоſures to be given to the Truſtees.

the Incloſure is propoſed to be made; and the ſaid General Meeting or Committee are hereby required to inſert a Copy of the ſaid Letter in their Minutes; and in caſe ſuch Proprietor or Occupier ſhall fail to give ſuch Notice as aforeſaid, he ſhall not be entitled to any Compenſation for the Expence of the Incloſures, in caſe the ſaid Truſtees ſhall, at any future Period, think it neceſſary to demoliſh the ſame, for the Purpoſe of widening the ſaid Road, and making Footpaths thereon.

Truſtees may make Foot-paths.

LXXXV. And be it further enacted, That the ſaid Truſtees may cauſe Footpaths to the Breadth of Five Feet, to be made along the Sides of the ſaid Roads, in ſuch Places as can conveniently admit of the ſame; and if any Perſon ſhall ride or drive a Carriage or Cattle upon any Paths made or to be made, or ſhall in any Way wantonly or maliciouſly injure the ſame, every ſuch Perſon ſhall, for every ſuch Offence, forfeit a Sum not exceeding Five Shillings Sterling, to be levied in Manner hereinafter directed.

Poſſeſſors to lop Trees or Hedges.

LXXXVI. And be it further enacted, That where the Ground on the Side of any of the ſaid Roads is incloſed or planted, the Proprietors or Occupiers of ſuch Ground, ſhall be obliged to lop the Trees or Hedges at a proper Seaſon of the Year, in a proper Manner, ſo as to give ſufficient Breadth and Air to the Road; and in caſe they ſhall neglect or refuſe to do ſo for Six Months, after being required by an Order of any Three or more of the Truſtees, the Truſtees ſhall have Power to appoint the ſame to be done at a proper Seaſon of the Year, at the Defaulter's Expence; and no Proprietor or Occupier of Lands on the Sides of any of the ſaid Roads, ſhall have Power to plant Trees within Six Feet therefrom, under a Penalty not exceeding Five Pounds Sterling, beſides removing the ſaid Trees.

Trees not to be planted within Six Feet of the Road.

Truſtees may cauſe meaſure the Roads, and erect Mile-ſtones.

LXXXVII. And be it further enacted, That the ſaid Truſtees, or any Three or more of them, may cauſe any of the ſaid Roads to be meaſured, and Stones and Poſts to be erected on the Sides thereof, denoting the Diſtance at each Mile, or at ſuch other Diſtances as they may judge convenient; and alſo to order, or cauſe to be erected, Guide Poſts and Railings upon ſuch Parts of the ſaid Roads, where the Roads are croſſed or joined by other Roads, as they ſhall judge proper; and if any Perſon or Perſons ſhall break down, deſtroy, or deface any ſuch Mile Stones, Guide Poſts, or Railings, or ſhall break down any Cape Stones on the Ledges or Parapet Walls, at the Sides of any of the Bridges on the ſaid Roads, or turn any Stream of Water upon any Part of the ſaid Roads, unleſs a ſufficient covered or arched Drain or Paſſage ſhall have been previouſly made as before directed, or ſhall be aiding or aſſiſting therein, or ſhall reſcue, or attempt to reſcue, any Perſon apprehended for ſuch Offence; every Perſon offending in any of the Caſes aforeſaid, and being thereof lawfully convicted by the Oath or Oaths of One or more credible Witneſs or Witneſſes, before the Sheriff Depute of the ſaid County of *Elgin*, or his Subſtitute, or before Two or more Juſtices of the Peace of the ſaid County, ſhall, for the Firſt Offence, be not only adjudged to pay the Whole of the Damages and Expences ſuſtained, but alſo a Penalty, not exceeding Five Pounds Sterling, nor leſs than Twenty Shillings Sterling; and for every Second and ſubſequent Offence ſhall, beſides

Penalty on defacing them.

ſides paying the Damages and Expences, pay a Penalty, not exceeding Ten Pounds Sterling, nor leſs than Two Pounds Sterling; and in caſe the ſaid Penalty, Damages, and Expences, ſo adjudged, ſhall not be inſtantly paid, or ſufficient Security given for the ſame, the ſaid Sheriff or Juſtices are hereby empowered and required to commit ſuch Perſon or Perſons, ſo convicted, to Priſon, for any Term not exceeding Three Calendar Months, nor leſs than One Calendar Month.

Head Ridges to be made on the Sides of the Roads.

LXXXVIII. And, for preventing Annoyances in or upon the ſaid Roads, be it further enacted, That from and after Two Months, from the Commencement of this Act, every Perſon, in ploughing any Field contiguous to any of the ſaid Roads, ſhall always make Head Ridges along the Sides of the ſaid Roads, of the Breadth of Six Feet at leaſt; and all Gates upon Incloſures, next to any of the ſaid Roads, ſhall open inwards to the Field; and no Perſon or Perſons whatſoever, ſhall lay any dead Horſes, except in Caſes of Accident, to be made out to the Satisfaction of the Juſtices or Sheriff, before whom the Complaint ſhall be brought, or other Carrion, upon any of the ſaid Roads, or within Twenty Yards of the Sides of any of the ſaid Roads, or any Dung, Lime, or Soil, or Compoſt, or Matter whatſoever, either for manuring Land, or any other Purpoſe; nor any Cart or Carriage, or the Load thereof, longer than may be neceſſary for loading or unloading the ſame, or other Obſtructions whatever, upon any of the ſaid Roads, or within Five Yards of the Side thereof; and that in making any covered or arched Paſſage or Drain for Water, acroſs any of the ſaid Roads, a ſafe and eaſy Paſſage along One Half of ſuch Road, ſhall be left without any Obſtruction, either by breaking the Road or laying down the Materials; and ſuch covered Drain or Paſſage ſhall be made acroſs and completely finiſhed on the One Half of the ſaid Road, before the other Half ſhall be opened; and the Whole, or the One Part thereof, ſhall, if practicable, be completed in One Day, or otherwiſe the Materials for executing the ſame ſhall be ſo well fenced off, that Paſſengers may ſuffer no Injury thereby; which Precautions, and Manner of executing covered Drains as aforeſaid, ſhall be ſtrictly obſerved by all Contractors or others, employed in making or repairing the ſaid Roads; and every Perſon offending herein, ſhall not only forfeit the Materials laid down, but alſo a Sum not exceeding Forty Shillings Sterling, for every Offence, to be levied and recovered in Manner hereinafter directed, One Half thereof to be paid to the Informer, and the other Half to be applied for making or repairing the ſaid Roads; and every Contractor or other Perſon employed by the ſaid Truſtees for making, amending, widening, or repairing any of the ſaid Roads, ſhall be expreſsly prohibited from digging Pits or breaking up any Ground within Twelve Feet from the Sides of the ſaid Roads; and when that cannot conveniently be avoided, ſuch Contractor, or other Perſon employed as aforeſaid, ſhall be obliged to erect a ſufficient Fence between the Side of the Road and any Pit which it may be found neceſſary to dig for the Purpoſes above mentioned, and that under a Penalty not exceeding Five Pounds Sterling.

For preventing Annoyances,

in making Drains acroſs the Roads, One-half to be left clear of Obſtructions.

Contractor not to dig Pits, or if ſuch neceſſary, to fence them.

Articles to be drawn on a Wheel-Carriage.

LXXXIX. And be it further enacted, That if, after the paſſing of this Act, any Perſon or Perſons ſhall haul or draw, or cauſe to be hauled or

or drawn, upon any Part of the ſaid Roads, any Tree, Log, or Piece of Timber, or any Stone, Iron, Plough, Harrow, or other Thing whatſoever, otherwiſe than upon a Wheel-Carriage, or ſhall ſuffer any Tree, or other Matter whatſoever, which can be conveyed upon a Wheel-Carriage, to drag upon any Part of the ſaid Roads, every ſuch Perſon ſhall, for every ſuch Offence, forfeit a Sum not exceeding Ten Shillings Sterling, to be recovered and levied in Manner after directed.

Buildings erected within Thirty Feet of the Middle of the Roads, to be pulled down.

XC. And be it further enacted, That after the paſſing of this Act, no Houſes or Buildings of any Kind, which ſhall be erected at or along the Sides of any of the ſaid Roads or in Villages, at or near the Outlets of any Town within the ſaid County, where Houſes have not formerly ſtood, ſhall be built within the Diſtance of Thirty Feet from the Middle of any of the ſaid Roads, without the Conſent of the Truſtees firſt obtained, under a Penalty, not exceeding Forty Shillings Sterling for each Offence, over and above the Expence of demoliſhing ſuch Houſe or Building; and it ſhall be lawful for any Juſtice of the Peace to ſtop the building or erecting of any ſuch Houſe or Building, which ſhall be within the ſaid Diſtance from the Middle of any of the ſaid Roads; and if any Building ſhall be erected hereafter within the Diſtance aforeſaid, any One or more Juſtice or Juſtices of the Peace, upon Application made to him or them by any one Truſtee, and upon Proof being adduced that the ſaid Building is within the Diſtance aforeſaid, may order ſuch Building to be taken down and removed at the Expence of the Erector or of the Proprietor of the Ground, and may grant a Warrant for levying and recovering the Penalty and Expences in Manner hereinafter directed.

In caſe of ſudden Damage to a Bridge, Two Truſtees may order Repairs.

XCI. And be it further enacted, That in caſe of any ſudden Damage to a Bridge, it ſhall be in the Power of any Two Truſtees of the Diſtrict in which it is ſituated, or if it be ſituated on the Confines of Two Diſtricts, to any Two Truſtees of either Diſtrict, to give Orders for making ſuch immediate Repairs as may be neceſſary, the Expence of the ſame not exceeding Twenty Pounds Sterling; and the Money ſo expended ſhall be provided for and paid by Order of the next Meeting of Truſtees within ſuch Diſtrict or Diſtricts, or, on their Failure or Neglect, by Order of the next ſtated General Meeting of the Truſtees, out of the Funds of ſuch Pariſhes as they ſhall think proper, on an Application for that Purpoſe, and on a Proof of the Neceſſity of the Order, and that the Money was expended; and in caſe any of the ſaid Roads ſhall be ſhut up, and public Communication obſtructed by Means of Snow, it ſhall in like Manner be in the Power of the ſaid Truſtees to cauſe the ſaid Roads to be cleared, the reaſonable Expence of the ſame to be provided for and paid in Manner as hereinbefore allowed.

Penalties and Forfeitures, how to be recovered and applied where not otherwiſe particularly ſpecified.

XCII. And be it further enacted, That all Forfeitures and Penalties by this Act impoſed, the Manner of levying and recovering whereof is not particularly ſpecified, ſhall, on Proof of the Offence before Two or more Juſtices of the Peace, or the Sheriff Depute of the ſaid County of *Elgin*, or his Subſtitute, either by the Confeſſion of the Party, the Oath of One or more credible Witneſs or Witneſſes, or other legal Evidence, be levied by Diſtreſs and Sale of the Goods and Chattels of the

the Party or Parties offending, by Warrant under the Hand of such Juſtices or Sheriff (which Warrant they or any of them are hereby authoriſed and required to grant, and to adminiſter the Oaths gratis), ſuch Sale being always made by Public Auction to the higheſt Offerer, at ſuch Place as ſhall be directed in the ſaid Warrant, within Six Days after ſuch Diſtreſs ſhall have been made, and the Overplus Money ariſing from ſuch Sale, after Deduction of the Penalties impoſed and Charges in Recovery thereof, ſhall be returned, on Demand, to the Owner or Owners of ſuch Goods and Chattels; and all Penalties and Forfeitures impoſed by this Act, if not otherwiſe hereby appropriated, ſhall be paid to the ſaid Truſtees or their Collectors, to be laid out and applied for the Purpoſes of this Act; and in caſe ſufficient Diſtreſs cannot be found, or ſuch Penalties and Forfeitures ſhall not be forthwith paid, or ſufficient Security given for Payment, it ſhall be lawful for any Two of the ſaid Juſtices of the Peace, or the ſaid Sheriff Depute, or his Subſtitute, together with any One Juſtice of the Peace, and they are hereby authoriſed, and required, by Warrant under their Hands, to cauſe ſuch Offender or Offenders to be committed to Gaol, or to a Houſe of Correction, for any Time not exceeding Three Calendar Months, unleſs ſuch Penalties and Forfeitures, and all reaſonable Charges, ſhall be ſooner paid.

If not paid, Offenders may be committed.

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

Perſons aggrieved may appeal to the Quarter Seſſions.

XCIV. And be it further enacted, That the Bonds and Securities to be granted by the ſaid Truſtees for the Money to be borrowed by them in the Manner directed by this Act, ſhall be transferable from one Perſon to another, by Indorſement duly ſubſcribed by the Party transferring, in the Preſence of One or more ſubſcribing Witneſs or Witneſſes.

Bonds for borrowed Money to be transferable.

XCV. And be it enacted, That it ſhall be no Objection to any Perſon acting as a Judge, or Juſtice of the Peace, or as a Juryman under this Act, in any Thing relative hereto, that he is appointed a Truſtee, except where he is perſonally intereſted.

Truſtees may act as Juſticer or Jurymen.

XCVI. And be it further enacted, That all Actions and Complaints for all and every the Penalties and Forfeitures impoſed by this Act, or for any Wrongs done, or Injuries ſuffered in any Matter thereto relative, or in conſequence of any of the Powers by this Act given and granted, ſhall be commenced within the Space of Six Calendar Months after the

Limitation of Actions.

the Penalty or Forfeiture is incurred, or Wrong done, or Injury suffered, and not afterwards.

Expences of this Act, how to be paid.

XCVII. And be it enacted, That the whole Expences in advertising for, preparing, procuring, and passing this Act, the surveying and estimating the said Roads prior to the Passing thereof, and all other Expences attending the same, to be ascertained at the First, Second, or Third General Meeting of the said Trustees, shall be paid by an Assessment on all the Proprietors of Lands and Fishings valued in the Cess Books of the said County of *Elgin*, agreeable to the respective valued Rents at which the said Lands and Fishings stand rated in the Cess and Valuation Books of the said County; and the said Expences shall be levied and collected by such Person or Persons as the said Respective Trustees shall appoint.

Public Act.

XCVIII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such, by all Judges, Justices, and others, without being specially pleaded.

Commencement and Endurance of this Act, with regard to the Turnpike Roads.

XCIX. And be it also enacted, That this Act shall commence from the passing thereof, and, in as far as respects the Road upon which Power to erect Turnpikes and levy Tolls is given, shall remain in full Force, and have Continuance for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

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