



ANNO QUINQUAGESIMO PRIMO

GEORGI III. REGIS.

Cap. 39.

An Act for building a Bridge over the River *Northesk* near the Village of *Marykirk*, in the County of *Kincardine*. [6th May 1811.]

WHEREAS the erecting a Bridge over the River *North Esk*, near to the Village of *Marykirk*, would be of great public Utility, by facilitating the Communication between the Counties of *Forfar* and *Kincardine*, and completing the Line of Road from the Town of *Montrose* to the said Village, and from thence towards *Laurencekirk* and across the *Cairn of Mount*; but as the said Work cannot be carried into Execution without the Aid and Authority 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 the Representatives in Parliament for the Counties of *Forfar* and *Kincardine* and for the District of Burghs, of which *Montrose* is one, and the Provost of *Montrose*, all for the Time being, and also every Person who shall subscribe and pay the Sum of Two hundred Pounds Sterling or upwards, either as a free Gift, or upon the Credit of the Tolls or Duties hereby granted, towards Payment of the Expence of building the said Bridge, and the Representative of every Number or Set of Subscribers, whose Subscription Money shall amount to that Sum, such Representative to be appointed in Manner after mentioned, and the Successors of such Persons as hereinafter mentioned shall be, and they are hereby constituted and appointed, under the Provision and Limitation herein contained, Trustees for the designing, erect-

Trustees.

[*Loc. & Per.*]

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ing

ing and building of the said Bridge, and making the necessary Approaches, Banks, Walls and Ways for the Use, Support and Preservation thereof, and for keeping the said Bridge in proper Repair, and executing all the other Powers by this Act given and granted.

Appointment
of future
Trustees.

II. And in order to regulate the Appointment of the said Representatives of Sets of Subscribers, and to keep up a constant Succession of Trustees; be it enacted, that at the first Meeting to be held under this Act, and thereafter at the General Meeting to be holden on the Third Monday of April in each Year, every Number or Set of Subscribers whose Subscription Money advanced on the Credit of the Tolls or Duties hereinafter granted shall amount to Two hundred Pounds Sterling or upwards, shall be entitled to name or appoint one of their Number to act as a Trustee for the Year commencing on the Day of such Nomination; and the said Nomination being subscribed by the Persons making it, and entered in the Minute Book to be kept by the Trustees, shall entitle the Person so appointed, to act and vote as a Trustee during the whole of that Year as fully and effectually as if such Person were a Subscriber to the Extent of Two hundred Pounds in his own Right: And it is hereby provided, that Persons acquiring Right to the Subscription Money of Original Subscribers, either by Assignment or legal Succession, shall be entitled to act as Trustees or to appoint Representatives according to their several Shares of the Funds subscribed in manner before mentioned; and also that one Guardian or Trustee for each Minor, one Proxy for each Widow or unmarried Woman, properly authorized by a Writing under her Hand, and in the Absence of Subscribers, their Factors acting under regular Factories or Commissions, shall be, and they are hereby empowered to act and vote according to the several Rights and Interests of the Persons whom they shall respectively represent: Provided always, that in the Event of the whole Subscription Money, with Interest thereon, being paid up, then the Right of Subscribers to act as Trustees shall cease and determine, and that Privilege shall from thenceforth be transferred and belong to such Persons as shall then and afterwards be, either in their own Right or in Right of their Wives, in the actual Possession and Enjoyment as Proprietors or Liferenters of Land in the Parishes of *Marykirk, Laurencekirk, Fettercairn* and *Fordon*, in the County of *Kincardine*, valued in the Cess Books of the said County at One Hundred Pounds Scots, and to all and every the Eldest Sons and Heirs Apparent of such Persons, and to one Guardian or Trustee of each Minor, and one Proxy for each Widow or unmarried Woman (properly authorized by a Writing under her Hand) who shall be possessed of Lands in the said Parishes to the Extent aforesaid; all which Persons shall be, and they hereby are, in the Event aforesaid, constituted and appointed Trustees for executing all the Powers given and granted by this Act.

Quorum.
Penalty on
acting with-
out being
qualified.

III. And be it further enacted, That any Three of the said Trustees shall be a Quorum for executing all the Powers hereby committed to them; and that if any Person or Persons not qualified according to the true Intent and Meaning of this Act, shall nevertheless presume to act as a Trustee, every such Person or Persons shall for every such Offence forfeit and pay the Sum of Twenty Pounds Sterling, to be recovered at the Suit of the Clerk and Treasurer of the Trustees, and applied by the said Trustees to the Purposes of this Act, and the Proof of Qualification shall lie on the Defendant.

IV. And

IV. And be it enacted, That the said Trustees shall meet at *Laurence-kirk* on the Sixth Day of *May* in the Year One thousand eight hundred and eleven, or as soon thereafter as conveniently may be, and proceed to the Execution of the Powers hereby granted; and thereafter the said Trustees shall meet yearly at *Laurencekirk* on the Third *Monday* of *April*, with Power to them at their aforesaid Meetings, to elect a Preses or Chairman, and to adjourn themselves to such Times and Places as they shall think proper or convenient, as often as it shall be necessary for putting this Act into Execution; and if it shall happen that there shall not appear at any stated Meeting or at any adjourned Meeting, which shall be appointed to be held by the said Trustees, a Quorum; or sufficient Number of the said Trustees to act, it shall be in the Power of any One or more Trustees attending, to adjourn the Meeting, to be held at the same, or any other convenient Place, any lawful Day within Fourteen Days thereafter, of which Adjournment Notice shall be given by the Clerk, by Advertisements in the *Aberdeen Journal*, and in any Newspaper published in *Forfarshire*, at least Six Days before the Day of Meeting; and in case no Trustee shall attend, the Clerk, by Advertisement in the above mentioned Newspapers, at least Six Days before the next Meeting, shall intimate to the said Trustees to meet at the Place where the Meeting of the said Trustees was appointed to be held, or at some other convenient Place, on that Day Fortnight, on which such last Meeting of the said Trustees was appointed to be held; and that if from any extraordinary Circumstances any Three or more of the said Trustees shall think it necessary, that a Meeting of the said Trustees shall be held, it shall be lawful for them to cause Notice of the Time of the said intended Meeting to be given by Advertisement in the above-mentioned Newspapers, Twice at least Fourteen Days previous to the Day of Meeting; and the Orders and Proceedings of the said Trustees at such Meetings, shall be as valid and effectual as if they had been made at any General, or adjourned General Meeting of the said Trustees; and the said Trustees, at their first and all their subsequent Meetings, shall defray their own Charges and Expences.

Meeting of Trustees.

V. And be it further enacted, That it shall be lawful to and for the said Trustees to chuse and appoint a fit Person or Persons to be Collector for receiving the Tolls or Duties hereinafter granted and made payable by this Act, and also a Person to act as Clerk and Treasurer, and 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 to appoint new ones in case of their Removal or Death; and all and every Person or Persons who shall be appointed under this Act to collect the said Tolls or Duties, shall be bound to pay the same or the Rent at which the same shall be let, to the said Trustees or their Clerk and Treasurer; and the said Trustees may, and they are hereby authorized and empowered, out of the Money arising from the said Tolls or Duties, to make such Allowance to the several Officers by them appointed as they shall think fit; and the said Trustees shall take such Security from the Person appointed Treasurer and Clerk as they shall think sufficient for the due Execution of these Offices; and the said Treasurer and Clerk shall be bound to account to the said Trustees for his Intrusions and Management at any Time when called upon.

Appointment of Officers.

VI. And

Orders to be
entered.

VI. And be it further enacted, That all Orders and Proceedings of the said Trustees shall be entered in a Book or Books to be kept for that Purpose, and being signed by any Three or more of the said Trustees, or by the Person who shall be elected Preses at their respective Meetings, shall be deemed and taken to be original Orders; and such Book or Books, and also the Entries of all Assignments of the Tolls hereby made payable, and the Transfers of such Assignments shall and may be produced and read in Evidence, in all Cases of Appeals, and in any Suits or Actions, touching any thing done in pursuance of this Act.

Trustees to
build the
Bridge.

VII. And be it further enacted, That the said Trustees, or such Person or Persons as they shall appoint, shall be, and they are hereby authorized and empowered to build a Bridge across the River *North Esk*, at or near to the Village of *Marykirk*, and partly within the County of *Kincardine*, and partly within that of *Forfar*, and to dig and make proper Foundations in the said River and on the Land on each Side for the Piers and Abutments of the said Bridge, and to cut and level the Banks of the said River in such Manner as shall be necessary and proper for the said Bridge, and to remove and take away all Beds of Gravel, Sand, Mud or any other Impediment whatever, which may any ways hinder the erecting and completing the said Bridge, and building a Toll House and making proper Approaches to the said Bridge, and other necessary Works, so as to complete the Communication across the said River *North Esk*, and from Time to Time to do all other Matters and Things necessary or convenient for erecting, maintaining or supporting the said Bridge; and for carrying these Purposes into Execution, the said Trustees are hereby authorized and empowered to make and enter into such Contracts and Agreements as they shall think proper with Artificers, Workmen or other Persons: Provided always, That the said Trustees, or such Persons as they shall employ, do no unnecessary Damage to the Property of any Person; and that Satisfaction shall be made in Manner hereinafter mentioned, to the respective Owners and Occupiers of such Lands and Grounds as shall be made use of or altered, or that shall in anywise be prejudiced or damaged by the Execution of any of the Powers of this Act.

Ferry of
Craiggo to be
shut up.

VIII. And be it further enacted, That as soon as the said Bridge shall be passable and open for the Use of the Public, and as long as the same shall continue passable, the present Ferry Boat of *Craiggo* shall cease to be wrought, and no Person shall use any Ferry Boat for the Conveyance of any Persons, Cattle or Carriages whatsoever for Hire across the said River, within One Mile of the said Bridge; and in case any Person or Persons shall work or use such Ferry, he, she or they shall forfeit the Sum of One Pound Sterling for every Person, Horse, Mare, Gelding, Mule, Ass, Beast, Sheep, Hog, Calf, Lamb, Coach, Waggon or other Carriage whatsoever, which shall be so ferried or conveyed across the said River; and the said Trustees shall, and they are hereby authorized and empowered to treat with and grant such Compensation to the Proprietor of the said Ferry of *Craiggo*, as may appear reasonable, and in case the said Trustees and such Proprietor shall not agree as to the Amount of such Compensation, or in case the said Proprietor shall refuse or delay to enter into an Agreement with the said Trustees thereanent, then it shall be lawful for the said Trustees to apply to the Sheriff of *Forfarshire* or his
Sub-

Substitute, for having the Amount of the said Compensation ascertained by a Jury, in the same Way as the Value of Land to be occupied by the Scite of the Bridge is herein directed to be ascertained, and under the same Conditions, Rules and Regulations in every respect.

IX. And be it enacted, That it shall be lawful for the said Trustees to erect a Toll-bar, with a Toll-house and Accommodation for the Toll-keeper or Collector of the Tolls as aforesaid; and as soon as the said Bridge shall be opened for the Accommodation of Passengers, to demand and take, or cause to be demanded and taken, the Tolls or Pontage following, before any Passage over the said Bridge shall be permitted; (that is to say)

For every Coach, Berlin, Landau, Chariot, Chaise, or Calash, with Four Wheels, drawn by Six or more Horses, Mares, Geldings, or Mules, any Sum not exceeding Six Shillings Sterling; and drawn by Four Horses, Mares, Geldings or Mules, the Sum of Three Shillings Sterling; and drawn by Two Horses, Mares, Geldings or Mules, the Sum of One Shilling and Sixpence Sterling; and drawn by One Horse, Mare, Gelding or Mule, the Sum of Eightpence Sterling:

For every Chaise with Two Wheels, 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:

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

For every Horse, Mare, Gelding or Mule, with or without a Rider, laden or unladen, the Sum of Threepence Sterling:

For Asses, Oxen, or Neat Cattle, Horses or Fillies unshod, the Sum of Tenpence Sterling per Score; and so in proportion for any greater or lesser Number:

For Calves, Hogs, Sheep, Lambs or Goats, the Sum of Fivepence Sterling per Score, and so in proportion for any greater or lesser Number; and for every Person on foot the Sum of One Halfpenny Sterling.

Provided always, That no Person employed in driving, or having the Charge of any Cart or other Carriage shall be liable in payment of the Toll or Duty exigible from a Foot Passenger.

X. And be it enacted, That no Person or Persons having Occasion to pass through the said Toll-bar, and along the said Bridge, and who shall return the same Day before Twelve of the Clock at Night, with the same Carriage drawn by the same Horses or other Cattle, shall be liable or compelled to pay the said Tolls more than once in the Course of that Day; but shall, on Demand, be furnished with a Note or Ticket signifying the Payment of the Toll or Duty collected from such Person or Persons returning the same Day as aforesaid, to entitle him or them to repass the

[*Loc. & Per.*]

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said

Carriages to
return Toll-
free.

said Bridge Toll free; excepting always Persons on Foot, who shall be liable to pay for every Time that they pass over the said Bridge.

Tolls may be reduced.

XI. And be it further enacted, That the said Trustees at their General Meetings assembled, may lessen the above Rates of Toll, and raise them again, so as the same shall not at any Time exceed the Tolls granted by this Act.

Application of Toll.

XII. And be it further enacted, That the Tolls or Duties to be raised and levied, shall be vested in the said Trustees, and shall be applied to and for the several Uses, Intents and Purposes, and in such Manner as is by this Act directed; and if any Person or Persons, subject to the Payment of any of the said Tolls, shall refuse to pay the same, or any Part thereof, it shall be lawful for any Person or Persons appointed to collect the said Tolls as aforesaid, to seize and distrain any Horses or Cattle, or any Carriage or other Matters and Things, upon or in respect whereof any such Toll is by this Act imposed, or the Goods and Chattels of such Person or Persons as ought to pay the same, and to detain such Distress; and if such Toll, together with the Charges of such Seizure, Distress and Detainer, shall not be fully paid and satisfied within the Space of Four Days after such Detention, then the Person or Persons so distraining shall and may sell by Public Roup, at the Toll-bar, the Cattle or other Goods so distrained (a Warrant being first obtained for that Purpose from the Sheriff Depute or his Substitute, or any Justice of the Peace of the Counties of *Forfar* or *Kincardine* or either of them,) returning the Overplus, if any be, upon Demand, to the Owner thereof, after such Toll, and all reasonable Charges occasioned by such Distress, shall be deducted.

General Exemptions.

XIII. And be it further enacted, That no Toll shall be demanded or taken for any Horse, Beast, Cattle or Carriage of whatever Description, employed or to be employed in conveying 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 back from conveying the same, or for any Soldiers on their March, or for any Horse, Beast, Cattle or Carriage attending any Soldiers upon their March or on Duty, or attending them with their Arms or Baggage, nor for any Waggon, Wain, Cart or other Carriage whatsoever, or the Horse or Horses or other Cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack, Commissariat, or other public Stores, of or belonging to His Majesty, or for the Use of His Majesty's Forces, or for any Horse, Mare or Gelding furnished for or by 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 that such Persons are in the Uniform of their respective Corps, and have their Arms, Furniture and Accoutrements, according to the Regulation provided for such Corps respectively at the Time of claiming such Exemption as aforesaid, or for any Horse, Cattle, Beast or Carriage employed in the Conveyance of Vagrants sent by legal Passes, or returning therefrom; and if any Person or Persons shall, in any fraudulent or collusive Manner whatsoever, claim and take the Benefit of any of the

Exemptions

Exemptions by this Act granted, not being entitled to the same, every such Person shall forfeit and pay for every such Offence, any Sum not exceeding Forty Shillings, one Moiety whereof shall go to the Informer, and the other Moiety shall be applied to the Purposes of this Act.

XIV. And be it further enacted, That if any Person or Persons shall take off, or cause to be taken off, any Horse or Beast, from any Carriage on either Side of the said Bridge, with an Intent to evade the Payment of the said Tolls or any Part thereof, or shall forcibly or wilfully pass through the said Turnpike, without Payment of the Toll or any Part thereof, or shall ford the River within One Mile of the Bridge, either by themselves or with their Carriages, Horses or other Cattle, with an Intent to evade Payment, or shall interrupt or disturb any Person or Persons employed by the said Trustees in digging or gathering any Materials for building or repairing the said Bridge, every Person so offending in any of the said Cases aforesaid, shall, for every such Offence, forfeit a Sum not exceeding Forty Shillings Sterling, whereof One Moiety shall be paid to the Informer or Informers, and the other Moiety shall be applied and paid for the Purposes of this Act: Provided always, that nothing herein contained shall extend or be construed to extend to debar or prevent the Use of the Ford or Ferry on the said River at or near the old Kirk of *Logie* as heretofore used for the Accommodation of Persons actually resident in the Neighbourhood of the said Kirk.

Evading
Tolls.

XV. And be it enacted, That the Right, Interest and Property of the said Bridge, Toll-house, and Turnpike, and Premises erected or to be erected by virtue of this present Act, shall be vested in the said Trustees by this Act appointed; and the said Trustees at a General Meeting assembled, are hereby empowered and authorised, after making Advertisement to that Effect in the aforesaid Newspapers Twice at least Fourteen Days before the said General Meeting takes place, to set the said Tolls 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 of by the said Trustees; and the said Tolls or Duties and other Money raised in virtue of this Act, shall be applied by the said Trustees in defraying the Expence of building and keeping in Repair the said intended Bridge, and of making the necessary Approaches thereto, and of the Expences of obtaining and passing this Act, and towards making Satisfaction and Payment to all Persons prejudiced thereby, and Re-payment of the Money subscribed, or to be subscribed, upon the Credit of the Tolls or Duties and Interest thereof, and for executing all the other necessary Purposes of this Act.

Leasing Tolls
and Application
of
Money.

XVI. And be it further enacted, That it shall be lawful to and for the said Trustees, and they are hereby authorised and empowered to accept Subscriptions for such Sum or Sums of Money as may be necessary for building and erecting the said Bridge and other necessary Works; and thereafter to borrow such Sum or Sums of Money as may be necessary for keeping the said Bridge, its Approaches, and other Works in Repair, or for rebuilding the said Bridge, in case it shall happen to be destroyed; and for securing the Repayment of the said Subscriptions and borrowed

Borrowing
Money.

Money

Money, with Interest, to grant Mortgages or Assignments of the Tolls hereby imposed and allowed to be levied; and the said Assignments of the Tolls for all or any Sum so borrowed or received, shall be entered into a Book to be kept by the said Trustees or such Person or Persons as they shall appoint, which Book may be seen and perused at all reasonable Times by any Person or Persons, without Fee or Reward; and the Form of the said Assignments, under the Hands of the said Trustee, shall be as follows or in Words to the same Effect; that is to say,

BY virtue of an Act made and passed in the Fifty-first Year of the Reign of His Majesty King George the Third, intituled, [*Here set forth the Title of the Act*] We Trustees for putting the said Act into Execution, in consideration of the Sum of do assign unto *A. B.* his Executors and Assigns, such Proportions of the Tolls or Pontage arising by virtue of the said Act as the said Sum of shall be to the whole Sum advanced on the Credit of the same, to hold to the said *A. B.* his Executors and Assigns from the Day of in the Year of our Lord until the said Sum of with Interest at the Rate of *per Centum per Annam* shall be repaid; in witness whereof we have subscribed this Assignment written by *C. D.* Clerk to the said Trustees at the Day of and Year in presence of the said *C. D.* and *I. K.* of

XVII. And all and every Person and Persons to whom such Assignments shall be made as aforesaid, or who shall be entitled to the Money thereby secured, may, from Time to Time, assign and transfer his, her or their Right, Title, Interest or Benefit to the Principal and Interest thereby secured to any Person or Persons whatsoever, by indorsing on the back of such Security before Two or more credible Witnesses, by the following Words written upon the foresaid Assignment, or Words to the like Effect;

I DO transfer this Assignment with all my Right and Title to the Principal and Interest thereby secured and now due, unto *C. D.* his Executors and Assigns: Witness my Hand at the Day of in the Year before Witnesses *E. F.* and *G. H.*

Which said Transfer or Assignment must be produced and notified to the Clerk to the Trustees, who shall cause an Entry or Memorial to be made of such Assignment or Transfer, containing the Dates, Names of the Parties and Sums of Money therein transferred, in the said Book or Books to be kept for the entering the said original Assignments, for which the said Clerk shall be entitled to a Fee of Five Shillings and no more, and after such Entry made (but not till then), every such Assignment shall entitle such Assignee, his, her or their Executors and Assigns, to the Benefit thereof and Payment thereon; and every such Assignee may, in like Manner, assign and transfer again, and so on, *toties quoties*, and all such Transfers and Assignments shall entitle such Assignee, his, her, or their Executors and Assigns to the Benefit thereof and Payment thereon; and

and it shall not be in the Power of the Person or Persons who shall make such Assignments respectively, to make void or discharge the same or any Monies thereby due, or any Part thereof: Provided always, and it is hereby declared, that no Money shall be borrowed by the said Trustees unless agreed to at a General Meeting, to be called for that Purpose by Advertisements to be published in the before mentioned Newspapers Twice at least Fourteen Days before borrowing such Money; and that nothing herein contained shall extend, or be construed to extend, to charge or subject the said Trustees personally on account of their receiving the Money so borrowed or executing the Assignment.

XVIII. And be it further enacted, That if any Person or Persons who has or have subscribed, or shall subscribe towards erecting and building the said Bridge, shall neglect or refuse to pay his, her, or their Subscription Money, at such Times and in such Proportions as shall be appointed by the said Trustees, it shall and may be lawful to and for the said Trustees to sue for and recover the same in any Court competent, in that Part of *Great Britain* called *Scotland*, declaring that the Subscription Money, or if any Part thereof actually paid, together with Interest of the same, at the highest Rate allowed by Law, from the Times of Payment or Advance thereof, shall be a preferable Lien and Burden upon the Tolls or Duties collected upon the said Bridge, in favour of the Person or Person, or Bodies Politic and Corporate, paying, and their Executors, Successors or Assigns.

Payment of
Subscrip-
tions.

XIX. And be it further enacted, That as soon as the Subscription Monies to be advanced upon the Crédit of the said Tolls, with the Interest thereof, shall be fully paid and satisfied, the said Tolls to be collected by virtue of this Act shall from thenceforth, after Payment of the Expences of collecting and recovering the same, and of keeping the said Bridge and its Approaches and other Works in Repair, be by the said Trustees annually placed at Interest, until the same shall amount to the full Sum of Five hundred Pounds Sterling, which Sum shall be laid out by the said Trustees at Interest, upon such good and sufficient Security as they may from Time to Time approve of, and the Interest or Produce thereof shall be from Time to Time for ever after applied and appropriated for the repairing of the said Bridge, and all other the said Works relating thereto, and to or for no other Use or Purpose whatever; and the said Tolls hereby granted shall immediately after the said Sum of Five hundred Pounds shall be so placed out as aforesaid cease, and the Passage of the said Bridge shall from thenceforth be free for all Persons whatsoever, any Thing in this Act contained to the contrary notwithstanding: Provided nevertheless, that in case, and as often as any extraordinary Accident shall happen to the said Bridge after the Tolls are removed, which may require Repair, exceeding any Interest that may have accumulated on the Fund, it shall and may be lawful to and for the said Trustees in such Case to pay the Expence of such Repair out of the Principal Money of the said Fund, and to receive and take the Tolls as hereinbefore mentioned, until the Principal Money expended shall have been again completed, when they shall cease, and be again removed; the said Principal Sum of Five hundred Pounds, being always set apart and secured for the Repairs of the said Bridge.

Tolls to cease
when a cer-
tain Sum is
procured.

[*Loc. & Per.*]

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XX. And

For purchas-
ing Lands.

XX. And be it further enacted, That the said Trustees shall be, and they are hereby authorized and empowered to purchase, and all Bodies Politic, Corporate or Collegiate, Heirs of Entail, Husbands, Trustees, Tutors and Carators, and all and every Person or Persons whatsoever under any legal Disability or Incapacity, are hereby empowered and required to sell and convey all such Lands and Heritages as may be wanted for the Purposes of this Act.

Lands to be
valued by a
Jury.

XXI. And be it enacted, That in case the said Trustees and such Proprietor or Proprietors cannot agree as to the Amount of the Price to be paid for the said Lands and Heritages, or in case such Proprietor or Proprietors shall be absent, or shall refuse or delay, after Twenty-one Days' previous Notice, to enter into an Agreement with the said Trustees for the Sale of such Ground, it shall and may be lawful for the said Trustees to apply by summary Petition to the Sheriff of the County in which such Ground shall be situated, who shall direct the said Petition to be served upon the said Proprietor or Proprietors personally, or left at his or their Dwelling Houses, or in such other Manner as summary Applications are served upon a Party complained of, according to the Practice of the Sheriffs' Court: and thereafter the said Sheriff shall order and direct a Jury of Fifteen Persons to be summoned and chosen, in the Manner in which Juries are summoned and chosen by Sheriffs in *Scotland*; and the said Sheriff may order and authorize the said Jury, or any Five or more of them, to view such Piece of Ground, which Jury upon their Oaths, (which Oaths, as well as the Oaths to such Person or Persons as shall be called upon to give Evidence, the said Sheriff is hereby required and authorized to administer) shall inquire into and ascertain the Sum of Money to be paid by the said Trustees for the Purchase of such Piece of Ground, and the said Sheriff shall give Judgment for such Purchase Money, which shall be binding and conclusive to all Intents and Purposes, without being liable to review by Advocation, Suspension, Reduction or otherwise, any Law or Statute to the contrary notwithstanding; and the said Sheriff shall, at his Discretion, award to each of the said Jurors and Witnesses such several and respective Sum or Sums of Money as shall be a reasonable Recompence for their Expences and Trouble; and upon Payment being made by the said Trustees out of the Money arising by virtue of this Act of the Sum awarded or agreed on to be paid to the Party or Parties interested, or Consignation thereof in the Bank of *Scotland* or Royal Bank of *Scotland*, the said Trustees shall from thenceforth have Right and be at Liberty to take and use the Ground for the Purposes of this Act, as fully and effectually ever after to all Intents and Purposes as if the Owner or Owners of such Ground had executed regular Dispositions of the same, and Infeftments had followed thereupon.

Expences of
Jury, by
whom to be
paid.

XXII. Provided always, and be it enacted, That in the Event of such Jury awarding a greater Compensation than the Trustees shall have offered, but less than the Owner or Owners, Occupier or Occupiers, shall have required, the Expence of such Jury shall be defrayed and borne by the said Trustees, and such Owner or Owners, Occupier or Occupiers equally; but in case the Jury shall award to such Owner or Owners, Occupier or Occupiers, the Sum required, or any greater Sum, the whole of the said Expence shall be paid by the said Trustees; and in case the
said

said Jury shall award the Sum offered by the said Trustees, or a less Sum, the whole of the said Expence shall be paid by the said Owner or Owners, Occupier or Occupiers: Provided always, that in all Cases where any Person or Persons shall, by reason of Absence, be prevented from treating with the said Trustees, such Costs and Expences shall be borne and paid by the said Trustees: And provided also, that after having offered and paid to the Owner or Owners, Occupier or Occupiers of any Lands or Houses, or their Agents or Factors, such Sum as the said Trustees shall think reasonable, or in case of his, her or their Refusal to accept such Sum, the same shall be offered to them under Form of Instrument, and afterwards lodged in the Bank of *Scotland*, or Royal Bank of *Scotland*, there to remain at such Interest as the said Bank may allow, at the Peril of such Owner or Owners, Occupier or Occupiers, it shall and may be lawful for them to enter into or upon such Lands or Houses for the Purposes of this Act, and no Stop shall in the mean Time be put to the Operations of the said Trustees, on pretence of settling the said Damage, or that they have not been satisfied and paid; and in case any Person interested shall apply for and obtain from any Judge competent, a Warrant for stopping the Execution of any of the Purposes above-mentioned, the said Judge shall be and is hereby empowered and directed to recal such Warrant, or remove any Sift obtained as aforesaid; provided sufficient Caution is found by the Trustees therein named for the Amount of such Damages as may be ultimately awarded to the Person suing for the same, to be ascertained in Manner herein-before directed.

XXIII. And be it further enacted, That the said Trustees, or such Person or Persons as they shall appoint, may dig, gather, quarry for and take away Stones, Gravel and other necessary Materials within Three Miles of the said Bridge out of the Grounds of any Person; other than Gardens, Orchards, Nurseries, planted Walks, Lawns or Pleasure Grounds where such Materials may be found (not being dug up or raised for the private Use of the Proprietor of such Ground) for building, making and repairing the said Bridge, and its Approaches and other Works, and to open Accesses within the Distance aforesaid for carrying off the said Materials, such Accesses, and the Places from which the said Materials shall be proposed to be taken, being first marked out by any Two or more of the said Trustees if so required by the Proprietor of such Grounds, or his or her Factor or by the Occupier thereof, and the said Trustees shall make reasonable Satisfaction out of the Money arising by virtue of this Act to the Owners or Occupiers of the Grounds respectively from which such Materials shall be taken, or over which the same may be carried, for the Damages to be done thereby, and also to the Tenants of any Ground that may be occupied by the Scite of the Bridge-Toll House or other necessary Works; but if such Proprietor, Factor or Occupier, or the Tenant of any Ground occupied by the Scite of the Bridge shall not be satisfied with the Compensation that may be offered to them by the said Trustees, the same shall be ascertained by a Jury in Manner herein directed.

XXIV. Provided nevertheless, and be it further enacted, That it shall not be lawful for any Surveyor or any other Person under the Authority of this Act to take Materials for making or repairing the said Bridge or Approaches from any inclosed Lands or Grounds, without Authority in Writing from Two or more Trustees, and until Notice shall have been given

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given to the Occupier of the Premises, from or to which such Materials are intended to be taken, or left for such Occupier at his usual Place of Residence, to appear before the Trustees, or any Two or more of them, or any Two Justices of the Peace for the County, to shew Cause why such Materials should not be taken as aforesaid; and in case such Occupier shall attend pursuant to such Notice, the said Trustees or Justices shall, if they think proper, authorize such Overseer or other Persons to take such Materials at such Time or Times as to such Trustees or such Justices shall seem proper; and if such Occupier shall neglect or refuse to appear by himself or his Agent, such Trustees or 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.

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XXV. 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 Life-rents, Annuities or other Incumbrances, or shall belong to any Incorporation, 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 Sterling, under the Direction and by the Authority of the Court of Session, be with all convenient Speed paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Intent that such Money shall be applied under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements or Heritages, in the Redemption or 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 Heritages, or affecting other Lands, Tenements or Heritages standing settled therewith, to the same or the like Intents, Uses 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.

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XXVI. 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 Incorporation, or to any Person or Persons under Disability or Incapacity

capacity as aforesaid, shall be less than the Sum of Two hundred Pounds amount to 200^l. nor less than 20^l. Sterling, and not less than the Sum of Twenty Pounds Sterling, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the 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 respective Hands, under the like Direction and Authority, be paid into either of the said Banks, and be placed to his, her, 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 Three 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 therefrom, may be applied in any Manner hereinbefore directed, so far as the Case be applicable.

XXVII. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as last before mentioned shall be less than Twenty Pounds Sterling, then, and in all such Cases, the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Heritages so purchased, taken or used for the Purposes of this Act, in such Manner as the said Trustees, or any Three 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. Application where the Money is less than 20^l.

XXVIII. And be it further enacted, That in case any Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements or 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 Three or more of them, to order the said Sum or Sums of Money so awarded as aforesaid, to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Credit of the Parties interested in the said Lands, Tenements or 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 or Cashiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, who shall receive such Sum or Sums of Money, is, and are hereby required to give a Receipt or In case of not making out Title, &c. Purchase Money to be paid into the Bank, subject to the Order of Session.

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Receipts

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 Bank as aforesaid.

Where any Question shall arise touching the Right to such Money.

XXIX. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid in o 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.

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

XXX. 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.

Punishing Persons damaging the Works.

XXXI. And be it further enacted, That if any Person or Persons shall wilfully and maliciously damage the said Bridge, or any Part thereof, or any Turnpike or Tollhouse erected in pursuance of this Act, or attempt to do so, or shall wilfully and maliciously, and without any Authority from the said Trustees, remove or take away any of the Works thereunto belonging, or in any way direct or procure the same to be done, or who shall be aiding or assisting therein, whereby the said Bridge, or the Works thereof may be damaged, such Offender or Offenders being lawfully convicted thereof before the Sheriff Depute or Substitute, or any Two or more of the Justices of Peace of the Counties of *Forfar* or *Kincardine*, or either of them, upon the Testimony of one or more credible Witness or Witnesses, shall not only pay the whole Damages and Expences, but also be fined in a Sum not exceeding Ten Pounds Sterling, whereof One Moiety shall be paid to the Informer or Informers, and the other Moiety shall be applied and paid for the Purposes of this Act.

Recovery of Penalties.

XXXII. And be it further enacted, That all the Penalties and Forfeitures hereby inflicted or authorized to be imposed (the Manner of

of levying and recovering whereof is not otherwise particularly directed) shall upon Proof of the Offences respectively before the Sheriff Depute or Substitute of the Counties of *Forfar* or *Kincardine*, or any One or more Justice or Justices of the Peace for the said Counties, or either of them, either by the Confession of the Party or Parties so offending or by the Oath of One or more Witness or Witnesses (which Oath such Sheriff or Justice or Justices, is and are hereby empowered and required to administer) be levied by Distress and Sale of the Goods and Chattels of such Offenders by Warrant under the Hand of such Sheriff or Justices; which Warrant he or they is and are hereby empowered and required to grant for that Purpose, and the Overplus, after such Penalties, Forfeitures and Fines, and the Charges of such Distress and Sale are recovered and deducted, shall be returned upon demand unto the Owner or Owners of such Goods and Chattels, and the Penalties, Forfeitures and Fines when paid or levied, (if not otherwise directed to be applied by this Act) shall from Time to Time be paid to the Treasurer and Clerk of the said Trustees and applied to the Purposes of this Act; and in case sufficient Distress shall not be found or such Forfeitures and Penalties shall not forthwith be paid, or sufficient Security given for the Payment, it shall be lawful for any One or more of the said Justices of the Peace, or for the Sheriffs Depute of the said Counties, or their Substitutes, or either of them, and they are hereby authorized and empowered by Warrant under their Hands, to cause such Offender or Offenders to be committed to any House of Correction or Common Gaol therein to remain, without Bail or Mainprize, for any Time not exceeding One Month, unless such Penalties and Forfeitures, and all reasonable Charges, shall be sooner fully paid and satisfied.

XXXIII. And be it further enacted, That if any Person shall think him or herself aggrieved by any of the Proceedings in the Execution of this Act, for which no particular Method of Relief has been provided, such Person may (except where any Matter to be done by this Act is herein directed to be final,) appeal to the Justices of the Peace at any General Quarter Session of the Peace, to be held for the County or Place wherein the Cause of Complaint shall arise, within Four Months after the Matter complained of shall be done, (but not afterwards,) such Appellant first giving Fifteen Days' previous Notice of such Appeal, to the Clerk of the said Trustees, and to the Clerk of the Justices of the Peace, and lodging with him, at the Time of entering the said Appeal, a Recognizance to prosecute the same, and also giving legal Notice of such Appeal to the Defender or Defenders; then the said Justices of the Peace are hereby authorized and required to take Cognizance of such Complaint and Appeals, and to make such Determination thereon as they shall think proper, and such Determination shall be final. Appeal.

XXXIV. And be it enacted, That all Actions and Complaints for all and every the Penalties and Forfeitures imposed by this Act, or for any Wrongs done, or Damages or Injuries suffered by any Person or Persons, in any Matter relating thereto, or in consequence of any of the Powers by this Act granted, shall be commenced within the Space of Six Calendar Months after the Penalty or Forfeiture has been incurred or Wrong done, or Damage or Injury suffered and sustained, and not afterwards; and all Actions for the Use and Behoof of the Trustees shall be carried on at the Limitation of Actions.
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Instance of any One of them or their Treasurer and Clerk, and all Actions, brought by any Person or Persons against the said Trustees for the Recovery of any Damage or other Injury sustained, shall be directed against any one of the said Trustees or against their said Clerk and Treasurer.

Public Act. XXXV. 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.

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