ANNO QUADRAGESIMO SEPTIMO

GEORGII III. REGIS.

Cap. 23.

An Act for repealing Two Acts made in the Eighth and Eleventh Years of His present Majesty, for repairing several Roads leading through the County of *Selkirk*; and for the better making and repairing the said Roads, and other Roads in the said County. [25*th April* 1807.]

WHEREAS by an Act made in the Eighth Year of his present Majesty's Reign, intituled, "An Act for repairing several Roads "leading through the County of *Selkirk*," the Persons therein named and described were appointed Trustees for making and repairing, and keeping in Repair the High Roads leading from a Place called *Haremoss*, on the Confines of the County of *Roxburgh*, to the Town of *Selkirk*, in the County of *Selkirk*, and from thence by the Bridge over *Tweed*, at *Fairnilee* to *Corsliebum*, on the Confines of the County of *Midlothian*, and from thence by *Torwoodlee*, to the Town of *Gallashiells*, in the said County of *Selkirk*; and also the Road leading from the said Bridge at *Fairnilee*, along the North Side of the River *Tweed*, by *Holylee*, in the said County of *Selkirk*, to the Confines of the County of *Peebles*; and sundry Powers were by the said Act given to the said Trustees for levying Toll Duties, and borrowing Money on the Credit thereof, and for other Purposes: And whereas by another Act passed in the Eleventh Year of his present Majesty's Reign, intituled, "An Act "for enlarging the Term and Powers of an Act made in the Eighth "Year of the Reign of His present Majesty, intituled, 'An Act for re-"pairing several Roads leading through the County of *Selkirk*," the Term of the Act first abovementioned was enlarged, and certain other Powers were granted to the Trustees thereby appointed, for the better making and repairing the aforesaid Roads: And whereas the Trustees appointed by, and acting under the Authority of the said Acts, have pro-

8 Geo. 3. cap. 59.

11 Geo. 3. cap. 60.

ceeded in the Execution thereof, and great Progreſs has been made in making and repairing the ſeveral Roads therein deſcribed, and certain Sums of Money have been borrowed upon the Credit of the Tolls thereby authoriſed to be levied, and are ſtill owing, but the ſaid Roads cannot be effectually repaired, and kept in Repair, and the ſaid Money repaid, unleſs farther and other Powers are granted for the ſaid Purpoſe: And whereas it is expedient that certain other Roads in the ſaid County, which are in bad Repair, ſhould be made and repaired; that is to ſay, the Road from the Burgh of *Selkirk*, to the Confines of the County of *Roxburgh*, at or near a Place called *Bridgelands*, and from the ſaid Burgh of *Selkirk*, to the Confines of the ſaid County of *Roxburgh*, at or near a Place called *Whitmuir*, and alſo the Road from a Place called *Blakeuphaugh*, in the County of *Selkirk*, along the North Side of the River *Tweed*, by *Cadonlee*, to *Cadonlee Cliffs*, and alſo the Road from the Confines of the County of *Peebles*, by *Whitebanklee* and *Torwoodlee*, in the County of *Selkirk*, to *Galawater*, near *Buckholme*, in the County of *Roxburgh*: And whereas it would be convenient and expedient, if the making, repairing, and keeping in Repair the whole of the aforeſaid Roads, in the County of *Selkirk*, were committed to the Charge of the ſame Truſtees, and ſuitable Powers granted as to the whole by Act of Parliament, and that the ſaid recited Acts ſhould therefore be repealed: May it therefore pleaſe your MAJESTY, That it may be enacted, and be it enacted, by the KING's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That the ſaid recited Acts of the Eighth and Eleventh Years of His preſent Majeſty, ſhall, from and after the Firſt Meeting of the Truſtees, held in purſuance of this preſent Act, be, and the ſame are hereby repealed.

Former Acts repealed.

II. Provided nevertheleſs, and be it enacted, That the Securities granted to any Perſon or Perſons for Money borrowed upon the Credit of the Tolls authoriſed to be levied by the ſaid recited Acts, and ſtill owing, ſhall not be prejudiced by the Repeal thereof, but the ſaid Securities ſhall attach upon the Tolls authoriſed by this Act to be levied upon the ſeveral Roads ſubjected by the ſaid Securities, and Tolls ſhall accordingly be levied thereupon until the Sums of Money owing are repaid.

Without Prejudice to Creditors.

III. And be it enacted, That from and after the paſſing of this Act, and during the Continuance of the ſame, the Right Honourable *Charles Montagu Scott*, commonly called Earl of *Dalkeith*; the Honourable *Stewart*, commonly called Lord *Linton*; the Honourable *Alexander Murray*, eldeſt Son of the Lord *Elibank*; the Honourable *William Napier*, eldeſt Son of the Lord *Napier*; the Honourable *Gilbert Elliot*, eldeſt Son of the Lord *Minto*; Sir *James Pringle* of *Stitchel*, Baronet; *Robert Pringle*, Younger, of *Stitchel*; Sir *James Hay* of *Hayſtone*, Baronet; *John Hay*, Younger, of *Hayſtone*; *John Scott* of *Gala*; *James Raymond Johnſton* of *Alva*; *John Johnſton*, Younger, of *Alva*; *Mark Pringle* of *Clifton*; *John Pringle*, Younger, of *Clifton*; *James Pringle* of *Torwoodlee*; *James Pringle*, Younger, of *Torwoodlee*; *Robert Hay* of *Drummelzier*; *Alexander Hay*, Younger, of *Drummelzier*; *Alexander Pringle* of *Whitebank*; *Alexander Pringle*, Younger, of *Whitebank*; *Walter Williamſon* of *Cardrona*; *Hugh Scott* of *Harden*; *Henry Scott*, Younger, of *Harden*; *John Murray* of *Philip-*

Truſtees.

Philiphaugh; *Gilbert Innes* of *Stow*; *John Rutherfurd* of *Edgerſtone*; *William Elliot Lockhart* of *Borthwickbrae*; *John Elliot Lockhart*, Younger, of *Borthwickbrae*; *John Corſe Scott* of *Sinton*; *John Corſe Scott*, Younger, of *Sinton*; *George Pott* of *Todridge*; *James Mercer* of *Scotſbank*; *Robert Mercer*, Younger, of *Scotſbank*; *James Ruſſell* of *Athieſteel*; *Adam Ogilvie* of *Hartwoodmyres*; *Henry Ogilvie*, Younger, of *Hartwoodmyres*; *Andrew Henderſon* of *Midgehope*; *James Chiſholme* of *Chiſholme*; *Alexander Robertſon* of *Ettrickhouſe*; *Charles Scott* of *Howcleugh*; *Walter Scott*, Younger, of *Howcleugh*; *Mark Watt* of *Bowland*; *John Watt*, Younger, of *Bowland*; *Thomas Macmillan* of *Shorthope*; *Thomas Macmillan*, Younger, of *Shorthope*; *James Ballantyne* of *Hololee*; *Walter Laidlaw* of *Hyndhope*; *Alexander Laidlaw*, Younger, of *Hyndhope*; *John Kirton Anderſon* of *Tuſhielaw*; *Robert Ballantyne* of *Phahope*; *Adam Stewart* of *Hoſecoat*; *Thomas Stewart*, Younger, of *Hoſecoat*; *James Forreſt* of *Comiſton*; *John Boyd* of *Broadmeadows*; *Archibald Boyd*, Younger, of *Broadmeadows*; *Thomas Currie* of *Brownmuir*; *Henry Rutherfurd* of *Redford Green*, and the eldeſt Baillie of the Burgh of *Selkirk* for the Time being, ſhall be, and they are hereby nominated and appointed Truſtees for ſurveying, making, repairing, altering, and keeping in Repair, the ſeveral Roads in the County of *Selkirk* hereinafter mentioned, and the Bridges upon the ſame, that is to ſay, the Road leading from a Place called *Haremoſs*, on the Confines of the County of *Roxburgh*, by and through the Town of *Selkirk* to the Bridge over the River *Tweed* at *Fairnilee*, and to *Corſlieburn*, on the Confines of the County of *Midlothian*; and from thence by *Torwoodlee* to the Town of *Gallaſhiels*, in the ſaid County of *Selkirk*; and alſo the Road leading from the ſaid Bridge at *Fairnilee*, along the North Side of the River *Tweed* by *Holylee*, in the ſaid County of *Selkirk*, to the Confines of the County of *Peebles*; and alſo the Road from the Burgh of *Selkirk* to the Confines of the County of *Roxburgh*, at or near a Place called *Bridgelands*; and from the ſaid Burgh of *Selkirk* to the Confines of the ſaid County of *Roxburgh*, at or near a Place called *Whitmuir*; and alſo the Road from a Place called *Blakeuphaugh*, in the ſaid County of *Selkirk*, along the North Side of the River *Tweed*, by *Cadonlee*, to *Cadonlee Cliffs*; and alſo the Road from the Confines of the County of *Peebles*, by *Whitebanklee* and *Torwoodlee*, in the ſaid County of *Selkirk* to *Galawater*, near a Place called *Buckholme*, on the Confines of the County of *Roxburgh*; and for putting in Execution all the other Powers by this Act, given and granted.

Power to elect new Truſtees.

IV. And be it enacted, That when and as often as it ſhall appear neceſſary and expedient to the ſaid Truſtees hereby appointed, it ſhall be lawful for them, or any Three or more of them from Time to Time to elect, and appoint One or more fit Perſon or Perſons, to be a Truſtee or Truſtees, provided that public Notice of the Time and Place of the Meeting of the ſaid Truſtees, for every ſuch Election, be given by Two ſeveral Advertiſements, in ſome Newſpaper publiſhed at *Edinburgh*, the Firſt of ſuch Advertiſements being inſerted at leaſt Fourteen Days, before the Day appointed for Election of the New Truſtee or Truſtees; and every Perſon who ſhall be ſo appointed, ſhall and may act with the Truſtees appointed by this Act, as if he had been hereby named and appointed a Truſtee.

V. Pro-

Qualification of Truſtees.

V. Provided always, and be it enacted, That no Perſon ſhall be qualified, or capable of acting as a Truſtee in any Caſe, in the Execution of this Act, unleſs he ſhall be infeft in, and poſſeſſed in his own Right or in Right of his Wife, of the Property of Lands or Heritages, valued in the Tax Roll of the County of *Selkirk*, at Two Hundred Pounds Scots *per Annum*, or upwards, except the Heirs Apparent of Perſons who are infeft in Lands of the Value aforeſaid, and the eldeſt Baillie of the Burgh of *Selkirk*, for the Time being, and if any Perſon who ſhall be deemed unqualified, or made incapable to act for the Cauſes aforeſaid, ſhall nevertheleſs preſume to act contrary to the true Meaning and Intent of this Act, every ſuch Perſon or Perſons ſhall for every ſuch Offence, forfeit and pay, the Sum of Twenty Pounds Sterling, beſides the Expence of Proceſs, to be recovered by ſummary Complaint, at the Suit of any Heritor of the ſaid County of *Selkirk*, before the Juſtices of the Peace, at their Quarter Seſſions, or before the Sheriff Depute or Sheriff Subſtitute of the ſaid County, from whoſe Deciſion there ſhall be no Appeal; and the Penalties recovered ſhall be applied for the Purpoſes of this Act.

Turnpike Gates to be continued and erected.

VI. And be it enacted, That the ſaid Truſtees ſhall be, and they are hereby empowered to continue the Turnpike Gates already erected upon any of the Roads before deſcribed, and to erect, or cauſe to be erected Turnpike Gates, upon or acroſs any of the ſaid Roads, and upon or acroſs any Way or Lane leading into the ſame, together with Houſes neceſſary for the Accommodation of the Collectors of the Tolls, at each of the ſaid Gates, and to collect, levy, and take at each of the Gates ſo erected and continued, or to be erected, the Rates and Duties following that is to ſay,

Rates of the Tolls.

For every Coach, Chariot, Chaiſe, Berlin, Hearſe, or other ſuch Carriage, if drawn by Six or more Horſes or Beaſts of Draught, the Sum of Three Shillings Sterling; and if drawn by Five or Four Horſes or Beaſts of Draught, the Sum of Two Shillings Sterling; and if drawn by Three Horſes or Beaſts of Draught, the Sum of One Shilling and Sixpence Sterling; and if drawn by Two Horſes or Beaſts of Draught, the Sum of One Shilling Sterling; and if drawn by One Horſe or Beaſt of Draught, the Sum of Sixpence Sterling.

For every Waggon, Wain, Cart, or other ſuch Carriage, if drawn by Six or more Horſes or Beaſts of Draught, the Sum of Three Shillings Sterling; and if drawn by Five Horſes or Beaſts of Draught, the Sum of Two Shillings and Sixpence Sterling; and if drawn by Four Horſes or Beaſts of Draught, the Sum of Two Shillings Sterling; and if drawn by Three Horſes or Beaſts of Draught, the Sum of Nine Pence Sterling; and if drawn by Two Horſes or Beaſts of Draught, the Sum of Sixpence Sterling; and if drawn by One Horſe or Beaſt of Draught, the Sum of Three Pence Sterling.

For every Horſe, Mare, Gelding, Mule, or Aſs, with or without a Rider, loaded or not loaded, and not drawing, the Sum of Three Pence Sterling.

For every Drove of Oxen or Neat Cattle the Sum of Two Shillings and Sixpence Sterling *per* Score, and ſo in proportion for any greater or leſſer Number.

For every Drove of Calves, Hogs, Sheep, Lambs, or Goats, the Sum of Six-

Sixpence Sterling *per* Score, and ſo in proportion for a greater or leſſer Number.

And the ſaid Truſtees ſhall cauſe a Table of the Tolls to be printed and affixed upon or near each Turnpike Gate or Toll Houſe for the Information of all concerned.

Six Statute Miles between each Gate.

VII. Provided always, and be it enacted, That there ſhall be the Diſtance of Six Statute Miles between every Two Gates erected on the ſame Line or Branch of Road, or if the ſaid Truſtees find it neceſſary or expedient to erect Gates within a leſs Diſtance from each other, then every Perſon paying at one Gate ſhall receive a Ticket which ſhall entitle ſuch Perſon to paſs the next Gate with the ſame Carriage or Cattle without paying, if ſuch Gate be within Six Statute Miles of the Gate at which Payment was made: and every Perſon paying Toll ſhall accordingly receive a Ticket for the Day, on Production of which he ſhall be entitled to paſs and repaſs the Gate at which he receives it.

Exceptions in certain Caſes.

VIII. Provided nevertheleſs, and be it enacted, That if in the Execution of this Act it ſhall be found expedient, in conſequence of an intended Alteration of the preſent Line of the Grear Road from *Edinburgh* to *Carliſle* through the Counties of *Edinburgh*, *Selkirk*, and *Roxburgh*, to remove the Turnpike Gate from the Place where it ſtands at preſent at *Corſlee*, to a Place at or near *Whitebanklee*, it ſhall be lawful to levy Toll thereat, notwithſtanding that ſuch Turnpike Gate may be within Six Miles of another Gate, on the ſame Line of Road; and in like Manner to levy Toll at a Bar to be erected at or near *Whitebanklee*, upon the Line of Road by *Torwoodlee*, though the ſame be within Six Miles of another Bar: And provided likewiſe, that in the Event of Bridges being erected by the ſaid Truſtees out of or by means of the Money raiſed by virtue of this Act, over the River *Tweed* at *Fairnilee*, or over the River *Ettrick* at *Selkirk*, upon the direct Road from *Edinburgh* to *Selkirk*, in caſe of the preſent Bridges at theſe Places, or either of them, being demoliſhed, or becoming ruinous or unſafe for Travellers, then it ſhall and may be lawful to erect a Turnpike Gate at or near any and each Bridge ſo to be built, and to levy thereat the full Rates or Duties before ſpecified, notwithſtanding that there may be another Turnpike Gate within the Diſtance of Six Miles upon the Road leading to and from ſuch Bridge: and in caſe of the Erection of the ſaid Bridges, or of a Bridge over the Water or River of *Gala*, at or near *Corſlee*, the Powers of this Act ſhall extend to the Acceſſes to and from the ſaid Bridge, as making Part of the Roads by this Act intended to be made and repaired.

Power to leſſen the Tolls,

IX. And be it enacted, That the ſaid Truſtees ſhall be, and they hereby are empowered, at any General Meeting held after due Notice given by Advertiſement inſerted in the Newſpapers of greateſt Circulation, publiſhed at *Edinburgh* at leaſt Three Weeks before, to order the ſaid Rates or Duties, or any of them, to be leſſened as the State of the Roads or Circumſtances of the Funds may permit, and again to raiſe the ſaid Tolls or Duties when the Truſtees ſhall ſee Cauſe, to any Sum or Sums not exceeding the Rates authorized by this Act; but in caſe of Money borrowed upon the Credit of the Tolls being owing, no Diminution of the

Rates shall take place without the Consent of Four Fifths in Value of the Creditors on the said Roads.

Trustees not to hold any Place of Profit.

X. And be it enacted, That if any of the said Trustees shall accept or hold any Place of Profit under this Act, he shall be incapable of acting as a Trustee, during his Enjoyment of such Place of Profit; and no Victualler or Retailer of Beer, Ale, or Spirituous Liquors, shall be capable of holding or enjoying any Office of Trust or Profit under this Act, but that this Disqualification shall not extend to the Person or Persons to whom the Toll Bars shall or may be let.

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

XI. And be it further enacted, That the said Trustees, or any Three or more of them, shall hold their First stated or General Meeting by virtue of this Act at *Selkirk*, as soon after the passing of this Act as conveniently may be, with Power to the said Trustees, or Majority of those present at any of the General Meetings, to adjourn to such other Time and Place as they shall think convenient, the Trustees at all their Meetings defraying their own Charges, with Power also to name a Committee, of their Number, being Heritors of the respective Parishes through which the Roads pass, or Creditors on the said Roads, to the Extent of One Hundred Pounds Sterling, each Heritor not present having Power to act by his Agent or Factor, specially authorised by a Writing under his Hand for that Purpose, to have the more immediate Care and Management of particular Parts of the said Roads, and to give their Committees (whereof Three to be a Quorum,) such Instructions and Powers as they shall think fit and expedient, not being inconsistent with the Powers by this Act given; 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 Person 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 Depute or Substitute of the said County of *Selkirk*, 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 by him as aforesaid, which Composition the said Trustees, are hereby authorised 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 than Six Calendar Months.

Trustees to appoint Clerks, &c.

who shall find Security.

On Default, to be committed till Account rendered.

Quorum of Trustees.

XII. And be it further enacted, That the Quorum of the Trustees necessary to do Business in General Meetings, shall be Three, but if only One or any Number less than Three 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 some Newspaper published at *Edinburgh*, the First of such Advertisements being at least Fourteen Days before the Day

of

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 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 such Newspapers as aforesaid, and at all their Meetings, the Trustees present shall defray their own Expences.

Trustees to keep Books.

XIII. 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 or Books, to be kept by the Clerk or Clerks appointed by the said Trustees, whose Business it shall be to enter and record regularly all their Proceedings and Accounts, and for that Purpose to call for and oblige the Receivers, Tacks-men, 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 Accounts and Proceedings shall be open to the Inspection of every Heritor in the County of *Selkirk*, and to the Creditors on the Tolls on the said Roads, 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 the same, 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 said County of *Selkirk*, by a summary Process before the Sheriff Depute 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 Sheriffs 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, 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.

XIV. 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

virtue of this Act, shall abate by the Death or Removal of any such Clerk or Treasurer, but that the Clerk or Treasurer 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.

Power to compound for Tolls.

XV. 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, with any Person or Persons travelling, or in use to travel or use the said Roads, the Composition Money 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 interested, at all reasonable Times, without Fee or Reward.

Tolls vested in the Trustees.

XVI. 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 of this Act; nor shall any Part thereof be expended without their Orders, or the Orders of their Committees, or other Persons authorised by General Meetings.

Turnpikes, Toll Houses, &c. vested in Trustees.

XVII. And be it further enacted, That the Right and Property of all and every the said Turnpikes, Toll-Houses, and Bridges on the said Roads already erected, or to be erected, by virtue of this Act; and the 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 authorised to dispose of the same as they shall think proper, for the Purpose of this Act only.

Penalty on breaking down Gates, &c.

XVIII. 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, Bridges, 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 legally 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 Sheriff Depute or Substitute, or any Two or more Justices of the Peace of the County of *Selkirk*, shall be condemned to pay any Sum not exceeding Ten Pounds Sterling, 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 Twenty Pounds Sterling, and be imprisoned for any Time not exceeding Six Calendar Months.

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

XIX. 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

ſuch a Sum as to them ſhall appear reaſonable, not exceeding Five Pounds Sterling for each Offence.

Truſtees may purchaſe Lands, and erect Toll Houſes.

XX. And be it further enacted, That the ſaid Truſtees ſhall be, and they are hereby empowered to purchaſe ſuch Pieces of Ground as they ſhall judge moſt convenient, not exceeding One-fourth of an Acre for each Toll-Houſe, Stable, and Garden.

Truſtees may erect Side Gates.

XXI. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees to continue or cauſe to be erected One or more Gate or Gates, on the Side or Sides of the ſaid Roads, 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 of the ſaid Roads, if within Six Miles on the ſame Day, to be computed from Twelve of the Clock at Night to Twelve of the Clock of the ſucceeding Night.

Penalty on refuſing or neglecting to pay the Toll Duties, which may be levied by Diſtreſs and Sale of the Goods of the Perſon refuſing.

XXII. And be it further enacted, That the Truſtees, or the Perſons authorized by them, ſhall have a Right to demand and take the Rate of Toll or Duty fixed for the Time by the Truſtees agreeably to this Act for every Carriage, Horſe, or other Cattle ſubject to the Payment thereof, before ſuch Carriage, Horſe or Cattle be permitted to paſs any of the Turnpike Gates erected under this Act; and if after Demand made, any Perſon or Perſons ſhall refuſe or neglect to pay the ſame for any Carriage, Horſe, or other Cattle belonging to them, or in their Cuſtody, ſuch Perſon or Perſons, beſides the Toll or Duty, ſhall be ſubject to a Penalty not exceeding Twenty Shillings Sterling; and it ſhall be lawful for the Keeper of the Turnpike Gate to ſeize and detain the Carriage, Horſes or other Cattle, with their Loading, for which the Toll ought to be paid, in Security thereof, and of the Penalty aforeſaid; as alſo to apprehend the Perſon or Perſons ſo refuſing or neglecting, and to carry him or them before any of His Majeſty's Juſtices of the Peace, or before the Sheriff Depute, or Sheriff Subſtitute of the County of *Selkirk*, or of any other County in which the Offender can be firſt apprehended, and upon Proof of ſuch Neglect or Refuſal, by Confeſſion of the Offender upon Oath, by the Teſtimony of One or more credible Witneſs or Witneſſes, or other legal Evidence, the ſaid Juſtice or Juſtices, Sheriff Depute or Subſtitute, ſhall be empowered and required to grant Warrant for levying the ſaid Toll or Duty, and Penalty, with the neceſſary Charges for recovering the ſame, by Diſtreſs and Sale of the Carriages, Horſes, or other Cattle for which the Toll-duty was refuſed or neglected to be paid, or of the Goods with which they were loaded, or of any other Goods or Chattels which belong to the Perſon or Perſons ſo neglecting or refuſing, returning the Overplus (if any be) to the Owner on Demand, after Deduction of ſuch Toll, and all the Charges of diſtraining, keeping, appraiſing, and ſelling the ſame; and if the ſaid Toll or Duty, Penalty and Charges, cannot be made effectual by ſuch Diſtreſs and Sale, the ſaid Juſtice or Juſtices, Sheriff Depute or Subſtitute, ſhall commit the Perſon of the Offender to Gaol for any Space not exceeding Two Calendar Months, unleſs the Toll or Duty, Penalty and Charges awarded, be ſooner paid.

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

XXIII. And be it further enacted, That if any Perſon occupying any Lands or other Premiſes near the ſaid Roads ſhall aſſiſt or be acceſſary in permitting any Perſon to paſs through any private 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, in order to evade the Payment of the Toll, 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 ſaid County of *Selkirk*, or of any of the adjoining Counties, ſhall for every ſuch Offence forfeit and pay to the ſaid Truſtees, or their Collector or Collectors, a Sum not exceeding Five Pounds Sterling.

Penalty on taking off Horſes, &c.

XXIV. 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 or to be erected by virtue of this Act, with an Intention to evade the Payment of any of the Tolls hereby impoſed, or any Part thereof, 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 Collectors for the Time being, any Sum not exceeding Twenty Shillings Sterling.

Tolls to be paid only once in 24 Hours.

XXV. And be it further enacted, That no Perſon or Perſons, having paid the Tolls herein before granted, at any of the ſaid Gates or Turnpikes, returning the ſame Day, reckoning from Twelve of the Clock at Midnight, to the ſame Hour on the Day following, ſhall be liable again to pay 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.

XXVI. And be it enacted, That if any Perſon or Perſons having paid the Tolls 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 ſaid County of *Selkirk*, ſhall for every ſuch Offence forfeit and pay any Sum not exceeding Twenty Shillings Sterling, to the ſaid Truſtees, or their Collector or Collectors.

Exemptions from Toll.

XXVII. Provided always, and be it further enacted and declared, That no Toll whatſoever ſhall be demanded, or taken for any Carriage, Horſes, or Cattle, loaded with any Materials for making or repairing Highways, or building,

building, or repairing Bridges, Toll Houſes, or Toll Gates within the ſaid County of *Selkirk*, nor for Carriages, or Horſes, loaded with Dung for manuring Lands within the ſaid County, or going for the ſame with empty Carriages nor for any Horſes or Cattle going to Water, or Paſture, in or upon the Farm or Farms in which any Turnpike Gate or Gates may ſtand, nor from any Perſon or Perſons going to, or returning from Church, Chapel, or other Place of Religious Worſhip, tolerated by Law, and ſituated within the Pariſh where ſuch Perſons reſide, upon a *Sunday*, or other Day on which Divine Worſhip is ordered by Authority to be celebrated, nor from Perſons attending the Funeral of any Perſon, who ſhall be buried in any of the Pariſhes, lying in whole, or in part within the ſaid County, nor for any Hearſe or other Machine conveying the Body of ſuch Perſon, nor from any Clergyman, going to, or returning from his Miniſterial or Parochial Duty, within the Pariſh of which he is Miniſter; nor for any Horſe or Carriage going to, or from any Smith's Shop, to be ſhoed or repaired, paſſing through any Gate within One Statute Mile of ſuch Shop, nor for Carts or Carriages, carrying any Corn, Hay, Straw, Manure, or Implements of Huſbandry, nor for any Horſe or Carriages of whatever 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 conveying, 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; nor for any Horſes, Cattle, or Carriages employed in carrying or conveying the Arms or Baggage of any ſuch Officers or Soldiers, or Seamen, or in carrying any ſick, wounded, or diſabled Officers or Soldiers, or in returning from carrying and conveying the ſame; nor for any Horſe, Mare, or Gelding, furniſhed by or for any Perſon 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 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.

Truſtees may let the Tolls.

XXVIII. 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 public 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.

XXIX. And be it further enacted, That it ſhall be lawful for the ſaid Truſtees over and above the Money already due and owing on the Credit of

the Tolls, 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 already erected, or to be erected, by virtue of this Act to be laid out in making and repairing the said Roads, and the Bridges, thereupon, erecting Toll-Houses, and defraying the other Expences of carrying this Act into Execution, provided that the whole Amount of the Money so borrowed shall not exceed Three Thousand Pounds Sterling, declaring that the Money so borrowed shall be and continue a Lien upon the Tolls granted by this Act; 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, at a Rate not exceeding Five Pounds *per Centum per Annum*; and the Assignments of the Tolls, for the 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 anyway interested as a Land Owner in the said County of *Selkirk*, or as a Creditor as aforesaid, without Fee or Reward; and the Securities to be granted by the said Trustees for the Purposes aforesaid, shall be transferrable by Indorsement, duly subscribed by the Party transferring, in the Presence of One or more subscribing Witness or Witnesses.

Assignments to be entered in a Book.

Trustees not personally liable.

XXX. And be it enacted and declared, That the said Trustees shall not be held, or adjudged to have rendered themselves personally liable for the Re-payment 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 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, independant of his Office as a Trustee under this Act.

Application of Tolls.

XXXI. And be it further enacted, That the Produce of the Tolls arising at the Turnpikes, or Toll-Bars, erected or to be erected on the said Roads, shall be applied towards the making, repairing, and upholding the said Roads and Bridges thereupon, and paying the Interest of the Money borrowed, subscribed, advanced, or owing at the Time; and the Surplus shall be appropriated annually to extinguish the Principal of the said Debt, and to no other Purpose, except for paying the Expences of procuring and passing this Act.

To make Drains, widen the Roads, &c.

XXXII. And be it enacted, That it shall be lawful to and for the said Trustees, and the Surveyor or Surveyors, or other Persons acting under the Authority of the said Trustees, to make, or cause to be made, Causeways, and to cut and make Drains through the Grounds lying contiguous to the said Roads; and where it shall appear necessary or expedient, to alter the Line and Direction of any of the said Roads, and to widen the same to such Breadth as they think proper, not exceeding Forty Feet at any Place, exclusive of the Foot-ways; and to cause Houses or other Buildings encroaching on the Roads to be widened as aforesaid, the Side Walls of which Buildings do not exceed Twenty Feet in Height, to be demolished, and all Obstructions occasioned by

by Fore-Stairs, or projecting Buildings, in any Town, Village, or Place, through which any of the said Roads do or may pass, to be removed.

Compensation to be made for Ground taken, or Hereditaments damaged.

XXXIII. Provided always, That full Compensation shall be made to the Owners and Occupiers of all Lands, Grounds, and Tenements, taken for the Use of the Roads, and for all Damage done to the same, and for that Purpose the Trustees shall, before entering on any such Ground or Tenements, or injuring the same, give One Month's Notice, at the least, to the Owners and Occupiers thereof, and make an Offer to them of what the Trustees consider to be the Value, or a just Compensation, unless such Owners or Occupiers renounce all Claim to Damages or Compensation, which the Owners and Occupiers in Possession at the Time, of Estates under Entail or Incumbrance shall be at liberty to do, in case the same does not exceed the Value of Twenty Pounds Sterling, but not otherwise; and 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 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.

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

XXXIV. And be it further enacted, That in taking the necessary Ground for making, altering, or widening the said Roads, or for any Toll-House, Garden, or Stable, as before mentioned, or in taking down any House or Houses, or Part or Parts of any House or Houses, under the Authority of this Act, if the said 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 Ground taken for such Toll-Houses, Garden and Stable, or 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 of *Selkirk*, 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 as aforesaid, and the Loss or Damage ensuing from the altering or removing Fences; and the said Sheriff Depute, or his Substitute, are hereby empowered and required, upon Application, to order Notice thereof to be given to the Owner or Owners, 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 Proprietors of such Lands, Fences, Houses, or Parts of Houses; and in making up their Verdict, to be pronounced as herein directed, and in estimating the Sums to be paid to the Proprietors, Tenants, or Occupiers of 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, of 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 therefore 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; and after a Verdict is pronounced, as aforeſaid, the ſaid Sheriff Depute, or his Subſtitute, are 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 public Banks of *Scotland*, the ſaid reſpective Truſtees ſhall from thenceforth have right 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, Occupier or Occupiers of the Grounds, 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 removeable by Bills or Letters of Advocation or Suſpenſion, to or by any Court whatever, any Law or Uſage to the contrary notwithſtanding.

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

Expences of the Proceedings, how to be paid.

XXXV. Provided always, and be it enacted, 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 the Proceedings 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 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 Proprietors, Occupier or Occupiers of any Lands 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 Operation of the ſaid Truſtees, on Pretence of ſettling the Damage, or that they have not been ſatisfied and paid.

Any Warrant for ſtopping the Work to

XXXVI. 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

the Purpoſes aforeſaid, to be carried on under the Authority of this Act, the ſaid Judge is hereby directed and empowered to recal 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 mentioned. be recalled on Caution found.

XXXVII. And be it further enacted, That if any Money ſhall be agreed or awarded to be paid for any Lands, Tenements, or Heritages, 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 Liferents, Annuities, or other Incumbrances, or ſhall belong to any Corporation, Married Woman, Infant, Lunatic, or Perſon or Perſons under Diſability or Incapacity, ſuch Money ſhall, in caſe the ſame ſhall amount to the Sum of Two Hundred Pounds, 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 Heritages, in the Purchaſe or Redemption of the Land Tax, or Diſcharge of any Debt, or Debts, or ſuch other Incumbrance, or Parts thereof, as the ſaid Court ſhall authorize to be paid, affecting the ſame Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages ſtanding ſettled therewith to the ſame or 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 Heritages, which ſhall be conveyed and ſettled to, for, and upon ſuch and the like Uſes, Truſts, Intents, and Purpoſes, and in the ſame Manner as the Lands, Tenements, and Heritages 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 Heritages ſo hereby directed to be purchaſed, in caſe ſuch Purchaſe or Settlement were made. Reinveſting purchaſe Monies if amounting to £200.

XXXVIII. Provided always, and be it further enacted, That if any Money ſo agreed or awarded to be paid for any Lands, Tenements, or Heritages purchaſed, taken, or uſed for the Purpoſes aforeſaid, and belonging to any Corporation, or to any Perſons under Diſability or Incapacity as aforeſaid, ſhall be leſs than the Sum of Two Hundred Pounds, and ſhall exceed the Sum of Twenty Pounds, then and in all ſuch Caſes the ſame ſhall, at the Option of the Perſon or Perſons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Heritages ſo purchaſed, taken, or uſed, or of his, her, or their Tutors or Curators, in caſe of Infancy or Lunacy, to be ſignified in Writing under their If leſs than £200 and exceeding £20.

their reſpective Hands, under the like Direction and Approbation, be paid into either of the ſaid Banks, and be placed to his or their Account 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 Two or more of the ſaid Truſtees, (ſuch Nomination and Approbation to be ſignified 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 any Manner hereinbefore directed, as far as the Caſe be applicable.

Under £20.

XXXIX. Provided alſo, and be it further enacted, That where ſuch Money, ſo agreed or awarded to be paid, as next beforementioned, ſhall be leſs than Twenty Pounds, 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 Lands, Tenements, or Heritages ſo purchaſed, taken, or uſed for the Purpoſes of this Act, in ſuch Manner as the ſaid Truſtees, or any Two 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 Title.

XL. And be it further enacted, That in caſe the Perſon or Perſons to whom any Sum or Sums of Money ſhall be awarded for the Purchaſe of Lands, Tenements, or Heritages, 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 Heritages, 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 Two 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 Lands, Tenements, or Heritages, (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 and 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 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 Banks as aforeſaid.

XLI. And

Where Questions arise touching the Title.

XLI. 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 pursuance of this Act, for the Purchase of any Lands, Tenements, or Heritages, or of any Estate, Right, or Interest, in any Lands, Tenements, or Heritages, to be purchased in pursuance thereof, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Heritages, 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 Heritages, 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 Heritages, or to some Estate or Interest therein.

Expences in case of Disability.

XLII. 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 Heritages, 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 Heritages, 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.

XLIII. And be it further enacted, That whenever the Course of the said Roads shall be altered, as soon as any new Road shall be completed and made passable for Carriages, in case the old Roads shall thereby become useless, and may be shut up without Inconvenience, the said 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 Roads, 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 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.

Ground taken not to diminish valued Rent.

XLIV. 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

the valued Rent of the Lands from which such Grounds shall be so taken.

Trustees may take Materials, &c.

XLV. And be it further enacted, That the said Trustees, or such Person or Persons as they shall appoint, may dig, gather, quarry, take and carry away any 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, or repairing the same as aforesaid, out of any Grounds where the same may be found within the said County of *Selkirk*, or any other County adjoining the Road, (such Materials or Stone not having been dug, quarried, or raised for the private Use of the Proprietor of such Grounds,) and to open Accesses for carrying off the said Materials and Stones; such Accesses, and the Places from whence the said Materials and Stones 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 Weeks 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 or Stones shall be taken, or over which the same may be carried, for the Damages to be done thereby, and for the Value of such Materials or Stones; but if such Proprietor, Factor, or Occupier shall not be satisfied with the Compensation offered by the said Trustees, the same shall be ascertained in the Manner hereinbefore directed, by a Jury to be impanelled by the Sheriff Depute or Substitute of the County of *Selkirk*, or by the Sheriff of the County from which such Materials may be taken, whose Proceedings shall be final; but such Application shall not prevent the said Trustees from causing the said Materials to be carried off and used in the mean Time.

On paying Damages.

Notice to be given before Materials taken.

XLVI. 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, quarry, 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 due 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 County within which the Materials are, 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, gather, quarry, 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 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.

XLVII. Provided

XLVII. Provided always, That in altering, widening, or making any of the ſaid Roads, or digging or taking Materials as aforeſaid, no Houſe or Building ſhall be prejudiced of which the Side Walls are above Twenty Feet high, from the Surface of the adjoining Ground, nor any Garden, Orchard, or planted Walks, or Avenue, Lawn, Pleaſure Ground, appertaining to ſuch Houſe, Plantation or Nurſery of Trees, without the Conſent of the Owner thereof: Provided always, that where incloſed Grounds ſhall be broken into for the Purpoſes aforeſaid the Value of the ſame ſhall be aſcertained in Manner as herein before directed

No Houſe or Orchard, &c. to be prejudiced.

XLVIII. 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 ſuch 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 Direction of any of the Truſtees, may and are hereby required to order the ſaid Ditches to be opened, ſcoured, and cleanſed, at the Coſts of the ſaid Proprietors or Occupiers; ſuch Coſts to be recovered by Diſtreſs and Sale of any moveable Effects in the ſame Manner as hereinbefore directed for levying any of the Penalties hereby impoſed; 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, in an open or covered Drain of ſuch Form and Dimenſions as the ſaid Truſtees, in General, or Committee, or Diſtrict Meetings, 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 Direction 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 Perſon 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 Treble the Amount of ſuch Coſts, Charges, and Expences; the ſaid Coſts and Penalty to be levied, by Diſtreſs and Sale, in manner hereinbefore directed, and to be applied for the Purpoſes of this Act.

Proprietors or Occupiers to cleanſe Ditches.

Occupiers to make Drains, &c.

XLIX. 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, ſhall obſtruct or fill up any of them, the Perſon or Perſons ſo offending ſhall forfeit and pay Treble the Expence of repairing and ſcouring the ſame, to be recovered in Manner herein after mentioned, and the ſaid Occupier ſhall be deemed the Aggreſſor, unleſs it ſhall appear to the Juſtice or Juſtices of the Peace, or Sheriff Depute, or Sheriff Subſtitute, before whom ſuch Occupier ſhall appear in order to his or their Conviction, that he was not in Fault; and where any Paſſage for Cattle or Carriages, acroſs any Road, for the Convenience of the Occupier 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

Ditches, &c. made by Truſtees, to be ſcoured at their Expence.

Penalty on filling up Ditches.

by 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.

No Driver to drive Carriages, &c. abreast.

L. 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, for each Offence.

To drive to the left Hand, or near Side.

LI. And be it enacted, That the Driver of every Waggon, Wain, Cart, Chaise, or other Carriage, Horse, Ass, Mule, or other Beast of Burden, upon the said Roads, 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 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, for every such Offence.

Notices of new Inclosures to be given to Trustees.

LII. And be it further enacted, That where the Lands adjacent to any of the said Roads, or any Part or Parts thereof, are not inclosed, the Proprietor or Occupier of such Lands shall not make Inclosures 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 Charge of that Part of the Road adjacent to which 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 Foot Paths thereon.

Trustees to make Foot-Paths.

LIII. And be it further enacted, That the said Trustees may cause Foot Paths, to the Breadth of Five Feet, to be made along the Sides of the said Roads; 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 and pay a Sum not exceeding Five Shillings Sterling, to be levied in Manner hereinafter directed.

LIV. And

Poſſeſſors to lop Trees or Hedges.

LIV. And be it further enacted, That where the Ground on the Side of any of the ſaid Roads is incloſed or planted, the Proprietors 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 neglect or refuſe to do ſo for Six Months after being required by an Order of 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.

LV. 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 moſt proper; and if any Perſon ſhall break down, deſtroy, or deface any ſuch Mile Stones, Guide Poſts, or Railings, or ſhall break down any Cape Stones, or the Ledges or Parapet Walls on 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 or Subſtitute, or before Two or more Juſtices of the Peace of the ſaid County of *Selkirk*, 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; and for every Second and ſubſequent Offence, ſhall, beſides paying the Damages and Expences, pay a Penalty not exceeding Ten Pounds Sterling, and in caſe the ſaid Penalty, Damages, and Expences, ſo adjudged, ſhall not inſtantly be paid, or good and 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.

Penalty on defacing them.

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

LVI. 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 inward 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, Soil, Compoſt, or Matter whatſoever, either for manuring Land, or for any other Purpoſe, nor leave any Cart or Carriage, or the Load thereof, longer than may be neceſſary for

For preventing Annoyances.

In making Drains acroſs the Roads, One Half to be left clear of Obſtructions.

for the loading or unloading the ſame, or other Obſtruction whatſoever, 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 open 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 and others employed in making or repairing the ſaid Roads; and every Perſon offending 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 of the ſaid Roads, ſhall be expreſsly prohibited from digging

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

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 ſaid Road, and any Pit which it may be neceſſary to dig for the Purpoſes above mentioned, and that under a Penalty not exceeding Five Pounds Sterling.

Articles to be drawn on a Wheel Carriage.

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

Buildings to be pulled down.

LVIII. 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, or at or near the Outlets of any Burgh or Town, within the ſaid County of *Selkirk*, where Houſes have not formerly ſtood, ſhall be built ſo as to encroach upon the Roads or Foot-paths, without the Conſent of the Truſtees firſt obtained, under a Penalty not exceeding Forty Pounds 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, and if any ſuch Building ſhall be erected hereafter, 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 encroaches on the Road, or Foot-path, may order ſuch Building to be taken down and removed, at the Expence of the Erector, or of the Proprietor of the Ground,

and

and may grant a Warrant for levying and recovering the Penalty and Expences in Manner hereinafter directed.

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

LIX. 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 or Substitute of the said County of *Selkirk*, 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 Party or Parties offending, by Warrant under the Hand of such Justices or Sheriffs (which Warrant they, or any of them, are hereby authorised and required to grant and to administer 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 the 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 Substitute; 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.

Persons aggrieved may appeal to the Quarter Sessions.

LX. 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 Calendar Months after the Matter complained of shall be done, but not afterwards, appeal to the Justices of the Peace, at the next Quarter Sessions of the said County of *Selkirk*, 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 Matter in dispute, and their Judgments therein shall be final, without being subject to Review, by Advocation, Suspension, or otherwise howsoever.

Trustees may act as Justices or Jurymen.

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

Limitation of Actions.

LXII. 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 Penalty

or

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

Compelling Payment of Subſcription Money.

LXIII. 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 Roads by this Act intended to be made and repaired, ſhall, after Forty Days' Notice given by any Perſon or Perſons authoriſed by the ſaid Truſtees to receive and recover the Subſcription Money, neglect or refuſe to pay the Sum by him, her, or them ſubſcribed, to the Perſon or Perſons ſo authoriſed, it ſhall be lawful to ſuch Perſon or Perſons, and he and 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.

Expences of this Act, how to be paid.

LXIV. And be it enacted, That the whole Expence of advertiſing for, preparing, procuring, and paſſing this Act, and all other Expences attending the ſame, to be aſcertained at the Firſt, Second, or Third General Meeting of the ſaid reſpective Truſtees, ſhall be paid out of the Monies collected, borrowed, or recovered by the ſaid Truſtees by virtue of this Act.

Public Act.

LXV. 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.

LXVI. And be it alſo enacted, That this Act ſhall commence from the paſſing thereof, and 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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