ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. vii.

An Act for more effectually repairing and keeping in repair certain Roads in the County of *Kincardine*. [11th *April* 1838.]

WHEREAS an Act was passed in the Fifty-seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for more effectually repairing the Road from the* 57 G. 3. c.52.
Bridge of Dee *Southward, through the County of* Kincardine, *to* Stonehaven, *and from thence by* Inverbervie *and by* Laurencekirk *to the Lower and Upper Bridges over the River* Northesk; *and for making and repairing other Roads in the said County:* And whereas the Trustees appointed in or by virtue of the said Act have proceeded to put the same into execution, and for that Purpose have borrowed certain Sums of Money upon the Credit of the Tolls thereby authorized to be taken, which Money still remains due, and cannot be repaid, or the Roads mentioned in the said recited Act, and herein-after mentioned, properly maintained and improved or kept in repair, unless the Powers and Provisions of the said Act are altered and enlarged: And whereas it is expedient that the said recited Act should be repealed, and other and additional Powers granted in lieu thereof: And whereas an Act was passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for amending* 1 & 2 W. 4. c. 43.
and making more effectual the Laws concerning Turnpike Roads in Scotland: May it therefore please Your Majesty that it may be enacted; and

and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said recited Act of the First and Second Years of the Reign of His late Majesty, and all and every the Powers Provisions, Exemptions, Penalties and Forfeitures, Payments, Remedies, Matters, and Things therein contained, save and except such Parts thereof as are hereby expressly varied, altered, or repealed, shall be as good, valid, and effectual, for carrying this Act into execution, as if the same had been repeated and re-enacted in the Body of this Act.

Powers of recited Act 1 & 2 W. 4. c. 43. applied to this Act.

Recited Act 57 G. 3. c. 52. repealed.

II. And be it further enacted, That from and after the Fourth *Monday* after the passing of this Act the said recited Act of the Fifty-seventh Year of the Reign of His said Majesty King *George* the Third shall be and the same is hereby repealed.

This Act to be put in execution instead thereof, for repairing the Roads herein described.

III. And be it further enacted, That instead thereof this Act shall be put in execution for the Purpose of more effectually repairing, altering, improving, and keeping in repair the following Roads; that is to say, the present Road from the Bridge of *Dee* Southward, through the County of *Kincardine*, to *Stonehaven*, and from thence by *Inverbervie* and by *Laurencekirk* to the Lower and Upper Bridges over the River *Northesk*; and the Branch of the said Road leading from *Bervie*, and extending though the Parishes of *Arbuthnott*, *Fordoun*, and *Laurencekirk*, to the present Turnpike Road at or near the Lands of *Redmire*; and also the Branch of the said Road leading from *Johnshaven*, through the Parishes of *Benholm*, *Garvock*, and *Laurencekirk*, to the Turnpike Road between *Stonehaven* and *Laurencekirk* at or near *Polburn*.

Appointment of Trustees.

IV. And be it enacted, That all and every Persons and Person who now are or hereafter shall be, in their or his own Right or in the Right of their Wives, in the actual Possession and Enjoyment, as Proprietor or Life-renter, of the *Dominium utile* of Lands in the County of *Kincardine* valued in the Cess Books thereof at or above One hundred Pounds *Scots*, and all and every the eldest Sons of such Persons, and One Guardian or Trustee of each Minor possessed of Lands to that Extent, the Sheriff and the Sheriff Substitute of the said County, both for the Time being, the Provost of *Aberdeen* for the Time being, and the chief resident Magistrate of the Burgh of *Inverbervie* for the Time being, shall be and they are hereby nominated and appointed Trustees for surveying, ordering, making, and repairing, and keeping in repair, the several Roads herein-before described, for building, widening, amending, repairing, and keeping in repair Arches and Bridges thereon, and for exercising and carrying into effect the Powers and Purposes of this Act: Provided always, that no Trustee whatever under this Act shall be entitled to vote and act until he shall have attained the Age of Twenty-one Years complete.

No Trustee to have more than One Vote.

V. Provided always, and be it enacted, That although a Person, being a Trustee in his own Right, shall claim, as Trustee, Guardian, Tutor,

Tutor, or Curator for any Minor, or appear in Two Capacities, he shall have but One Vote; and that no Person of any Description whatever, claiming as a Trustee under this Act, shall have more than One Vote on any Pretence whatever; without Prejudice to the Preses of every Meeting having a casting Vote in case of an equal Number of Votes, including the Vote of the Preses.

First and subsequent Meetings of Trustees.

VI. And be it further enacted, That the said Trustees, or any Five or more of them, shall hold their First Meeting in virtue hereof at *Stonehaven* upon the Day of the Commencement of this Act, or as soon after as conveniently may be, and the said Trustees may then and there proceed to put this Act in execution, and shall hold their second stated General Meeting on the first *Tuesday* after the Twenty-ninth Day of *September* One thousand eight hundred and thirty-eight, and shall thereafter hold Two stated General 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 to the Land Tax or other County Rates or Assessments, and the other upon the first *Tuesday* after the Twenty ninth Day of *September* yearly.

Quorum of Trustees.

VII. And be it further enacted, That the Quorum or Number of Trustees necessary to do Business in General Meetings shall be Five (excepting at General Meetings for the sole Purpose of letting the Tolls, where the Quorum shall be Three); but if only One, or any Number less than Five or Three, under the Exception aforesaid, 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 one or other of the *Aberdeen* Newspapers or other Newspapers usually circulated in the said County, the first of such Advertisements being at least Fourteen Days before the Day of such adjourned Meeting; and in case no Trustee shall attend, the Clerk to the said Trustees, by Advertisement as aforesaid, at least Ten Days before the next Meeting, shall appoint the said Trustees to meet at the Place where the Meeting of the said Trustees was appointed to be held, or at some other convenient Place, Three Weeks after the Day on which such last Meeting was appointed to be held.

Power to appoint Committees.

VIII. And be it further enacted, That the said Trustees shall have Power from Time to Time to appoint Committees of their Number to execute this Act upon any Portion or District of the said Roads, and that the Quorum or Number of Trustees necessary to do Business in such Committees shall be Three: Provided always, that the Proceedings of such Committees shall be subject to Appeal to and to the Control of the General Meetings of the said Trustees.

Parties interested not to vote on Appeal.

IX. Provided always, and be it further enacted, That in Questions appealed from the Committees to General Meetings neither the Appellant, Respondent, nor any Trustee, of whatever Description, having any direct Interest in such Appeal, shall be entitled to vote or decide thereon; and any Person acting otherwise in any of the said

said Particulars shall forfeit and pay a Sum not exceeding Twenty Pounds Sterling.

Authority to levy Tolls.

X. And be it further enacted, That from and after the Commencement of this Act the said Trustees, or any Person or Persons duly authorized by them, shall be and they are hereby authorized and empowered to demand and take, or cause to be demanded and taken, at such of the Gates or Turnpikes as have already been erected or may hereafter be erected upon the Roads hereby placed under the Management of the said Trustees, the Tolls and Duties following, or such other Sum or Sums as the said Trustees shall from Time to Time determine, not exceeding the following Rates, before any Coach or other Carriage, Horse or other Cattle, shall be permitted to pass through the same; (that is to say,)

Tolls.

For every Horse or other Beast of Draught drawing any Coach, Chariot, Landau, Berlin, Chaise, Calash, Hearse, or any other such Carriage with either Three or Four Wheels, where Six or more Horses or Beasts of Draught are so drawing, the Sum of One Shilling Sterling; where Two and not more than Five Horses or Beasts of Draught are so drawing, the Sum of Nine-pence Sterling; where One Horse or Beast of Draught is so drawing, the Sum of Eight-pence Sterling:

For every Horse or Beast of Draught drawing any Chaise, Curricle, Chair, or other such like Carriage with Two Wheels, the Sum of Sixpence Sterling:

For every Horse or Beast of Draught drawing any Waggon, Wain, Cart, or other such like Carriage, where Six or more Horses or Beasts of Draught are so drawing, the Sum of One Shilling and Two-pence Sterling; where Five are so drawing, the Sum of One Shilling Sterling; where Four are so drawing, the Sum of Nine-pence Sterling; and where One, Two, or Three are so drawing, the Sum of Sixpence Sterling:

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

For Asses, Oxen, or Neat Cattle, Horses or Fillies, unshod, the Sum of Ten-pence Sterling *per* Score, and so in proportion for any other Number:

For Calves, Hogs, Sheep, Lambs, or Goats, the Sum of Five-pence Sterling *per* Score, and so in proportion for any other Number:

For every Carriage worked, drawn, or propelled by Steam, or otherwise than by Animal Power, Four Shillings Sterling.

Additional Tolls for Overweight.

XI. And be it further enacted, That the said Trustees shall be entitled and they are hereby authorized and empowered to receive and take, over and above the Tolls hereby granted, for and in respect of all Waggons, Carts, or other such Carriages, the additional Tolls and Duties following; that is to say, if the Carriage with its Loading shall in Weight exceed Twenty-eight Hundred Weight, and be under Thirty-six Hundred Weight, One Half more than the Tolls and Duties before authorized by this Act to be levied; and if the said Carriage and its Loading shall in Weight be Thirty-six Hundred Weight or upwards, Double the said Tolls and Duties; which addi-

tional Tolls and Duties so authorized to be levied shall not be held to be Penalties, but the just and fair Tolls and Duties payable for such Carriages: Provided always, that no such additional Toll or Duty shall be charged or taken for any Waggon, Cart, or Carriage which with its Loading does not weigh more than the Weights, and which is of the Description following; (that is to say,)

No additional Tolls to be taken for Carriages of a certain Breadth of Wheels.

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 Wheels of the Breadth of Nine Inches, Six Tons in Summer and Five Tons in Winter:

Every Cart having the Fellies of the Wheels 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 Wheels of the Breadth of Six Inches, Four and One Half Tons in Summer and Three and Three Quarter Tons in Winter:

Every Cart having the Fellies of the Wheels 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 the Wheels of a Breadth less than Six Inches, Three and One Half Tons in Summer and Three Tons in Winter:

Every Cart having the Fellies of the Wheels of a Breadth less than Six Inches, and drawn by Two or more Horses, One and One Half Tons in Summer and One Ton Seven Hundred Weight in Winter; and every such Cart drawn by One Horse, One Ton and a Half 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 Days inclusive: Provided always, that the Wheels of such Carriages shall be so formed that the whole Breadth of the Fellies shall bear equally on the Road.

Reduced Rate of Toll not to be increased.

XII. And whereas a Rate of Tolls lower than the maximum Rate authorized by the said recited Act hereby repealed has been established by the Trustees under the said Act, on that Part of the said Road from *Stonehaven* to the Lower Bridge over the River *Northesk*; be it further enacted, That it shall not be lawful for the Trustees hereby appointed to raise or increase the said reduced Rate of Tolls beyond the Rate or Amount at which they are at present fixed on the said Part of the said Road, any thing herein contained notwithstanding: Provided always, however, that this Restriction shall not apply to Compositions for Stage Coaches.

Tolls to be levied only once in Six Miles.

XIII. And be it further enacted, That if the said Trustees shall erect or have already erected Turnpikes within a less Distance of one another than Six Statute Miles, then any Person or Persons producing a Ticket to show that they have paid the said Tolls at One Gate shall not pay further Tolls or Duties upon the same Day till the Distance exceeds Six Statute Miles from the Gate at which they shall have already paid.

Tolls to be paid but once a Day.

XIV. And be it enacted, That no Person or Persons, having paid the Tolls hereby authorized to be taken 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 again to pay the same Tolls at any Gate or Turnpike or Side Gate through which they may pass, for the same Horse or Horses or other Cattle, or for the same Coach, Cart, or other Carriage, drawn by the same Horses or other Cattle, for which such Toll shall have been previously paid on the same Day: Provided always, that the Tolls hereby made payable shall be paid for and in respect of all Horses and Beasts of Draught drawing any Stage Coach, Diligence, or other Stage Carriage conveying Passengers or Goods for Pay or Reward every Time of passing or repassing: And provided also, that for all Horses or Beasts of Draught let out to hire, and drawing any Post Chaise, Waggon, or other Carriage, the Tolls hereby made payable shall be paid every Time of passing whenever any new Hiring thereof shall take place.

Toll Bars not to affect the South Dee Side Road;

or the Road by Polbare towards Dee Side.

XV. And be it further enacted, That no Turnpike or Toll Bar shall be erected on the said Road from Bridge of *Dee* to *Stonehaven* so as to affect Carriages, Horses, or Cattle travelling or passing the Road along the South Side of the River *Dee*, although they pass by the Bridge of *Dee*, unless they do at the same Time use or travel upon the High or Post Road from the said Bridge towards *Stonehaven* to the Southward of the Place where the same is joined by the said Road along the River *Dee*; and that no Toll Bars to be placed on the said Road from Bridge of *Dee* to *Stonehaven* shall affect Carriages, Horses, or Cattle travelling or passing the Road from the Bridge over the *Cowie*, by *Polebare* and *Netherley*, towards *Dee* Side, unless they at the same Time travel on the said Turnpike Road from the Bridge of *Dee* to *Stonehaven*, to the North of the Place where the same is joined by the said Road towards *Dee* Side.

Authority to erect Lamps at Toll Houses.

XVI. And be it enacted, That it shall be lawful for the said Trustees to order and direct One or more Lamp or Lamps to be placed and erected on or against or in front of each and every of the Toll Houses on the said Roads; and also to order and direct at what Times of the Year, and during what Hours, such Lamp or Lamps or any of them shall be kept lighted; and all and every the Collectors or Collector, Lessees or Lessee of the Tolls on such Roads, who shall neglect or omit to observe and fulfil the Order of the said Trustees in respect to the keeping and lighting of the said Lamp or Lamps, shall forfeit and pay any Sum not exceeding Twenty Shillings for every such Neglect or Omission; and in case any Person shall damage or injure any such Lamp or Lamps, or extinguish the Lights therein, such Person shall forfeit and pay any Sum not exceeding Forty Shillings for every such Offence.

Money to be lodged in a Bank.

XVII. And be it enacted, That all Money arising and levied on account of the said Tolls and Duties shall be lodged by the said Trustees, or the Person or Persons authorized by them to receive the same, in the nearest Branch of the Bank of *Scotland* or of the Bank of the *British* Linen Company of *Scotland* in the Name of the said Trustees, unless in so far as required for immediate Expenditure, retaining

retaining for that Purpose not more than Twenty Pounds Sterling, the said Money so lodged to be drawn out by such Person or Persons and in such Manner as the said Trustees shall direct.

Application of Tolls.

XVIII. And be it further enacted, That all Monies which before the Commencement of this Act shall have been raised and produced by virtue of the said recited Act hereby repealed, and which on the Commencement of this Act shall remain undisposed of, and also all the Monies which shall arise and be produced by or from the Tolls by this Act granted and made payable, and all other Monies which shall arise by virtue of this Act, shall be applied to and for the several Uses, Intents, and Purposes, and in Order and Manner following; (that is to say,) in the first place, in Payment of all Costs, Charges, and Expences which shall have been incurred in applying for, preparing, passing, and obtaining this Act, and otherwise relative thereto; in the second place, in defraying the Expences of making, forming, repairing, widening, improving, and altering the said Roads, and of erecting and maintaining necessary and convenient Arches, Bridges, and Culverts, and in defraying the Expences of building or erecting and keeping in repair Toll Houses, Toll Gates, and Toll Bars, with suitable Outbuildings thereto, and of removing or altering the same or any of them, and other Conveniences, and of executing the several other Powers and Purposes of this Act; and in the third place, in paying and keeping down the Interest of the Monies subscribed and advanced for the Purposes of the said recited Act hereby repealed, or for the Purposes of this Act, upon any Mortgages of the Tolls or Duties by the said recited Act or hereby granted or made payable; and lastly, in reducing, paying off, and discharging the several Principal Sums of Money due on any such Mortgages or Securities as aforesaid, and all other Debts and Sums of Money now due or owing in pursuance of the said Act hereby repealed, and hereafter to become due or owing in pursuance of this Act: Provided always, that Persons holding Debts or Assignments on the Security of the Tolls and Duties leviable on that Part of the said Road from Bridge of *Dee* to *Stoneharen* shall continue to have a Preference to all other Persons on such Tolls and Duties in security of such Debts and Assignments until the same are fully paid off and discharged, any thing in this Act contained notwithstanding.

No more Money to be laid out on any Road than is collected thereon.

XIX. And be it further enacted, That no Money arising from any of the Tolls mentioned in this Act shall be applied in or towards the Repair of any of the said Roads, unless some Toll Gate, Toll Bar, or Turnpike shall be erected and continued upon such Road or on the Side thereof, nor unless the said Tolls shall be demanded and taken thereat, pursuant to the Powers and Provisions of this Act: Provided also, that no more Money shall be expended by the said Trustees in or towards the Repair of any of the said Roads than shall be collected thereat, or borrowed on the Credit of the Tolls collected thereon.

Public Act.

XX. 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.

XXI. And

Commencement and Endurance of this Act.

XXI. And be it further enacted, That this Act shall commence and continue in force from and after the Fourth *Monday* after the passing thereof, for and during the Term of Thirty-one Years, and from thence to the End of the then next Session of Parliament.

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