



ANNO QUADRAGESIMO SECUNDO

GEORGI II. REGIS.

Cap. 40.

An Act for making and maintaining a new Road, to extend from or near to a Place called *Beattock*, in the Parish of *Kirkpatrick Juxta*, in the County of *Dumfries*, by the Boroughs of *Lochmaben* and *Annan*, to the River of *Sark*, at or near to the present Bridge there. [30th April 1802.]

WHEREAS a Road from or near to *Elvanfoot*, in the County of *Lanerk*, to or near *Beattock*, in the Parish of *Kirkpatrick Juxta*, in the County of *Dumfries*, has already been made, in virtue of an Act of Parliament passed in the Thirty-eighth Year of the Reign of His present Majesty, intituled, *An Act for repairing and maintaining a Road from near Dinwoodie Green, in the County of Dumfries, to or near Elvanfoot, in the County of Lanerk, and a Continuation of the same Road from Beattock, by the Boroughs of Lochmaben and Annan, to the Water or River of Sark, at or near to the Bridge there, in the Parish of Gratney, and County of Dumfries*, would be of very great Importance, not only to the Proprietors and Inhabitants, and particularly to the Merchants and Manufacturers, of the Counties of *Lanerk* and *Dumfries*, in that Part of the United Kingdom called *Scotland*, but also to the Whole of the Proprietors, Inhabitants, Merchants, and Manufacturers of the several Counties of *Cumberland, Westmorland, Lancaster, and York*, and to Travellers

[*Loc. & Per.*]

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who

Trustees.

who have Occasion to pass from or to either of these Parts of the United Kingdom; but as the aforesaid Line of Road, and the necessary Bridges thereupon, cannot be effectually made, repaired, widened, and kept in Repair, without the Aid of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That every Person who is at present, or shall be at any Time after the Commencement of this Act, in his own Right or in Right of his Wife, in the actual Possession and Enjoyment, as Proprietor or Life-renter, of Lands lying in the County of *Dumfries*, valued in the Tax Roll of the said County at One hundred Pounds *Scots* of valued Rent, or in their Absence a Factor on their Estates in the said County for the Time being, and all and every the eldest Sons of such Proprietors or Life-renters; and also that the Magistrates, Dean, and Treasurer of the Burghs or Boroughs of *Annan* and *Lochmaben* for the Time being, *John M'Murdo* of *Hardriggs*, *John Moffat* Portioner of *Hightae*, *Matthew Rae* of *Park End*, *Francis Irving*, *William Irving*, *Robert Richardson*, all Merchants in *Lochmaben*, *John Lindsay* Writer there, *Thomas Brown* Surgeon there, *Francis Shortt* of *Courance*, *George Little* in *Annan*, *John Little* in *Newby*, *William Little* in *Broom*, *John Graham* in *Lochmaben*, *Thomas Rickards* Innkeeper in *Annan*, and the Provosts of the Burghs of *Dumfries* and *Sanquhar* for the Time being, shall be and they are hereby nominated Trustees for making, widening, repairing, and maintaining the aforesaid Road, commencing at or near *Beattock* aforesaid, and leading from thence by or near the Kirk of *Kirkpatrick Juxta*; from thence by or near *Johnston Cleugh*; from thence by a Bridge to be built across the River or Water of *Kinnell*, at or near to *Regheads*, in the Parish of *Lochmaben*; from thence by or through the Burgh of *Lochmaben*, by or near the Village of *Dalton*, till it falls into the present Turnpike Road from *Dumfries* to *Annan*, at or near to *Charlesfield Yett*, in the Parishes of *Cummertrees* or *Annan*; and from a Place called *Steel*, in the Parish of *Gratney*, or near the same, where it leaves the said Road from *Dumfries*, by *Annan*, to *Gratney*, to the said Water or River of *Sark*, at or near to the present Bridge there, in the Parish of *Gratney*, and County of *Dumfries*, and for putting in Execution all the other Powers and Authorities hereby given and granted respecting the said Road: Provided always, that if any Person, other than those nominated as aforesaid, shall presume to act as a Trustee, contrary to the Intent and Meaning of this Act, every Person so presuming to act shall, for every such Offence, forfeit and lose the Sum of Twenty Pounds Sterling, to be recovered and applied as herein-after directed.

Quorum
sufficient to
constitute a
General
Meeting.

II. And be it further enacted, That Five of the said Trustees shall be a Quorum, and that any Five or more of them, being duly assembled, shall be held to constitute a General Meeting.

Meetings of
Trustees.

III. And be it further enacted, That the said Trustees shall meet at *Lochmaben* on the First Monday of *June* One thousand eight hundred and two, or as soon after the said Day as conveniently may be, and yearly on the First Monday of *April* thereafter, alternately at the Burghs of *Annan* and *Lochmaben*, for the Purpose of putting this Act into Execution; and may at such Meetings, and from Time to Time afterwards, adjourn

adjourn themselves to such Times and Places as the said Trustees at such last Meeting shall think fit, without Prejudice to their meeting sooner if there shall be Occasion, upon Notice by the Clerk to the said Trustees; or by any Three of their Number, advertised in One *Dumfries* and One *Glasgow* Newspaper Fourteen Days at least before the Day of such Meeting; and at the Meetings under this Act the Trustees shall defray their own Expences.

IV. And be it further enacted, That the said Trustees, or any Five or more of them, at any of their Meetings held at the Time fixed and advertised as aforesaid, shall have Powers to issue Orders for surveying, making, widening, and repairing the said Road, and to fix the particular Line or Direction, or any Part of the same, and for erecting and maintaining Bridges on the said Road, and otherwise to proceed and act in the Execution of the Trusts and Powers hereby committed to them.

Trustees to order the Road to be made, and Bridges built.

V. And be it further enacted and provided, That no Determination of the said Trustees in a General Meeting assembled, with respect to the making of the said Road, or of or concerning any Matter or Thing relative to the Execution of this Act, shall be annulled, varied, or altered, by any subsequent General Meeting, unless such subsequent General Meeting shall be called at the Desire, and the Summons for calling the same shall be verified by the Subscriptions of not less than Five in Number of the said Trustees, and unless such Summons shall contain a Specification of such former Resolution of the Trustees therein proposed to be brought under Review.

Determination of a former Meeting not to be altered but on previous Notice.

VI. And be it further enacted, That the said Trustees, or any Five or more of them, at a General Meeting assembled, shall and may erect, or cause to be erected, a Gate or Gates, Turnpike or Turnpikes, in or across any Part or Parts of the said Line of Road (except that Part from *Charlesfield Yett* to *Steel* as aforesaid), or of any Lanes or Roads which shall branch off from the same, and also such Number of Toll Houses in and upon the Sides of the said Road; and may cause to be demanded and taken at each and every of the said Gates or Turnpikes, a Sum not exceeding the Rates and Duties herein-after specified, before any Coach, Chariot, Berlin, Landau, Calash, Chaise, Waggon, Cart, or other Carriage whatsoever, shall be permitted to pass through the same; (*videlicet*),

Power to erect Turnpikes and Toll Houses.

For every Coach, Chariot, Berlin, Landau, Calash, Chaise, Chair, or Hearse, or other such Carriage, drawn by Six or more Horses, Mares, Geldings, or Mules, the Sum of Four Shillings Sterling; and drawn by Four Horses, Mares, Geldings, or Mules, the Sum of Two Shillings and Eight-pence Sterling; and drawn by Three Horses, Mares, Geldings, or Mules, the Sum of Two Shillings Sterling; and drawn by Two Horses, Mares, Geldings, or Mules, the Sum of One Shilling Sterling; and drawn by One Horse, Mare, Gelding, or Mule, the Sum of Sixpence Sterling:

Tolls.

For every Waggon, Wain, Cart, or other Carriage, drawn by Six or more Horses, Oxen, or other Beasts of Draught, the Sum of Six Shillings and Eight-pence Sterling; and drawn by Five Horses, Oxen, or other Beasts of Draught, the Sum of Five Shillings Sterling; and drawn by Four Horses, Oxen, or other Beasts of Draught, the Sum of Three Shillings

Shillings and Sixpence Sterling; and drawn by Three Horses, Oxen, or other Beasts of Draught, the Sum of Two Shillings Sterling; and drawn by Two Horses, Oxen, or other Beasts of Draught, the Sum of Eight-pence Sterling; and drawn by One Horse, Ox, or other Beast of Draught, the Sum of Four-pence Sterling:

For every Horse, Mare, Gelding, Mule, or Ass, laden or unladen, and not drawing, the Sum of Two-pence Sterling:

For every Drove of Horses or Fillies unshod, One Shilling and Eight-pence Sterling *per* Score, and so in Proportion for any lesser Number:

For every Drove of Oxen and Neat Cattle, the Sum of One Shilling and Eight-pence Sterling *per* Score, and so in Proportion for any lesser Number:

For every Drove of Calves, Hogs, Sheep, Lambs, or Goats, the Sum of Ten-pence Sterling *per* Score, and so in Proportion for any lesser Number: Provided always, that every Carriage drawn on Wheels of the Breadth of Five Inches or more in the Tread or Fellies, and the hind Wheels rolling in a different Track from the fore Wheels, and not drawn by more than Eight Horses, or other Beasts of Draught, shall pass through all the Gates or Turnpikes to be erected by this Act, on Payment of One Half of the Tolls or Duties leviabie at the said Gates or Turnpikes.

Tolls not to be levied within Six Miles Distance from each other.

VII. And be it further enacted, That every Person or Persons having Occasion to pass through any Turnpike or Turnpikes to be erected upon or across the said Road, or upon or across any Way or Lane leading out of the same, where the aforesaid Tolls or Duties are or shall be taken, may and shall, on Demand, be furnished with a Note or Ticket, Notes or Tickets, signifying the Payment of such Toll or Duty, which Note or Ticket, Notes or Tickets, shall give Access to the said Person or Persons to pass through any other Turnpike or Turnpikes placed on the said Road, not exceeding the Distance of Six Miles from the Turnpike where the said Person or Persons got the Note or Ticket, Notes or Tickets as aforesaid.

Tolls to be levied only Once a Day.

VIII. Provided always, and be it further enacted, That no Person having paid the Tolls or Duties upon their passing through any Turnpike or Turnpikes to be erected upon or across the said Road, or across any Way or Lane leading out of the same, where the aforesaid Tolls or Duties are and shall be taken, on the same Day (to be computed from Twelve of the Clock at Night to Twelve of the Clock in the succeeding Night), upon Production of a Note or Ticket bearing the Payment of such Toll, which Note or Ticket shall be furnished on Demand when the Payment is made, be subject or liable to pay the Tolls or Duties again at the same Gate for the same Coach, Cart, or other Wheel Carriage, or with the same Horse, Ass, or other Beast or Cattle: Provided, that all established Stage Coaches, Flies, Diligences, or other such Carriages, passing any of the said Gates, and meeting other such Carriages, and exchanging Passengers, and returning the same Day with such new Passenger or Passengers, shall be subject to the Payment of the Tolls each Time of passing or returning through any of the Gates or Turnpikes.

Penalty on disposing of Tickets to

IX. And be it further enacted, That if any Collector of the said Tolls or Duties shall sell or fraudulently dispose of any Notes or Tickets to any Person

Person or Persons, or if any Person or Persons, having paid the Toll Duties by this Act imposed, and having a Note or Ticket, Notes or Tickets, specifying the Payment thereof, shall give or dispose of the same to any other Person or Persons in order to avoid Payment of the said Tolls and Duties, every such Collector or other Person giving or disposing thereof, and the Person receiving the same, being convicted thereof by voluntary Confession, or upon Oath by One or more credible Witness or Witnesses, before any One or more Justice or Justices of the Peace for the County of *Dumfries*, or where the Offenders shall reside, shall for every such Offence forfeit and pay a Sum not exceeding Twenty Shillings Sterling, to be levied and recovered as herein-after directed.

evade Payment of Tolls.

X. And be it further enacted, That if any Person or Persons owning, renting, or occupying any Lands or other Premises, shall knowingly and willingly permit and suffer any Person or Persons to pass over the same, or through any Gate, Passage, or Way, with any Coach, Cart, or other Carriage, or with any Horse, Ass, or other Cattle, or shall open any new Road whereby the Tolls or Duties by this Act imposed shall be avoided, every such Person or Persons so offending, and the Person or Persons driving such Coach, Cart, or other Carriage, Horse, Ass, or other Cattle, being convicted thereof by the Oath of One or more credible Witness or Witnesses, before any One or more of His Majesty's Justices of the Peace for the County of *Dumfries*, shall for every such Offence forfeit and pay to the said Trustees a Sum not exceeding Twenty Shillings Sterling.

Penalty on permitting private Passage.

XI. And be it further enacted, That if any Person or Persons shall unload or cause to be unladen any Sort of Goods or other Merchandize, at or before the same shall come to, or after having passed through any of the said Gates or Turnpikes, or shall take off or cause to be taken off any Horse or Horses, or other Beasts of Draught, from any Coach, Chaise, Chariot, Berlin, Landau, Calash, or Hearse, or any Horse or Horses, Ox or Oxen, or other Beasts of Draught, from any Waggon, Cart, or Carriage, at or before the same shall come to any of the Gates or Turnpikes erected by virtue of this Act, with an Intent to avoid paying any Tolls or Duties hereby imposed, or shall put or leave in any House or Place, any Waggon, Wain, Cart, or Carriage, Horse, Mare, Gelding, or other Cattle, chargeable with or liable to pay the said Tolls or Duties, with such Intent as aforesaid, each and every Person or Persons so offending in any of the Cases aforesaid, shall, on Conviction, forfeit and pay to the Trustees appointed to put this Act into Execution, or to their Collector for the Time being, a Sum not exceeding Twenty Shillings Sterling.

Penalty on taking off Horses, etc.

XII. Provided always, and be it further enacted and declared, That no Toll or Duty shall be demanded or taken at any of the Turnpikes to be erected by virtue of this Act, for or in respect of any Horses or Carriages which shall be employed in carrying Stones or other Materials for repairing the Roads and Bridges by this Act intended to be made, repaired, or built, or any of the Causeways within or belonging to the same; nor shall any of the Tolls or Duties aforesaid be demanded or taken from any Person or Persons for passing through any of the Gates or Turnpikes erected on the said Road, to or from his, her, or their Parish Church, or other Place of religious Worship, on *Sundays*, or any

Exemptions.

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other

other Days on which Divine Worship is ordered by Authority to be celebrated, or attending the Funeral of any Person who shall die and be buried within any of the said Parishes; nor for carrying through any of the said Turnpikes from One Part of a Farm to another Part of the same Farm, Dung or other Manure, Ploughs, Harrows, or other Implements of Husbandry, Carts, Wains, or other Carriages, laden with Hay, Corn, or Straw; nor for Horses, Geldings, or Cattle, going to or returning from Watering Places of the same Farm, or within a Mile of the Proprietor's House, or for Horses going to or returning from being shod; nor for any Horses 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 of Officers or Soldiers who are upon their March or on Duty, or for any Horses or other Beasts or Cattle employed in carrying or conveying the Arms or Baggage of any such Officers or Soldiers, or any sick, wounded, or disabled Officers or Soldiers, or the Carriages attending upon them; nor for Carts, Carriages, or Waggon travelling with Vagrants sent with legal Passes; or for the Horses of any Person or Persons going to or returning from any Election of a Member to serve in Parliament for the County of *Dumfries*, during the Time of such Election, or on the Day before or Day after such Election shall begin or be concluded; and if any Person shall claim or take the Benefit of any of the Exemptions aforesaid, not being legally entitled to the same, every such Person, for every such Offence, shall forfeit and pay a Sum not exceeding Twenty Shillings Sterling.

Tolls on Carriages carrying above a certain Weight.

XIII. And be it enacted, That the said Trustees, or any Five or more of them, assembled as aforesaid, shall and may, from and after the passing of this Act, levy or cause to be levied, demanded, or taken, at the several Turnpike or Turnpikes, Gate or Gates, to be erected on or across the said Road or Roads, or Lanes branching off from the same, before any Coach, Berlin, Landau, Calash, Chaise, Chair, or Hearse, Waggon, Wain, Cart, or other Wheel Carriage, drawn by One or more Horses, Mares, Geldings, Mules, or other Beasts of Draught, pass through the same, the Weight of which Carriage, with the Burden or Draught therein, shall amount to Twenty hundred Weight and upwards, and not exceeding Thirty hundred Weight, the Fellies of the Wheels of which shall not measure Five Inches in Breadth at least, Double the Tolls and Duties which the said Trustees are empowered to levy as aforesaid; and before any Coach, Chariot, Berlin, Landau, Calash, Chaise, or Hearse, Waggon, Wain, Cart, or Wheel Carriage, drawn by One or more Horses, Mares, Geldings, Mules, or other Beasts of Draught, pass through the same, the Weight of which Carriage, with the Burden or Draught therein, shall exceed Twenty five hundred Weight, the Fellies of the Wheels of which shall not measure Seven Inches in Breadth at least, Treble the Tolls and Duties which the said Trustees are empowered to levy as aforesaid.

Persons to permit their Carriages to be weighed.

XIV. And be it further enacted, That all Persons travelling the said Road with Carts or Carriages shall (when required by the said Trustees, or any Person to be appointed by them) allow the Fellies of the Wheels of their Carts and Carriages to be measured, and shall weigh their Carts and Carriages

riages at Steelyards, or other Engines for weighing, to be erected by the said Trustees, or any Five or more of them, which they are hereby empowered to erect on the said Road, or Sides of the same; and in case of Refusal, the said Trustees, or Persons to be appointed by them, are hereby empowered and required to levy for the said Carts or Carriages, Treble the Tolls and Duties which by this Act they are empowered as aforesaid to levy on Carts and other Carriages, before the Carts or other Carriages pass through the Turnpike or Turnpikes on the said Road; and it shall and may be lawful for the said Trustees, or any Five or more of them, at a General Meeting assembled, to nominate and appoint a proper Person or Persons to demand and take the Tolls and Duties hereby granted and made payable; and if any Person or Persons shall neglect or refuse to pay the same, it shall and may be lawful to and for any One or more Justice or Justices of the Peace for the County of *Dumfries*, or where the Person or Persons refusing or neglecting to pay the said Tolls reside, upon Application of the said Trustees, or Person to be appointed by them, to levy the said Tolls, or to fine the Person or Persons refusing in a Sum not exceeding Twenty Shillings Sterling, and to levy such Fine in Manner herein-after mentioned, for the Use and Purposes of this Act.

XV. And be it further enacted, That the said Trustees, or any Five or more of them, at a General Meeting assembled; shall and they are hereby authorized and empowered to agree by the Year or otherwise, with any Person or Persons living near any Turnpike or Turnpikes erected or to be erected by virtue of this Act, for any reasonable Sum or Sums of Money, to be paid Quarterly, and *per Advance*, from Time to Time, and in lieu of the Payment of the Tolls or Duties by this Act directed to be paid; and Copies of all such Compositions and Agreements to be made by the said Trustees shall be entered at Length in a Book or Books to be kept for that Purpose, which shall be open to the Perusal of any Person or Persons whatsoever, at all reasonable Times, without Fee or Reward.

Trustees to compound for Tolls.

XVI. Provided always, and be it further enacted, That in case any Composition Money agreed to be paid for passing through the said Turnpikes or Gates to be erected by virtue of this Act shall not be paid within Fourteen Days next after the same shall become due or payable, according to such Composition or Agreement, that then it shall and may be lawful for any Two or more of the Justices of the Peace for the said County of *Dumfries*, by Warrant under their Hands, to empower the Person authorized by the Trustees to receive such Composition, and Oath being first made that the same hath been demanded and remains unpaid, to levy such Composition on the Person or Persons so refusing or neglecting to pay the same in Manner herein mentioned.

For levying the Composition.

XVII. And be it further enacted, That the Monies to be levied and collected upon the said Road shall, and the same are hereby declared to be vested in the said Trustees, and the same and every Part thereof shall be paid, applied, and disposed of, and assigned to and for the several Uses and Purposes by this Act directed, and to no other Purpose whatsoever; the reasonable Charges expended, or that shall be paid in or about or by reason of passing this Act, being first deducted and paid; and it shall and may be lawful for the said Trustees, or any Five or more of them, or such Person or Persons as they, or any Five or more of them,

Application of Tolls, and Recovery thereof.

them, at a General Meeting assembled, shall from Time to Time nominate and appoint, to demand and take the respective Tolls or Duties hereinbefore granted and made payable; and if any Person or Persons shall neglect or refuse to pay the same, or any Part thereof, the said Trustees, or any Five or more of them, are hereby empowered by themselves, or such other Person or Persons as they, or any Five or more of them, shall authorize and appoint for that Purpose, to levy the said Tolls and Duties by Distress of any Horse or Horses, or other Cattle, upon which such Tolls or Duties are by this Act imposed, and to keep such Horse or Horses, or Cattle so distrained, until the said Tolls or Duties, with the reasonable Charges of such Distress and Sale, shall be paid; but in case the same shall not be paid within the Space of Three Days after such Distress shall be made and taken, it shall and may be lawful to and for the Person or Persons so distraining, after the said Space of Three Days, to appraise and sell the Goods so distrained by publick Roup, at the Turnpike or Toll House where the Toll ought to have been paid, returning the Overplus on Demand (if any be) to the Proprietors of such Horse or Horses, or Cattle so distrained, after deducting such Tolls or Duties, and the reasonable Charges of distraining, appraising, keeping, and selling the same.

For making
Foot Paths.

XVIII. And be it further enacted, That it shall be in the Power of any Five or more of the said Trustees, at a General Meeting assembled, to order Foot Paths to be made upon the Sides of the said Road, or any Part or Parts thereof; and where Foot Paths shall be so made along any Part of the said Road, no Person or Persons shall ride or drive, or cause or allow any Horse or Carriage to travel along the said Foot Paths, otherwise such Person or Persons offending, shall forfeit and pay the Sum of Five Shillings Sterling for each Offence, to be recovered and applied in Manner as directed with regard to the other Fines and Penalties by this Act imposed.

Trustees may
apply a Por-
tion of the
Tolls to the
Cross Roads.

XIX. And be it further enacted, That it shall and may be lawful to and in the Power of the said Trustees, or any Five or more of them, at General Meetings assembled, from Time to Time to direct such Parts of the respective Tolls and Duties by this Act granted, as they shall think proper, not exceeding One Fifth of the annual Produce thereof respectively in any One Year, to be laid out and applied for the repairing Roads within the said County of *Dumfries*, branching out of or leading into the aforesaid Road, although the Money borrowed on the Credit of the said Tolls and Duties shall not be repaid: Providing always, that no Money shall in any Case be allowed for such branching Roads, unless at a General Meeting called by Advertisement in One of the *Glasgow* Newspapers, and in One *Dumfries* Newspaper, Fourteen Days before the Day of Meeting, in which Advertisement it shall be stated, that a Proposal for granting such Allowance is to be laid before the Meeting.

Property of
Toll Houses
vested in
Trustees.

XX. And be it further enacted, That the Right and Property of all and every of the Gates or Turnpikes, and Toll Houses and Steelyards, or other Engines for weighing, which shall be erected and built upon or on the Sides of the said Road by virtue of this Act, shall be vested in the said Trustees, and they, or any Five or more of them, are hereby authorized and empowered from Time to Time to dispose thereof as they shall

shall think proper, or to bring Actions or prefer Bills of Indictment, in their Names, or in the Name or Names of their Clerk or Clerks, Treasurer or Treasurers, for the Time being, against any Person or Persons who shall maliciously break down, pull up, or otherwise destroy, injure, or damage any of the said Gates or Turnpikes, or any Posts, Rails, Chains, Bars, or other Works, or any of the Toll Houses or Bridges to be erected in pursuance of this Act.

XXI. Provided always, and be it further enacted, That the said Trustees, or any Five or more of them, at any of their General Meetings, may and they are hereby authorized and empowered from Time to Time to order and direct the Tolls or Duties hereby granted and made payable, to be collected, received, and taken in such Parts and Portions, under the Restrictions herein-before mentioned, and also to lessen and reduce the same from Time to Time as they shall think fit, and may also from Time to Time raise the said Tolls or Duties again, so as not to exceed the Tolls or Duties herein-before granted; but no such Reduction or Increase shall take Place, unless and until publick Notice be given by Advertisement of the Purpose of the Meeting in the Newspapers afore-said, at least Fourteen Days before such Meeting shall take Place, and until a Majority in Value of the Creditors or Mortgagees shall consent to the same.

Trustees may apportion the Tolls.

XXII. And be it further enacted, That it shall and may be lawful to and for the said Trustees, or any Five or more of them, at a General Meeting assembled, to choose and appoint a fit Person or Persons to be Clerk or Clerks, and Treasurer or Treasurers, Collector or Collectors, to the said Trustees, for receiving the Tolls or Duties granted and made payable by this Act, and also One or more fit Person or Persons to be Surveyor or Surveyors of the said Road, or such other Officers as they shall think proper, and from Time to Time to remove such Officers, or any of them, as they shall see Occasion, and appoint new ones in case of Death, Resignation, or Removal; and all and every Person or Persons, who are or shall be liable by this Act to pay the said Tolls or Duties, are hereby required to pay the same to the said Collector or Collectors, Receiver or Receivers, so from Time to Time to be appointed as afore-said, and after the Rates afore-said; and the Person or Persons to be appointed as afore-said for receiving the said Tolls or Duties, and also the Surveyor or Surveyors, shall on the First *Wednesday* in every Month, or at any other Time to be appointed by the said Trustees, or any Five or more of them, during the Continuance of this Act, give in a true, particular, exact, and perfect Account in Writing, under their respective Hands, with their respective Vouchers, of all the Monies which he or they, or any of them, have received, paid, and disbursed, by Reason of their respective Offices, and verify the same upon Oath, if required; and in case any Overplus so received shall remain in their or any of their Hands, they shall pay the same to the said Trustees, or to such Person or Persons as they, or any Five or more of them as afore-said, at a General Meeting assembled, shall authorize and appoint to receive the same, to be disbursed and laid out in carrying into Execution the several Powers of this Act, and not otherwise; and the said Trustees, or any Five or more of them, at a General Meeting assembled, shall and may, and they are hereby authorized and empowered, out of the Money arising by the said

For appointing Officers.

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Tolls

Tolls or Duties vested in them, to make such Allowances to the several Officers so by them appointed, for and in Consideration of their Care and Pains taken in the Execution of their respective Offices, and to such other Person or Persons who shall have been or may be assisting in making or repairing the said Road as aforesaid, and Bridges upon the same, by advancing or laying out any Monies, or otherwise relating thereto, as the said Trustees, or any Five or more of them, at a General Meeting assembled, shall think fit; and in case the said Collector or Collectors, Receiver or Receivers, Treasurer or Treasurers, or any other Person or Persons concerned in the Collection or the Receipt of the aforesaid Tolls or Duties, or any of them, shall not make such Account and Payment to such Person or Persons as the said Trustees, or any Five or more of them as aforesaid, shall direct, then it shall be lawful to any One or more of the Justices of the Peace for the County of *Dumfries*, upon Application being made by Two or more of the said Trustees, to enquire of and concerning such Default, as well by Confession of the Parties themselves, as by the Testimony of One or more credible Witness or Witnesses upon Oath (which Oath the said Justices, or any One or more of them, are hereby empowered to administer), or by other legal Evidence; and if any Person or Persons shall be convicted of the Offences aforesaid, the said Justice or Justices shall, and he or they are hereby empowered to impose or levy a Sum of Money from or upon such Person or Persons, not exceeding Double the Sum of Money unduly detained or misapplied; and in case such Person or Persons shall refuse or be unable to pay the said Sum of Money so detained or misapplied by him or them, then and in such Case it shall and may be lawful for the said Justice or Justices to commit such Person or Persons to the common Gaol of the County, there to remain until he or they shall have compounded and agreed with the said Trustees, or any Five or more of them as aforesaid (which Composition they, or any Five or more of them, are empowered to make), and have paid such Composition to the Treasurer for the Time being, or such Person or Persons as the said Trustees, or any Five or more of them, shall appoint.

Trustees to
take Security
from their
Treasurer.

XXIII. And be it further enacted, That the said Trustees, or any Five or more of them, shall and they are hereby required to take such Security from the Treasurer or Treasurers to be appointed by virtue of this Act, for the faithful Execution of their said Office or Offices, as to the said Trustees, or any Five or more of them, shall appear just and reasonable.

Trustees not
to hold Places
of Profit.

XXIV. And be it further enacted, That if any Person or Persons, appointed or to be appointed a Trustee or Trustees for putting this Act in Execution, shall have or accept of any Place of Profit arising out of or by Reason of any Tolls or Duties by this Act laid or granted, such Person or Persons shall be incapable of acting as a Trustee or Trustees, from the Time of accepting and during the Enjoyment of such Place of Profit as aforesaid.

No Victualler
to hold any
Place of Profit.

XXV. And be it further enacted, That no Victualler or Retailer of Beer, Ale, or Spirituous Liquors, shall be capable of holding any Place of Profit under this Act.

XXVI. And

XXVI. And be it further enacted, That it shall and may be lawful for the said Trustees, or any Five or more of them, at a General Meeting assembled, and they are hereby authorized and empowered, by publick Roup or Auction, to let the Tolls or Duties hereby granted and vested in them, in Whole or in 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 they can get for the same, to such Person or Persons as shall from Time to Time give good and sufficient Security for Payment of the Rents for which the Tolls shall be let, as shall be approved of by the said Trustees, or any Five or more of them.

Trustees may
let the Tolls.

XXVII. And whereas it may be necessary for the said Trustees to borrow Money for defraying the Expence of passing this Act, and for carrying into Effect the other Purposes of the same, be it therefore further enacted, That it shall and may be lawful for the said Trustees, or any Five or more of them, at any General Meeting assembled, and they are hereby authorized and empowered to borrow, upon the Credit of the Tolls and Duties to be levied and collected by virtue of this Act, at legal or less Interest, any Sum or Sums of Money, not exceeding upon the Whole at any Time the Sum of One hundred and fifty Pounds Sterling for each Mile of the said Road so made, and not exceeding the further Sum of Four hundred Pounds Sterling for the Bridge so to be built thereon, by virtue of this Act.

For borrowing
Money.

XXVIII. And be it further enacted, That if at any Time the said Trustees, or any Five or more of them, shall pay or cause to be paid off and discharged any Part of the Sums so to be borrowed as aforesaid, then it shall be lawful to and for them to borrow other and farther Sums of Money, and to burden the said Tolls and Duties with the Payment of the same: Provided always, that such after Loan or Loans shall not upon the Whole exceed the said Credit of One hundred and fifty Pounds Sterling for each Mile of the said Road, and the said Credit of Four hundred Pounds Sterling for the said Bridge.

When Money
paid off, more
may be bor-
rowed;

XXIX. Provided always, That it shall be in the Power of the said Trustees, or any Five or more of them, at a General Meeting assembled, and they are hereby expressly authorized, to assign and make over the Whole, or such Part of the Tolls and Duties so to be levied and collected in Manner aforesaid as they shall think proper, for a Security to such Person or Persons who shall lend or shall become Sureties for the Payment of such Sum or Sums of Money so to be borrowed as aforesaid; and Copies of all such Assignments shall be entered by the Clerk and Treasurer in a Book or Books to be kept for that Purpose, which shall at all reasonable Times be open to the Perusal of any Person or Persons having Interest, without Fee or Reward.

and Tolls
assigned.

XXX. And be it further enacted, That it shall and may be lawful for the said Trustees, or any Five or more of them, at any General Meeting assembled, upon such respective Mortgages or Assignments being produced by the respective Proprietors thereof as aforesaid, to direct their Clerk to give Notice to him, her, or them respectively, that the Money secured by such Mortgages or Assignments respectively, or any of them, will be paid and discharged at the Time limited in such Notice, not less than Six Months

Notice to be
given of pay-
ing off Assign-
ments.

Months

Months being allowed for the Time of such Payment; and on such Notice as aforesaid being given to such Proprietors respectively, the Interest of the Money contained in such Security shall cease at the Expiration of the said Six Months, in case such Proprietor shall not attend to receive, or give proper Authority for receiving, his, her, or their Principal and Interest, pursuant to such Notice.

Compelling
Payment of
Subscription
Money.

XXXI. And be it further enacted, That if any Person or Persons who have become Subscribers towards defraying the Expences of passing this Act, and carrying the same into Execution, shall neglect or refuse to pay the Whole or any Part of such Subscription Money, when he or they shall be required so to do, by a written Notice subscribed by the Clerk and Treasurer of the said Trustees, or any other Person appointed by any Five or more of them, and left at the Dwelling House or ordinary Place of Residence of such Subscriber or Subscribers as aforesaid, and that within Fifteen Days from and after the Notice so to be left as aforesaid, then and in every such Default as aforesaid, it shall be competent for the said Trustees, or any Five or more of them, to cause an Action or Actions to be brought against such Subscriber or Subscribers, in the Name of their Clerk and Treasurer, or other Person appointed as aforesaid, in any Court competent within any Part of *Great Britain*: Provided nevertheless, that in all Cases the Money so subscribed and paid in as aforesaid shall be repaid, with the legal Interest thereof, out of the Monies allowed to be borrowed in virtue of this Act, or out of the Tolls and Duties allowed to be levied and collected by Authority of the same, rateably and proportionally, to the whole Subscribers, according to the Amount of the Sums advanced by them respectively, and until such Re-payment as aforesaid, the Monies so advanced by the Subscribers shall be a Lien and Burden on such Rates and Duties, but always postponed to the Expence of making, repairing, and keeping in Repair the said Road and Bridges, and other Purposes of this Act.

For making
Causeways
and Drains.

XXXII. And be it further enacted, That it shall and may be lawful for the said Trustees, or any Five or more of them, at a General Meeting assembled, to make or cause to be made Causeways, and to cut and make Drains through any Grounds lying contiguous to the said Road, and to make and erect Bridges of Stone, Brick, or Timber, and also to widen or extend the Breadth of the said Road to the legal Standard established in *Scotland*; and where it shall appear necessary to alter the Situation of the said Road, or widen it to a Breadth beyond the present Standard, then and in that Case the said Trustees, or any Five or more of them, at a General Meeting assembled, shall and they are hereby authorized and empowered, by a Writing under their Hands, to order and direct the Situation of the said Road to be altered, or the said Road to be extended to such Breadth as they shall think proper, not exceeding Fifty Feet, exclusive of Ditches, and for that Purpose to pull down and demolish any House or Building, the Side Walls of which shall not exceed Twelve Feet in Height, and to remove any other Obstruction; and the Surveyor or Surveyors are hereby empowered, by the Order of the said Trustees, or any Five or more of them, to make such Ditches or Trenches as he or they shall think necessary for draining and amending the aforesaid Road.

XXXIII. A

XXXIII. And be it further enacted, That when the said Trustees shall have taken or resolved to take into Possession any Lands, Houses, Tenements, or Hereditaments, for the Purpose of the said Road, or for erecting Bridges, Toll Houses, Steelyards, or Weighing Machines thereon, or have done any Damage in making, altering, or widening the said Road, to the Owners or Occupiers of such Lands, or other Persons interested therein, the said Trustees shall be obliged, and they are hereby required to pay all such Damages to the Owners or Occupiers respectively, as the said Trustees, or any Five of them, shall judge reasonable; and in case of any Difference between such Owners or Occupiers, and the said Trustees, touching such Damages as aforesaid, the same shall be finally determined either by Two Men to be mutually chosen by the Parties, with Powers to them to choose an Overfman, or, in the Option of the said Owners or Occupiers, by the Sheriff Depute of the said County, or his Substitute for the Time being, who is hereby required and authorized to summon a Jury of Twelve Persons of Skill, and upon their Verdict, whether Damages have been incurred, or to what Extent, shall judge, assess, and finally determine the same.

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

Application of
Compensation
Money when
amounting to
200*l*.

[*Loc. & Per.*]

7 K

XXXV. Provided

If under 200*l.*
and above 20*l.*

XXXV. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any 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 Hereditaments 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 respective Hands, under the like Direction and Authority, 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 Five 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 may be applicable.

Where under
20*l.*

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

Apportioning
Money paid
for Damages.

XXXVII. And be it further enacted, That the Sheriff Depute for the County of *Dumfries*, or his Substitutes for the Time being, or the Justices of the Peace for the said County, at their General Quarter Sessions assembled, may and they are hereby empowered to settle what Shares and Proportions of Purchase Money or Damage which shall be so agreed upon, or assessed and determined in Manner aforesaid, shall be allowed to any Person having a particular Estate or Interest in the Premises, for his, her, or their respective Interests therein; except in such Cases wherein the same are herein directed to be laid out and invested in the Purchase of Lands, Tenements, or Hereditaments, under the Authority of the Court of Session.

Empowering
incapacitated
Persons to sell.

XXXVIII. And be it enacted, That it shall and may be lawful to and for all Bodies Politick, Corporate, or Collegiate, married Women, Trustees, Heirs of Entail, Tutors or Curators for Infants, Minors, Idiots, Furious, or other Persons, and to and for all and every other Person or Persons whatsoever, who are or shall be seised, possessed of, or interested in any Lands, Houses, Tenements, or other Hereditaments, or any Part thereof, to sell the same, for the Purposes of the said Road, and that all Contracts, Agreements, Sales, or other Conveyances that shall be so made, shall be valid to all Intents and Purposes, any Law, Statute, Usage, or any other Matter or Thing whatsoever to the contrary thereof notwithstanding;

standing; and that all the Trustees, Heirs of Entail, Tutors or Curators, Corporations, Proprietors, or Incumbrancers, and all other Persons, are and shall be indemnified for what they shall do by virtue of or in pursuance of this Act.

XXXIX. And be it further enacted, That any Question or Difference about the Recompence or Satisfaction to be made for the Lands, Houses, Tenements, or Hereditaments, or for pulling down the same for the Purposes aforesaid, shall not prevent or put a Stop, in any Manner of Way, to the making, widening, altering, or repairing the said Road, or the Bridges on the same. Differences as to Value. not to impede the Act.

XL. And be it further enacted, That no Part of the Tolls which shall arise and be levied by virtue of this Act, or of the Monies which shall be borrowed upon the Credit of such Tolls and Duties, shall be applied, laid out, or appropriated, without the Order of the said Trustees, or any Five or more of them, at a General Meeting assembled, or of such Person or Persons as they shall authorize and appoint. Money not to be applied except by Order of the Trustees.

XLI. And be it further enacted, That the said Trustees shall keep, or cause to be kept, an exact Account of the Monies received by virtue of this Act, and the Application thereof, and all their Proceedings, and shall enter the same in a Book or Books to be kept for the Purpose, which the Heritors, on the Course of the said Road shall, at all reasonable Times, be at Liberty to inspect without Fee or Reward. Accounts to be kept.

XLII. And be it further enacted, That if any Person shall assault any Collector of the said Tolls or Duties, or by Force pass through any of the said Gates or Turnpikes, without paying the Tolls and Duties which such Person ought to pay, every such Person shall, for every such Offence, forfeit and pay the Sum of Five Pounds Sterling, over and above any Damages or other Recompence such Collector shall or may be entitled to by any Law, in respect of such Default. Penalty on forcible Passage;

XLIII. And be it further enacted, That if any Person or Persons shall maliciously break down, or attempt to break down, pluck up, damage, or otherwise destroy any Turnpike Gates, Posts, Chains, Bars, or other Works whatever, or the Houses erected for the Use of such Turnpikes, or Steelyards or Weighing Machines to be erected on the Sides of the said Road, or shall strike or maltreat any of the Toll Gatherers, or any Person or Persons of their Family, employed in levying the said Tolls or Duties, or shall rescue or attempt to rescue any Person in Custody for the said Offences, every Person or Persons so offending in any of the Premises, and being thereof lawfully convicted, in any Prosecution ordered by the said Trustees, or any Five or more of them, by the Oath of One or more credible Witness or Witnesses, before any Two or more Justices of the Peace for the County of *Dumfries*, such Person or Persons so offending, shall not only pay the whole Damages and Expences sustained by the said Trustees or their Toll Gatherers aforesaid, but it shall be lawful for any Two or more of the Justices of the Peace for the said County, to adjudge such Person or Persons to be imprisoned in the County Gaol for any Time not exceeding Three Months, or to pay a Fine not exceeding Five Pounds Sterling. and on destroying Turnpikes, &c.

XLIV. And

For erecting
Mile Stones,
&c.

XLIV. And be it further enacted, That the said Trustees, or any Five or more of them, at any of their Meetings assembled, may cause the said Road to be measured, and Mile Stones to be erected, as also Guide or Direction Posts to be placed at the cross Roads or Lanes branching from the said main Road; and in case any Person or Persons shall wilfully break, destroy, damage, pull up, or remove any such Mile Stones, or Guide or Direction Posts, or obliterate or deface any Letters or Figures that shall be made, inscribed, or put thereon by Order of the said Trustees, or shall break down any Part of the Cape Stones on the Ledges or Parapet Walls on any of the Bridges or Sides of the said Road, and shall be thereof convicted on the Oath of One or more credible Witnesses or Witnesses, before any One or more Justice or Justices of the Peace for the County of *Dumfries*, every such Person so offending shall, besides making good the Damages, forfeit and pay a Sum not exceeding Ten Shillings Sterling for each Stone or Post so wilfully destroyed, damaged, pulled up, removed, obliterated, and defaced, or for every Cape Stone so broken down from the Ledges or Parapet Walls; and all such Forfeitures shall be applied, One Moiety to the Informer, and the other Moiety to the said Trustees, for the Use of the said Road; and in case the Person or Persons so offending, and convicted as aforesaid, shall not have sufficient Goods or Chattels whereon such Damages and Forfeitures may be levied, then it shall and may be lawful for any One or more Justice or Justices of the Peace for the said County, by Warrant under his or their Hands, to commit such Person or Persons to the common Gaol of the County, there to remain for any Time not exceeding Three Months, unless the said Damages, Penalty, and Charges attending the Recovery, shall be sooner paid.

For lopping
Trees.

XLV. And be it further enacted, That where the Ground on the Sides of the aforesaid Road is already planted with Trees, or is or shall be inclosed by Hedges, the Proprietors or Occupiers of such Ground on each Side of the said Road shall, at a proper Season, cut down, or lop and prune the Trees, and cut and dress the Hedges, in such Manner that no Part of the said Trees shall overhang any Part of the said Road, nor the Hedges be allowed to grow higher than Five Feet from the Surface of the Ground at the Bottom of the Hedge; and in case he or they neglect so to do, after being required by an Order from Two or more of the said Trustees, the said Trustees, or their Surveyor, shall cause the same to be done, and levy the Expence thereof from the Proprietors or Occupiers of the said Ground by Distress.

Trees not to
be planted
near the
Road.

XLVI. And be it further enacted, That from and after the passing of this Act, no Trees shall be planted on the Ground adjacent to the said Road nearer than Twenty Feet from the Sides thereof.

Covering
Drains, &c.

XLVII. And be it further enacted, That when any Passage for Cattle or Carriages across the Sides of the aforesaid Road is made for the Convenience of the Occupier of the Grounds through which the said Road passes, he or they shall always cover the Drains crossing the Sides of such Road with sufficient Stones, in such a Manner as the Course of the Water in the Drains may not be interrupted, or the Roads thereby prejudiced: Provided always, that no Occupier of Land shall turn any Water upon the Sides of the said Road, nor conduct any Water across the said Road
for

for meliorating his Fields or other Purposes, until he shall have applied for and obtained the Consent of Three or more of the said Trustees; and every such Occupier shall be obliged to carry the Water across the Road in a covered Drain, of such Depth and Construction as that the Water may not prejudice the Road; and every Person so offending, and being convicted thereof as aforesaid, before any Two or more of the Justices of the Peace for the said County, shall, for every such Offence, forfeit and pay a Sum not exceeding Twenty Shillings Sterling.

XLVIII. And be it further enacted, That where Fences are made on the Side of the high Roads, the Ditch and Hedge shall be on the Side next the Field, and the plain Face of the Fence or Bank shall fence the Road, proper Conduits being made in different Places for carrying the Water from the Road, under the said Fence or Bank, into the Ditch: Hedges to be next the Field, etc.

XLIX. And be it further enacted, That the said Trustees, or their Contractors or Overseers, shall be, and they are hereby empowered to provide proper Places on the Sides of the said Road as Repositories for Stone, Gravel, and other Materials for making and repairing the said Road and Bridges; Damages being always paid for the Ground occupied by such Repositories. Providing Repositories for Materials.

L. And be it further enacted, That, from and after the passing of this Act, no Person or Persons whomsoever shall make Pits or Holes, or lay down Lime, Dung, Materials for repairing the Roads, in Heaps, Compost, Rubbish, dead Cattle, or other Matter whatever for manuring of Land, within Five Yards of the Side of the said Road, unless the same be sufficiently fenced off from the Road; neither shall any Person or Persons turn their Plough on the said Road, or lay down any Trees or other Matter, or leave, unless in case of Accidents, Carts, Waggon, or Wains, loaded or unloaded, standing upon said Road or Bridges; or draw any Tree or Piece of Timber, or other Material whatsoever, otherwise than on a Wheel Carriage or Cart, or do any Thing whatsoever whereby the said Road, or Bridges erected thereon, shall be unnecessarily encumbered or damaged, under a Penalty not exceeding Twenty Shillings Sterling for each Offence, and being immediately obliged to fill up the said Pits and Holes, and which Penalties shall be levied by Warrant of any One of the Justices of the Peace for the said County by Poinding and Sale as aforesaid; and upon Application of any One of the said Trustees or their Overseers; and One Moiety of such Penalties and Forfeitures as aforesaid shall go to the Informer, and the other Moiety to the Trustees, to be laid out on the said Road and Bridges; and further, that no Person shall draw or carry on the said Road on any such Cart, Waggon, Wain, or other Carriage, any Timber Trees, Planks, or Deals, exceeding Twenty Feet in Length, unless such Cart or other Carriage has Four Wheels. Preventing Nuisances.

LI. And be it further enacted, That it shall and may be lawful for the Surveyor or Surveyors, and such Person or Persons as he or they shall appoint for that Purpose, to open Stone Quarries, and to dig, gather, and carry away any Stones, or Gravel, Furze, Heath, Sand, or other Materials (Timber excepted), out of any Grounds, whether inclosed or not (not being the Ground whereon any Houses stand, nor a Garden, Orchard, For opening Stone Quarries.

[Loc. & Per.]

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Orchard, Yard, planted Walk, or Avenue to any House, or any Piece or Parcel of Ground set apart or used as a Nursery for Trees, previous to the passing of this Act); where the said Materials can be most conveniently found, within the said County, for the Use of the Road and Bridges aforesaid, making Recompence in Manner aforesaid for the Damages thereby occasioned: Provided always, that any Difference or Dispute relative to the said Damages, shall not in anywise stop, delay, or prevent the gathering, digging, and carrying off the said Materials; and provided also, that nothing in this Act contained shall authorize and empower any Person or Persons aforesaid, to dig or carry off any Materials from any Grounds nearer than Two hundred Yards to the Dwelling House or ordinary Residence of the Proprietor of such Grounds.

Notice to be given to Occupiers of taking Materials.

LII. Provided nevertheless, and be it further enacted, That it shall not be lawful for any Surveyor, or any Person or Persons under the Authority of this Act, to dig, gather, take, and carry away Materials for making or repairing the said Road and Bridges, to or from any inclosed Lands or Grounds, until 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 Five or more of them, or Two or more Justices of the Peace, to shew Cause why such Materials shall not be had from such Lands or Grounds; and in case such Occupier shall attend pursuant to such Notice, the said Trustees, or any Five or more of them, or such Justices; shall, if they think proper, authorize such Surveyor or other Person to dig, gather, take and carry away such Materials, at such Time or Times as to such Trustees, or any Five or more of them, or to such Justices, shall seem proper; and if such Occupier shall neglect or refuse to appear by himself or his Agent, the said Trustees, or any Five 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.

For Recovery of Penalties.

LIII. And be it further enacted, That all Penalties and Forfeitures by this Act imposed (if not directed by this Act to be otherwise levied), shall be levied by Distress and Sale of the Offenders Goods and Chattels, by Warrant under the Hand of any One or more Justices of the Peace for the said County of *Dumfries*, or for the County where the Parties shall reside, in the Option of the Trustees, or of the Person or Persons authorized by the said Trustees, or any Five or more of them, to levy such Distress; and the Person or Persons distraining such Goods and Chattels, are hereby authorized and empowered, after the Space of Three Days after such Distress shall be made and taken, to sell the Goods so distrained by publick Roup, at the nearest Turnpike or Toll House to the Place where such Distress shall be made or taken, and return the Overplus Money (if any be), upon Demand, to the Owner of such Goods and Chattels, after such Penalties and Forfeitures, with the reasonable Charges of distraining, keeping, and selling the same, shall be deducted and paid; and the said Forfeitures when recovered, if not otherwise directed to be applied by this Act, shall be applied One Moiety to the Informer, and the other Moiety towards carrying this Act into Execution, as the said Trustees shall direct; and all Penalties and Forfeitures contained

contained in this Act, shall be payable over and above all necessary Expences incurred in prosecuting for the same.

LIV. And be it further enacted, That in case any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, and for which no particular Remedy or Method of Relief hath been already directed and appointed, it shall and may be lawful for him and them to appeal to the Justices of the Peace at the First Quarter Sessions for the County aforesaid; and in case the Cause of Complaint shall arise within Fifteen Days before such Quarter Sessions, then such Appeal shall be made to the said Justices at their Second Quarter Sessions, who are hereby authorized and required to take Cognizance thereof, and to hear and determine the Complaint or Complaints of any Person or Persons so aggrieved; and if they shall see Cause they shall and may, by Order of such Meeting, mitigate at their Discretion all or any of the said Penalties or Forfeitures imposed or incurred by the said Party or Parties complaining, or vacate or set aside the Conviction or Convictions, and set the Parties at Liberty, or otherwise may ratify and confirm the same with such Costs as to them in their Discretion may seem proper; and to levy by their Order or Warrant such Costs so awarded, by Distress and Sale of the Goods of any Person or Persons who shall refuse to pay the same; and for Want of sufficient Distress, to commit the Party to the common Gaol of the County, for any Time not exceeding Three Months, or until Payment of such Costs shall be made; but the Person or Persons so appealing shall, and they are hereby directed to give Notice in Writing to the Defendant, of such their Intention of bringing or prosecuting any Appeal, Fifteen Days before the said Quarter Sessions; and shall, within Five Days after such Notice, lodge in the Hands of the Clerk to the said Justices a Bond, signed by him or them, to prosecute such Appeal, and Two sufficient Sureties obliging him or them to prosecute such Appeal; and in case such Appeal shall be disallowed, the Appellant shall pay such Costs and Charges as the said Justices shall direct in that Behalf; and every such Appeal shall at the said Quarter Sessions be heard and finally determined.

Allowing an Appeal to the Quarter Sessions.

LV. 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 Wrong done or Injury suffered in any Manner relative thereto, or in consequence of any of the Powers by this Act granted and given, shall be commenced within the Space of Six Calendar Months after the Penalty or Forfeiture is incurred, or Wrong done, or Injury suffered, and not afterwards.

Limitation of Actions.

LVI. And be it further enacted, That it shall be no Objection to any Person acting as a Judge or Justice in any Matter or Thing relative to this Act, that he is hereby appointed a Trustee, except where he is personally interested, in which Case he shall not sit nor act as a Judge or Justice; but in every other Case he shall have the same Power to act as a Judge or Justice of the Peace as fully as if there was no such Appointment.

Trustees may act as Justices.

LVII. And be it further enacted, That this Act, and the Powers and Authorities, Articles, Clauses, Rules, Forfeitures, and Penalties therein contained,

Continuance of this Act.

Publick Act.

contained, shall continue and be in force for and during the Space of Twenty-one Years, and from thence to the End of the then next Session of Parliament, from and after the passing of the same; and during the said Period, this Act shall be deemed a publick Act, and taken Notice of as such by all Judges and Justices, and others whomsoever, without specially pleading the same.

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