



ANNO DECIMO

# VICTORIÆ REGINÆ.

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## Cap. iii.

An Act for the continued Repair and Maintenance of the Road from or near *Whiteburn* in the County of *Berwick* to the Town of *Kelso* in the County of *Roxburgh*; and to authorize the Transfer of a Portion of the said Road to the Trustees of the Road from *Lauder*, to and through *Kelso*, to the *Marchburn*.

[30th March 1847.]

**W**HEREAS an Act was passed in the Thirty-ninth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for making and maintaining the Road from or near Whiteburn in the County of Berwick to the Town of Kelso in the County of Roxburgh, to continue for Twenty-one Years, and from thence to the End of the then next Session of Parliament*: 39 G. 3. c. 3.  
And whereas another Act was passed in the First Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act to continue and enlarge the Term and Powers of an Act of the Thirty-ninth Year of the Reign of His late Majesty, for making and maintaining the Road from or near Whiteburn in the County of Berwick to the Town of Kelso in the County of Roxburgh*: 1 G. 4. c. 29.  
And whereas an Act was passed in the Tenth Year of the Reign of His said Majesty King *George*  
[Local.] H George

10G. 4.c. 66. *George the Fourth, intituled An Act for more effectually making, amending, improving, widening, repairing, and maintaining the Road from Lauder in the Shire of Berwick, to and through Kelso in the Shire of Roxburgh, to the Marchburn: And whereas the Trustees under the said recited Act of the First Year of the Reign of His Majesty King George the Fourth have proceeded to put the same into execution, and considerable Sums of Money have been borrowed and expended in the Repair and Maintenance of the Road therein and before mentioned, but the Term of the said Act, as extended by several annual Acts, is about to expire, and requires to be continued: And whereas the said Trustees have under their Management a Portion of the said Road from Whiteburn to Kelso at the Southern Termination of the same in the Parish of Kelso which it would be more expedient should be placed under the Trust Management of the Trustees acting under the before-recited Act of the Tenth Year of the Reign of His said Majesty King George the Fourth: But as the said Purposes cannot be accomplished without the Aid and Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act the said recited Acts of the Thirty-ninth Year of the Reign of His said Majesty King George the Third and of the First Year of the Reign of His said Majesty King George the Fourth respectively shall be and the same are hereby repealed, and that this Act shall thereafter be put in execution during the Term herein-after mentioned.*

Recited Acts  
39G.3. c. 3.  
and 1G. 4.  
c. 29. re-  
pealed.

Powers of  
1 & 2 W. 4.  
c. 43. ex-  
tended to  
this Act.

II. And be it enacted, That the Powers and Provisions of an Act passed in the Session of Parliament holden in the First and Second Years of the Reign of His late Majesty King *William the Fourth*, intituled *An Act for amending and making more effectual the Laws concerning Turnpike Roads in Scotland*, shall be and the same are hereby extended to this Act (saving and excepting in so far as the same are varied or altered by this Act), to the same Effect as if the whole Clauses thereof were herein contained and re-enacted.

Trustees.

III. And be it enacted, That Sir *John Pringle* of *Stitchill*, Baronet, *George Baillie* of *Jerviswoode*, *John Spottiswoode* of *Spottiswoode*, *Frederick Lewis Roy* of *Nenthorn*, *Adam Fairholme* of *Chapel*, Colonel *George Spottiswoode* of *Gladswood*, *George Baillie* younger of *Jerviswoode*, *Andrew Spottiswoode* younger of *Spottiswoode*, *William Roy* younger of *Nenthorn*, *James Pringle* younger of *Stitchill*, *William Fairholme* of *Greenknowe*, *John Murray* of *Uplaw*, together with all Her Majesty's Justices of the Peace for the Time being acting for the said Counties of *Berwick* and *Roxburgh*, and all and every Person and Persons to be nominated and appointed in virtue of this Act, in manner herein-after mentioned, shall be and they are hereby nominated and appointed Trustees for surveying, making, amending, altering, improving, widening, repairing, and keeping in repair, and for causing to be surveyed, made, amended, altered, improved, widened, repaired, and kept in repair, the said Road from or near *Whiteburn* in the said County of *Berwick* to the Town of *Kelso* in

in the said County of *Roxburgh* (excepting the Portion thereof after mentioned, when the same shall have been transferred by the said Trustees in virtue of the Powers herein-after contained), and also for executing, in regard to the said Road, all the Powers given and granted by the said general Act and all other general Acts of Parliament for regulating Turnpike Roads in *Scotland* that are now or may hereafter be in force, and all the Powers given and granted by the said Two first-recited Acts, so far as the same may be in force at the passing of this Act, and given and granted by this Act: Provided always, that no Person shall be capable of acting as a Trustee in the Execution of this Act unless he shall be infeft in the Property or possessed as Proprietor or Liferenter of Lands valued in the Tax Rolls of the County of *Berwick* or County of *Roxburgh* to the Extent of One hundred Pounds *Scots per Annum*, or shall be the eldest Son or Heir Apparent of some Person so infeft in or possessed of Lands of the Extent and Valuation aforesaid, or unless he be possessed of a Personal Estate of the Value of Five hundred Pounds Sterling.

Qualification  
of Trustees.

IV. And be it enacted, That the said Trustees shall meet at *Whiteburn* upon the Fourth *Monday* after the passing of this Act, and they, or any Three or more of them, at such Meeting assembled, shall proceed to the Execution of this Act, and may then and afterwards from Time to Time adjourn, to meet at such Times and at such Places as they shall think proper: Provided always, that such further Meeting may be held sooner, or at any other Time, if there be Occasion, upon Notice thereof, and of the Intent and Business of the same, being given by the Clerk of the preceding Meeting Ten Days at least before the Time for which such further Meeting is called, in some One Newspaper usually circulating in each of the said Counties of *Berwick* and *Roxburgh*, or in One such Newspaper of one of the said Counties, if no Newspaper be published in the other of them, and in such other Way also as may from Time to Time be directed by the said Trustees; and in case at any Time appointed for a Meeting of Trustees Three in Number shall not assemble, the Trustee or Trustees actually assembled, and in case none of the Trustees shall attend, their Clerk, shall have Power to adjourn the Meeting to some future Day; and the said Trustees shall at all their Meetings defray their own Expences.

Meetings of  
Trustees.

V. And be it enacted, That it shall and may be lawful for the said Trustees hereby appointed, at their First General Meeting, or at some subsequent General Meeting (Ten Days previous Notice of the said Meeting, and of the Intent and Business thereof, being previously given by the Clerk to the said Trustees in some One Newspaper usually circulating in each of the said Counties of *Berwick* and *Roxburgh*, or in One such Newspaper of either of the said Counties if no Newspaper be published in one or other of these Counties, and in such other Way also as may from Time to Time be directed by the said Trustees), to choose, nominate, and appoint Five additional Trustees; and it shall also be lawful for the said Trustees, at One of their fixed General Meetings, (upon the like Notice being given by their Clerk of the Meeting, and its Intent and Business,) upon the Death of any Trustee named and appointed by or under the Authority of

New Trustees may be  
chosen, and  
Vacancies  
by Death  
filled up.

of this Act, or upon the Refusal of any Trustee so named and appointed to act or to continue to act in the Trust (such Refusal being signified to the said Trustees, or to their Clerk, by a Writing under the Hand of such Person so refusing to act), to choose, nominate, and appoint, in the Room and Place of each such Trustee so deceased or refusing to act, some one other fit Person qualified as aforesaid to be joined with the other or surviving Trustees in the Execution of all and every the Powers and Trusts reposed and vested in them by this Act; and all and every the Person or Persons so chosen, nominated, and appointed as Trustee or Trustees as aforesaid shall and may and they are hereby authorized and empowered to act to all Intents and Purposes in as full and ample a Manner for putting this Act into execution as the other Trustees nominated and appointed by this Act are authorized and empowered to act therein: Provided always, that every Person who shall in manner aforesaid refuse, by a Writing under his Hand, to act or to continue to act as Trustee under this Act, shall thenceforth cease to be a Trustee under this Act, and shall no longer be capable of acting in the Execution thereof, unless he shall at some future Period be again chosen, nominated, and appointed a Trustee in manner before mentioned.

Trustees  
may trans-  
fer a Portion  
of Road to  
Lauder and  
Kelso Road  
Trustees.

VI. And be it enacted, That from and after the passing of this Act it shall and may be lawful to the said Trustees to transfer and make over, under such Conditions as shall to them seem expedient and proper, to the Trustees acting under the Act of the Tenth Year of the Reign of His said Majesty King *George* the Fourth, before recited, or to any other Trustees who may come in their Room and Place, and it shall and may be lawful to the said last-mentioned Trustees to acquire and to manage and use, as comprehended within their own Trust, that Portion of the said Road from or near *Whiteburn* to *Kelso* which lies betwixt the Southern Termination thereof in the Parish of *Kelso* and a Point within Eight hundred and eighty Yards of *Skinlaws* Toll Bar, extending the said Portion of Road to Two hundred and fifty-seven Yards or thereabout, with the whole Powers and Privileges, Matters and Things belonging to the said Portion of Road: Provided always, that the said Portion of Road shall, when so transferred, be subject to the whole Rules of Management to which the other Roads comprehended under the said Act of the Tenth Year of the Reign of His said late Majesty King *George* the Fourth are subject, excepting in so far as expressly stipulated in any Deed, Instrument, or Minute so transferring the same.

Tolls.

VII. And be it enacted, That it shall and may be lawful to and for the said Trustees acting under Authority of this Act to demand, levy, and take, or cause to be demanded, levied, and taken, at each of the Gates or Bars erected or to be erected on the said Road, before any Passage be permitted, the Tolls and Duties following, or such Sum or Sums as they shall from Time to Time determine, not exceeding the Tolls and Duties following; (that is to say,)

For every Horse or other Beast whatsoever drawing any Coach, Berlin, Landau, Barouche, Chariot, Chaise, Hearse, Calash, Chair, or other such Carriage, Sixpence:

For every Horse or other Beast of Draught whatsoever drawing any Waggon, Cart, or other such Carriage, Four-pence :

For every other Horse or Beast of Burden, laden or unladen, and not drawing, Three-pence :

For every Score of Oxen or Neat Cattle, One Shilling and Eight-pence, and so in proportion for any greater or less Number :

For every Score of Calves, Hogs, Sheep, Lambs, Goats, or of young Horses, Fillies, or Ponies in a Drove, Ten-pence ; and so in proportion for any greater or less Number :

Provided always, that no Person passing through any Turnpike Gate on the said Road, who shall return through the same before Twelve of the Clock at Night of the same Day, with the same Horse or other Beast of Draught or Burden, and Carriage or Loading, shall be liable to pay Toll for the same more than once in each Day ; and every such Person paying Toll shall be entitled to receive a Ticket for the Day, denoting the Payment of Toll, which shall entitle him to pass and repass on that Day the Toll Gate at which he received it, and also every other Toll Gate on the same Road within Six Miles thereof ; but in case such Horse or other Beast of Draught or Burden shall pass with a different Carriage or Loading or Fare, the Persons so passing with the same shall be liable to pay Toll each Time they shall so pass or repass, in the same Manner as the first Time.

No Person passing with the same Horse, &c. liable to pay Toll more than once a Day.

VIII. Provided always, and be it enacted, That, notwithstanding the Repeal of the said recited Act of the First Year of the Reign of His Majesty King *George* the Fourth, the several Tolls thereby granted and made payable shall continue to be paid at the Toll Gates or Toll Bars to be continued or erected on the said Road until the End of the Term or Terms of the existing Letting or Lettings thereof ; and that the Trustees present at any Meeting called before the passing of this Act for the Purposes of letting the said Tolls shall be entitled at such Meeting to let the Tolls hereby granted, as if the said Meeting had been regularly held under this Act.

Present Tolls continued until the End of the existing Letting, and Trustees present at a Meeting called under existing Act may re-let.

IX. And be it enacted, That all the Tolls and Duties granted and made payable by the said recited Act of the First Year of the Reign of His Majesty King *George* the Fourth and by this Act, together with the Right of Property of and in every Gate, Bar, Toll House, Garden, Bridge, Milestone, Post, Rail, Road Materials, or other Matter or Thing belonging to the said Road, or to be acquired by virtue of this Act, are and shall be vested in the said Trustees appointed or to be appointed in or by virtue of this Act, but with Power to transfer the Portion of the said Road, and all Matters and Things belonging thereto, as before provided.

Tolls, &c. vested in Trustees.

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

Term of Act.

XI. And be it enacted, That the Expence of procuring and passing this Act shall be paid out of the first and readiest of the Tolls and Duties

Expence of this Act.

[*Local.*]

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Duties

Duties received and levied, or by or out of the first Monies that shall come to the Hands of the said Trustees under and by virtue of the said recited Act of the First Year of the Reign of His Majesty King *George* the Fourth or this Act ; and it shall and may be lawful to the Trustees acting under the said recited Act of the Tenth Year of the Reign of His said Majesty King *George* the Fourth to reimburse the said first-mentioned Trustees of such Proportion of the said Expences as shall be just and reasonable, with reference to the Interests of the Trustees under the Act last mentioned, in and under this Act, and as shall be ascertained and agreed upon when the Portion of Road before mentioned is transferred as herein-before authorized.

Public Act. XII. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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