



ANNO VICESIMO & VICESIMO PRIMO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

## Cap. lxxv.

An Act for more effectually making, repairing, and maintaining the Highways, Roads, and Bridges within the County of *Orkney*, and for other Purposes. [27th July 1857.]

**W**HEREAS an Act of the Parliament of *Scotland* was passed in the Year One thousand six hundred and sixty-nine, intituled *An Act for repairing Highways and Bridges*, whereby an Assessment of Ten Shillings *Scots* on each Hundred Pounds *Scots* of valued Rent is authorized to be levied for the Purposes mentioned in the said Act upon the Proprietors of Lands in *Scotland*, and which Assessment has been and is now levied from the Heritors of the County of *Orkney* in Terms of the said recited Act as after mentioned: And whereas by an Act passed in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for regulating and converting the Statute Labour of the Stewartry or Sheriffdom of Orkney, and for more effectually making, repairing, and maintaining the Highways and Bridges within the same*, the Persons therein described were appointed Trustees for regulating, levying, and applying the Commutations and Conversions thereby authorized to be imposed and levied, and for making, repairing, widening, keeping in repair, and regulating the Highways, Roads, and

Act of Parliament of Scotland, 1669, c. 16.

4 & 5 W. 4. c. xci.

[Local.]

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Bridges



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Bridges within the said Stewartry or Sheriffdom: And whereas it was by the said secondly above-recited Act enacted that the Assessment of Ten Shillings *Scots* on each Hundred Pounds *Scots* of valued Rent heretofore levied from the Heritors of *Orkney* in Terms of the said first-recited Act should be paid over by the Collector thereof to the Trustees under the said secondly-recited Act, to be by them applied in making and repairing Roads and Bridges in *Orkney*: And whereas the Trustees appointed by the said secondly-recited Act have proceeded to put the same into execution, but the said Highways, Roads, and Bridges cannot be effectually made, repaired, and maintained unless further Provision be made for these Purposes: And whereas it has been found by Experience that a Commutation in Money of the ancient Statute Labour or Service is more effectual for making and repairing of public Roads than the actual Labour on the Highways of the Tenants or Occupants of Lands and Houses; but the Mode in which the said Statute Labour or Service is commuted, levied, and applied in the said Sheriffdom, as prescribed by the said secondly-recited Act, is unequal and inconvenient, and it is expedient that the same should be amended: And whereas it has also been found that the aforesaid Assessment heretofore levied from the Heritors of *Orkney* in Terms of the said first-recited Act is inadequate, and it is expedient that in lieu thereof Power should be given to raise Assessments of the Amount, in the Manner, and for the Purposes herein-after set forth, and that the same should be levied and applied by the Trustees and Road Committees appointed by this Act: And whereas several of the Highways or Roads within the Island called the Mainland of *Orkney* are inconveniently situated, and it is expedient and will greatly facilitate Trade and Commerce, and the Agriculture and Improvement of the District, as well as the Convenience of the Inhabitants thereof and of the Public, if the new Roads herein-after described and authorized were made and maintained in more convenient Situations: And whereas an Act was passed in the Eighth and Ninth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for amending the Laws concerning Highways, Bridges, and Ferries in Scotland, and the making and maintaining thereof by Statute Service and by the Conversion of Statute Service into Money*: And whereas, in order to carry the several Objects above recited into effect, it is expedient that the said secondly above-recited Act shall be repealed, and that other and more extended Powers shall be granted instead thereof to the Trustees and District Road Committees herein-after appointed; but this cannot be accomplished without the 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, as follows; (that is to say,)

8 & 9 Vict.  
c. 41.

I. On



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I. On the passing of this Act the said recited Act of the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth shall be and the same is hereby repealed, but subject to the Provisions contained in this Act. 4 & 5 W. 4.  
c. xci. re-  
pealed.

II. In citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression “*The Orkney Roads Act, 1857.*” Short Title.

III. The following Words and Expressions when used in this Act shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,) Interpreta-  
tion of  
Terms.

“The Trustees” shall mean the Trustees for the Time being acting in execution of this Act:

“County of *Orkney*” shall comprehend the various Islands known as the *Orkney Islands*, and shall extend to and include every Royal or other Burgh situated within the same:

“Lands and Heritages” shall extend to and include all Property valued in the Valuation Rolls of the said County made up in Terms of the Act passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for the Valuation of Lands and Heritages in Scotland*: 17 & 18 Vict.  
c. 91.

“Assessors of the said County” shall mean the Assessors for the Time being acting under the said Act for the Valuation of Lands and Heritages, both for the Landward and Burghal Districts of the said County:

“Owners” shall apply to Liferenters as well as Fiars, and to Tutors, Curators, Commissioners, Trustees, Adjudgers, Wadsetters, or other Persons who shall be in the actual Receipt of the Rents and Profits of Lands and Heritages:

“Occupiers” shall apply to and include all Persons who may be in the actual Occupancy of Lands of the yearly Value of Two Pounds or more, whether as Owners, Liferenters, or Tenants, or in any other Character:

“Householders” shall apply to and include all Persons, whether in the County or Inhabitants of Burghs, Towns, and Villages, occupying Dwelling Houses and other Premises of the yearly Value of Two Pounds or more, not being Lands, Farmhouses, or Buildings occupied or used for agricultural Purposes:

“Premises” shall include all Lands and Heritages, Dwelling Houses, Shops, Counting-houses, Warehouses, Vaults, Cellars, Stables, Breweries, Manufactories, Mills, and other Houses and Buildings, Yards, and Places.

IV. “The Commissioners Clauses Act, 1847,” with the Exception of the Clauses thereof with respect to the Election and Rotation of the 10 & 11 Vict.  
c. 16. incor-  
porated.

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the Commissioners, where the Commissioners are to be elected by the Ratepayers or other like Class of Electors, and with the Exception also of the Sixteenth Clause thereof, shall be incorporated with and form Part of this Act.

Qualification as to Provisions of recited Act, 8 & 9 Vict. c. 41.

V. From and after the passing of this Act Sections Twelve, Thirteen, Fourteen, Fifteen, and Sixteen of the said recited Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for amending the Laws concerning Highways, Bridges, and Ferries in Scotland, and the making and maintaining thereof by Statute Service, and by the Conversion of Statute Service into Money*, shall not extend or apply to the County of *Orkney*, or to the Trustees or Road Committees acting in pursuance of this Act.

Property vested in Trustees under Act of 4 & 5 W. 4. hereby repealed to be vested in Trustees under this Act.

VI. On and after the passing of this Act all the Roads, Bridges, Ferries, Lands, Buildings, Jetties, Works, Rights, Interests, Moneys, Property and Effects, Rights of Action, Claims, and Demands whatsoever of or to which the Trustees under or by virtue of the said recited Act passed in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth hereby repealed, or otherwise, were immediately before the passing of this Act vested, seised, and possessed of or in any manner of way entitled to at Law or in Equity, or otherwise, shall become and be vested in the Trustees for executing this Act, who may use, sue for, and recover the same, and act in respect thereof as effectually as if the same had been vested in them under the said repealed Act, and they shall be liable to all the Debts, Liabilities, Claims, and Demands to which the Trustees under the said repealed Act were liable at the Repeal thereof, except such of the same as are by this Act extinguished.

Persons who have acted under existing Local Act to account for Moneys, and deliver up Books under Penalty.

VII. All Persons acting or who have acted under the said secondly-recited Act who shall, on the Commencement of this Act, have in their Custody, Power, or Possession any Money collected by virtue of such Act, or any Books, Deeds, Papers, Writings, or Effects belonging to the Trustees acting in execution of such Act or relating to the Execution thereof, shall pay and deliver up the same to the Trustees acting in pursuance hereof, or to such Persons as they shall appoint to receive the same; and in case of Neglect or Refusal the Person so neglecting or refusing shall for every such Offence be liable to a Penalty not exceeding Twenty Pounds, and shall also be liable to such Actions as the said Trustees may commence for the Recovery of the Money, Books, Deeds, Papers, Writings, or Effects so refused or neglected to be paid or delivered up as aforesaid.

Persons owing Debts

VIII. Every Person who at the Time of the Commencement of this Act shall be liable to the Payment of any Assessment to the Trustees



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Trustees acting in execution of the said secondly-recited Act shall, notwithstanding the Repeal thereof, be liable to the Payment thereof to the Trustees acting in pursuance hereof, in like Manner as every such Person would have been liable to the Payment thereof to the Trustees acting in execution of the said secondly-recited Act if this Act had not been passed, and the same shall be paid, with all Interest due or to accrue due thereon, to the Trustees acting in pursuance hereof, and the Payment thereof may be enforced by them in the like Manner as the same might have been enforced by the Trustees acting in virtue of the said secondly-recited Act if this Act had not been passed, and the said last-mentioned Trustees shall pay over to the Trustees acting in pursuance hereof any Sums of Money in their Hands received by them under the Powers of the said secondly-recited Act and applicable to the Purposes thereof, and the Payment thereof may be enforced by the Trustees acting in pursuance hereof by Proceedings in any Court of competent Jurisdiction.

under re-  
pealed Act  
to be liable  
to the Trus-  
tees.

IX. All Contracts, Bonds, Assurances, Engagements, Acts, and Proceedings entered into, made, done, or transacted by or with the said Trustees acting by virtue and under the Authority of the said secondly-recited Act previous to the Commencement of this Act shall, upon and from the Commencement of this Act, be binding on and enforced by and against and be incumbent on the Trustees acting in pursuance hereof as fully as they would have been binding or enforceable by and against and be incumbent on the said first-named Trustees or any of them if this Act had not passed, and the several Rates and Assessments made previously to the Commencement of this Act may be levied and recovered by the Trustees acting in pursuance hereof in the same Way and with the same Powers as they might have been levied and recovered by the said first-named Trustees in case this Act had not passed.

Subsisting  
Contracts of  
present Road  
Trustees  
may be en-  
forced by and  
against the  
Trustees  
acting in  
pursuance of  
this Act.

X. No Action, Suit, Prosecution, or other Proceeding whatsoever commenced by or against the said Trustees acting in execution of the said secondly-recited Act shall abate, cease, or be discontinued or prejudicially affected by this Act, but the same shall continue and take effect both in favour of and against the Trustees acting in pursuance hereof in the same Manner in all respects as the same would have continued and taken effect in relation to the said Trustees under the said secondly-recited Act if this Act had not been passed.

Actions and  
Prosecutions  
by and  
against the  
present Road  
Trustees not  
to abate.

XI. Provided always, That, notwithstanding the Repeal of the said secondly-recited Act, and except only as is by this Act otherwise expressly provided, everything before the Commencement of this Act done or suffered under the said Act shall be as valid as if the said Act were not repealed, and the Repeal thereof and this Act respectively shall accordingly be subject and without Prejudice to every-

Continuing  
Rights, Lia-  
bilities, &c.  
under for-  
mer Act.

[*Local.*]

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thing so done or suffered, and to all Rights, Liabilities, Claims, and Demands, both present and future, which, if the said recited Act were not repealed and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered; and with respect to all such Rights, Liabilities, Claims, and Demands, the Trustees under this Act shall to all Intents and Purposes represent the existing Trustees: Provided always, that the Generality of the Provisions contained in this Enactment shall not be confined or restricted by any Provision contained in this Act.

Qualification  
of Trustees.

17 & 18 Vict.  
c. 91.

XII. All Persons qualified, otherwise than *ex officio*, in Terms of the Nineteenth Section of the Act passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty Queen *Victoria*, Chapter Ninety-one, intituled *An Act for the Valuation of Lands and Heritages in Scotland*, to act as Commissioners of Supply in the said County of *Orkney*, and all Tenants, being the actual Occupiers of Lands within the said County, of the yearly Rent or Value in Terms of the said Act of at least One hundred Pounds, and Four Members of the Town Council of the Royal Burgh of *Kirkwall*, Four Members of the Town Council of the Burgh of Barony of *Stromness*, and One Member of the Parochial Board of each Parish within the Mainland District of the County, to be elected by the said Town Councils and Parochial Boards respectively in the Manner herein-after provided, shall be and they are hereby nominated and appointed Trustees for carrying this Act into execution; and the said Trustees shall be styled "the Trustees for the *Orkney Roads*," and by that Name may sue and be sued, and shall be a Body Corporate, with perpetual Succession and a Common Seal, with Power to purchase, take, hold, and dispose of Lands and other Property for the Purposes but subject to the Restrictions of this Act; and it shall be lawful for any Trustee, by a special Mandate, to authorize any Person to attend and act and vote for him at any Meeting of the said Trustees: Provided always, that no Person acting as a Trustee in respect of being a Tenant and actual Occupier of Land within the County shall be entitled to act or vote at any Meeting of Trustees in any Question affecting the Roads to be made or maintained under the Powers of this Act, or any of them, or the Assessments to be made and levied in respect thereof, or any of them, unless he shall be a Tenant and actual Occupier of Land within the Mainland or other District of the County in which the Road is proposed to be made, or the Assessment to be levied, in regard to which such Question shall arise.

How Trustees named  
by Town  
Councils and

XIII. Within One Month after the passing of this Act the said Town Councils and Parochial Boards respectively shall meet and shall elect the Number of Members before prescribed respectively to be

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be Trustees under this Act, and the Trustees so elected shall continue in Office for One Year from the Date of their Election, but shall be eligible for Re-election, and the said Town Councils and Parochial Boards respectively from Time to Time, so often as may be necessary for the Purpose of supplying any Vacancy which may arise either through the Expiration of the Year from the Date of the Election of any Trustee, or from his Resignation, Death, or otherwise, shall meet and elect another Person to be a Trustee in the Place of the Trustee so retiring, resigning, dying, or otherwise ceasing to act: Provided always, subject to the Provision for Re-election hereinbefore contained, that any Trustee elected to fill the Place of a Trustee retiring or ceasing to act before the Expiration of One Year from the Date of his Election shall only continue in Office for so long as the Trustee so retiring or ceasing to act would have been entitled to remain in Office.

Parochial  
Boards to be  
appointed.

XIV. The Trustees shall hold their First Meeting at *Kirkwall*, within the Sheriff Court Room there, on the First *Wednesday* in *September* One thousand eight hundred and fifty-seven, at One o'Clock in the Afternoon, for the Purpose of putting this Act into execution, and shall then and from Time to Time thereafter adjourn to and meet at such Times and Places within the Limits of this Act as they shall think proper.

First Meet-  
ing of Trus-  
tees.

XV. This Act shall commence and take effect from and after the said First General Meeting of Trustees.

Commence-  
ment of Act.

XVI. The Trustees shall hold an Annual General Meeting at *Kirkwall* on the Thirtieth Day of *April* in every Year, or in case that Day shall happen to be a *Sunday*, then on the Day next ensuing.

Trustees to  
hold an An-  
nual General  
Meeting.

XVII. The Trustees may from Time to Time appoint a permanent Auditor, and they shall have Power from Time to Time to remove any Auditor so appointed as they may see fit, and to appoint another in his Place.

Trustees  
may appoint  
a permanent  
Auditor.

XVIII. For the Purposes and better Execution of this Act, every Island in the said County shall constitute and form a separate District, and, except as herein-after otherwise specially provided, the Assessments and Commutations to be levied in pursuance of this Act within every such Island or District shall be expended and applied in carrying into effect the Purposes of this Act within the Island or District in which such Assessments and Commutations shall be levied, and not otherwise.

County to be  
divided into  
Districts.

XIX. With the Exception of the District or Island called the Mainland of *Orkney*, which District shall in all respects be under the immediate

Appoint-  
ment of Dis-  
trict Road  
Committees.



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immediate Superintendence and Management of the Trustees themselves, the several Powers and Purposes of this Act within every District of the said County shall, subject to the Provisions of this Act, be executed and carried into effect under the Direction, Superintendence, and Management of a permanent District Committee, to be called the "Road Committee" of the District, and to be constituted as herein-after provided.

Qualification  
of Members  
of District  
Road Com-  
mittees.

XX. All Trustees being Proprietors, or Factors of Proprietors, or Tenants of Lands within any District of the said County other than the Mainland, shall be Members of the Road Committee of such District; but it shall be lawful for the Trustees from Time to Time, on Application to that Effect made to them in Writing by the Majority of the Trustees or Road Committee of any such District (such Trustees or Road Committee being Heritors or Factors for Heritors), to nominate and appoint such other Person or Persons as they shall see cause, being Proprietors or Tenants within any District, to be Members of the Road Committee thereof, although such Person or Persons may not be qualified to act as Trustee or Trustees in Terms of this Act, and such Person or Persons so appointed shall have the same Powers and Authorities for executing this Act as the other Members of the Road Committee; and it shall be lawful for any Member of a Road Committee to authorize any Person, by a special Mandate, to attend, and act and vote for him at any Meeting of the said Committee.

Trustees to  
fix Quorum  
of Road  
Committees  
and appoint  
Conveners.

XXI. The Trustees shall fix the Quorum of Members of every Road Committee, and appoint annually One of the Members of such Committee to be Convener thereof, and, except as hereby otherwise expressly provided, the several Clauses and Provisions of "The Commissioners Clauses Act, 1847," incorporated herewith, with respect to Committees, shall be held to extend and apply to the Proceedings of the said Road Committees, in the same Manner in all respects as if such Committees had been appointed by the Trustees themselves.

Road Com-  
mittees may  
appoint  
Officers.

XXII. Subject to the Provisions of this Act and of the Acts incorporated herewith, it shall be lawful for the Road Committee of any District to appoint and employ its own Treasurer, Clerk, Collector, Assessor, Surveyor, or other Officers to assist in the Execution of this Act, as such Committee shall think necessary.

Road Com-  
mittees to  
account to  
the Trustees.

XXIII. Every Road Committee shall be subject to the Supervision and under the Control of and accountable to the Trustees, and shall every Year lay before the Trustees at the Annual General Meeting appointed to be held as aforesaid a Statement of their Accounts properly



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properly vouched, with an Abstract thereof appended thereto, to be by the said Trustees examined and approved.

XXIV. If at any Time it shall appear to the Trustees that the Road Committee of any District has for a whole Year neglected to perform its Duties, then and in such Case the Trustees at their Annual General Meeting may by a formal Resolution to that Effect suspend such Committee in the Exercise of its Functions for such Period as they shall see proper, and may appoint such Person or Persons as they shall think fit to take and exercise the general Superintendence and Direction of the Roads within such District, and to levy and apply the Assessments within the same: Provided always, that it shall be lawful for the Trustees at any Time to recall such Suspension and Appointment on a satisfactory Assurance of the Willingness of the Road Committee in future duly to perform its Duties.

Trustees may supersede Road Committees, and appoint Overseers for Districts in certain Circumstances.

XXV. The Trustees are hereby authorized to make and maintain the several new Roads on the Mainland of *Orkney* following; (that is to say,)

Description of new Roads.

First. A Main or Trunk Road commencing at the North End of the Town of *Stromness* at a Point in the Street or Road of *Stromness* opposite the Inn or Public House kept by *Margaret Marwick* there, and terminating at the Harbour of *Kirkwall*, near the West End or Quay thereof, in the Royal Burgh of *Kirkwall*, and which Road will pass within the several Parishes of *Stromness*, *Stenness*, *Firth*, and *Kirkwall and Saint Ola*:

Second. A Branch Road commencing by a Junction with the said Main or Trunk Road in a Piece of Pasture Land near the Mill of *Cairston* belonging to *James Riddock Pollexfen*, and now in the Occupation of *Magnus Garson*, in the Parish of *Stromness*, and terminating by a Junction with the existing Road from *Sandwick* to *Stromness* at *Clumlay* in the Parish of *Sandwick*, and which Road will be wholly situate within the Parishes of *Sandwick* and *Stromness*:

Third. A Road commencing by a Junction with the existing Road from *Birsay* to *Stromness* near the Point where that Road at present joins the *Sandwick and Stromness* Road, and terminating by a Junction with the said new Road secondly above described at a Point about Five hundred Yards North of the Bridge of *Voy*, and which Road will be wholly situate within the Parish of *Sandwick*:

Fourth. A Road commencing by a Junction with the said Main or Trunk Road at or near the Point where it is intended to pass from the Lands of *Binscarth* into *Stenness* at the Parish Boundary between *Firth* and *Stenness*, and terminating by a Junction with the existing Road from *Harray* to *Kirkwall* at a

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Point



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Point in the said Road to the Westward of the Loch of *Wasdale*, and about Two hundred and sixty Yards North of the House in the Parish of *Harray* called "The Refuge," and which Road will be wholly situate within the Parishes of *Stenness*, *Harray*, and *Firth*, or some of them :

Fifth. A Branch Road commencing by a Junction with the said Main or Trunk Road at a Point near the Free Church of *Firth* in or near the Village of *Phinstown*, and terminating by a Junction with the existing Road from *Rendall* to *Kirkwall* at or near the Point where the Road diverges towards the Mill of *Isbister*, and which Road will be wholly situate within the Parishes of *Rendall* and *Firth* :

Sixth. A Road commencing by a Junction with the existing Road from *Deerness* to *Kirkwall* at a Point about Six hundred Yards to the East of the Bridge of *Widford*, passing along the Valley of the Burn of *Widford*, forming a Junction with the existing Road from *Holm* to *Kirkwall* at "*Glen Orkney*" in the Parish of *Kirkwall and Saint Ola*, and terminating in the Town of *Kirkwall* opposite the Cathedral Churchyard, and which Road will be wholly situate within the Parish of *Kirkwall and Saint Ola* :

Seventh. A Road commencing by a Junction with the *Scapa* and existing *Stromness* and *Kirkwall* Roads at or near the "Society's School-house" erected on the Lands of *Glaitness*, passing through the said Lands of *Glaitness*, thence through the *Crafty*, thence passing along the "*Back Dykes*" upon an Embankment to be formed through the "*Peerie Sea*" and Sands or Oyce of *Kirkwall*, and terminating by a Junction with the *Kirkwall* Terminus of the said Main or Trunk Road at the *West Quay*, and which Road will be wholly situate within the Parish of *Kirkwall and Saint Ola* :

And the Trustees shall have Power and they are hereby authorized to make and maintain such Jetties and convenient Landing Places in connexion with the Ferries communicating with any of the said Roads as they shall think proper for the Accommodation of the Public, and facilitating Communication between the Islands in the said County: Provided always, that no Part of the Branch Roads secondly, thirdly, fourthly, and fifthly above authorized shall be commenced until the said Main Trunk Line shall be completed and open for Traffic.

Power to  
make new  
Roads, &c.  
according to  
deposited  
Plans, &c.

XXVI. And whereas Plans and Sections of the said intended new Roads and Works connected therewith, and also a Book of Reference to such Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Property upon or through which the said new Roads and Works are intended

to



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to be made, were deposited with the Principal Sheriff Clerk of the County of *Orkney* on or before the Thirtieth Day of *November* One thousand eight hundred and fifty-six: And whereas a Plan and Section of a Deviation of a Portion of the said intended Main or Trunk Road, together with a Book of Reference thereto containing the like Particulars, were deposited with the said Sheriff Clerk on or before the Eleventh Day of *May* One thousand eight hundred and fifty-seven: Be it enacted, That, subject to the Provisions of this Act and of the Acts incorporated herewith, the Trustees may make and maintain the said new Roads, as shown upon the Plans and Sections deposited as aforesaid, in the Lines and through the Lands delineated on the said Plans, and described in the said Books of Reference, and according to the Levels shown upon the said Sections, together with all such Footpaths, Bridges, Embankments, Jetties, Landing Places, Ditches, Drains, Fences, and other necessary Works upon or near thereto, as they may think fit, and for the Purposes aforesaid the Trustees may enter upon, take, and use such of the Lands and Premises described in the said Plans and Books of Reference as they shall deem necessary for the Purposes aforesaid: Provided always, that the Trustees shall not be entitled to make so much of the said Main or Trunk Road shown on the Plans deposited on or before the Thirtieth Day of *November* One thousand eight hundred and fifty-six as lies between the Market Ground marked Number 13 and the Pasture Land marked Number 116, both in the Parish of *Stromness*, nor to enter upon, take, or use any of the Lands and Buildings shown upon the said Plan between the Points aforesaid, except in so far as the same are included in the Plan of the said Deviation so deposited as aforesaid, and shall be required for the Purpose of constructing the said Deviation.

XXVII. For the Purpose of constructing the said Roads, Jetties, and Landing Places, "The Lands Clauses Consolidation (*Scotland*) Act, 1845," in so far as applicable, shall be and the same is hereby incorporated with this Act. 8 & 9 Vict. c. 19. incorporated.

XXVIII. It shall be lawful for the said Trustees in making the said several Roads and other Works to deviate from the Lines delineated on the said Plans to the Extent or Distance of the Limits of Deviation marked thereon; provided that the Works shall not by means of such Deviation be made to extend into the Lands of any Person whose Name is not mentioned in the said Book of Reference without his previous Consent in Writing, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in manner herein-after provided. Power to deviate in Construction of Works.

XXIX. The



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Deviation  
from Levels.

XXIX. The Trustees may and they are hereby authorized to deviate from the Levels of the Works as marked on the said deposited Sections to any Extent not exceeding Five Feet.

Errors, &c.  
in Plan may  
be corrected  
by Sheriff,  
who shall  
certify the  
same.

Certificate to  
be deposited.

XXX. If any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the said Plan or in the said Book of Reference, it shall be lawful for the Trustees to apply to the Sheriff for the Correction thereof, after giving Ten Days Notice to the Owners, Lessees, and Occupiers of Lands affected by such proposed Correction; and if it shall appear to the Sheriff that such Omission, Mis-statement, or erroneous Description arose from Mistake, he shall certify the same accordingly, and shall in such Certificate state the Particulars of any such Omission, Mis-statement, or wrong Description; and such Certificate shall, along with the other Documents to which it relates, be deposited with the Sheriff Clerk of *Orkney*, and with the Schoolmasters of the several Parishes in which such Lands are situate, or with the Session Clerk of any such Parish, in case there may happen to be no Schoolmaster therein, and with the Town Clerk of the Royal Burgh of *Kirkwall*, if such Lands be situate within the said Burgh; and thereupon such Plan and Book of Reference shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Trustees to proceed with the Execution of the said Works in accordance with such Certificate, in the same Manner as if such Omission, Mis-statement, or wrong Description had not been made.

Plans depo-  
sited at the  
Office of  
Sheriff Clerk  
to remain  
there, and be  
open for In-  
spection.

XXXI. The said Plans and Sections and Book of Reference deposited with the Sheriff Clerk of the said County of *Orkney* shall remain in the Custody of the Sheriff Clerk for the Time being, who shall permit all Persons interested to inspect the same, and to have Copies thereof or Extracts therefrom, paying to the said Clerk the Sum of One Shilling for every such Inspection, and at the Rate of Sixpence for every One hundred Words of such Copies or Extracts; and the said Plans and Book of Reference, or any Alteration or Correction thereof, or any Copy thereof respectively, or of any Part thereof, certified by the said Sheriff Clerk, or his Deputy for the Time being, to be a true Copy (which Certificate the said Sheriff Clerk or his Deputy shall give to all Parties interested when required), shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Works on  
the Shore of  
the Sea, &c.  
not to be  
constructed

XXXII. The Trustees shall not construct any of the said Works or any Part thereof on the Shore of the Sea, or of any Creek, Bay, or Arm of the Sea, where and so far up the same as the Tide flows and re-flows, without the previous Consent of Her Majesty, Her Heirs and  
Successors,



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Successors, to be signified in Writing under the Hands of Two of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or One of them, and of the Lord High Admiral of the United Kingdom of *Great Britain and Ireland*, or of the Commissioners for executing the Office of Lord High Admiral, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only in accordance with the Terms of such Consents respectively; and where any of the said Works shall have been constructed with such Consent as aforesaid, the Trustees shall not at any Time alter or extend the same without obtaining, previously to making any such Alteration or Extension, the like Consents or Approval; and if any such Works shall be commenced or completed, or be altered or extended, without such Consent and Approval, it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or One of them, or the said Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, to abate and remove the same, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Trustees; and the Amount thereof shall be a Debt due to the Crown, and be recoverable accordingly with Costs of Suit.

without Consent of the Commissioners of Woods, &c. and of the Admiralty.

XXXIII. Previously to commencing any One of the Crossings over the *Stenhouse Lake Creek*, *Oyce of Peerie Sea*, and *Oyce of Firth*, or the Works respectively connected therewith, the Trustees shall deposit at the Admiralty Office Plans, Sections, and Working Drawings of each of the said Crossings and Works connected therewith, for the Approval of the Lord High Admiral of the United Kingdom of *Great Britain and Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty, and such Crossings and Works shall be constructed only in accordance with such Approval.

Working Drawings of Crossings of certain Creeks to be approved by Admiralty before Commencement of Operations.

XXXIV. If at any Time or Times it shall be deemed expedient by the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, to order a local Survey and Examination of any Works of the Trustees in, over, or affecting any tidal or navigable Water or River, or of the intended Site thereof, the Trustees shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Trustees, and if not paid upon Demand may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered (with Costs) as a Penalty is or may be recoverable from the Trustees.

Power to Admiralty to order local Survey at Expense of Trustees.

XXXV. If any Work to be constructed by the Trustees in, under, over, through, or across any tidal Water or navigable River, or if any

Works affecting tidal Waters may



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be removed  
by Admi-  
rality if al-  
lowed to fall  
into Decay.

Portion of any Work which affects or may affect any such Water or River, or Access thereto, shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Trustees, and the Amount thereof shall be a Debt due from the Trustees to the Crown, and be recoverable accordingly with Costs of Suit.

New Roads,  
Bridges, and  
Works to be  
vested in  
Trustees.

XXXVI. The said new Roads, Bridges, and other Works, and all the Materials used in the Construction thereof, shall be vested in the Trustees as well during the Construction thereof as after the same shall be completed.

Powers for  
compulsory  
Purchases  
limited.

XXXVII. The Powers given by this Act and "The Lands Clauses Consolidation (*Scotland*) Act, 1845," incorporated herewith, for the compulsory Purchase of Lands for the Purposes of this Act, shall not be exercised after the Expiration of Five Years from the passing of this Act.

District  
Committees  
may con-  
struct new  
Roads, and  
put existing  
Roads into  
thorough  
Repair.

XXXVIII. It shall be lawful for any Road Committee of any District other than the Mainland to lay out and construct any useful Line of Road within such District, and to make such Jetties or Landing Places in connexion therewith as they may think proper, and also to put into thorough Repair any existing Line of Road within such District, and to apply to that Purpose the District Assessment and Commutation Assessments which they are hereby authorized to raise; and such Roads, Jetties, and Landing Places when so made or put into thorough Repair shall thereafter be maintained solely by means of the said several Commutation Assessments.

Power to  
maintain  
Roads.

XXXIX. Subject to the Provisions of this Act and of the Acts incorporated herewith, it shall be lawful for the Trustees or the said Road Committees, within their respective Districts, to maintain, repair, level, improve, widen, drain, keep in repair, order, and regulate the several Roads, Bridges, Jetties, or Landing Places which shall be constructed under the Powers by this Act given, and also the several Roads, Highways, Streets, Bridges, Jetties, and Landing Places at Ferries within the said County, whereof a Return shall have been made in Terms of the recited Act passed in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, hereby repealed, and entered in the Books of the Trustees acting in execution thereof; and a Return shall from Time to Time be made to the Trustees of any Roads, Jetties, and Landing Places which may hereafter be constructed under the Powers of this Act, and such Return shall be

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be entered in a Book to be kept for that Purpose by the Trustees; and, except in the Case of the new Roads hereby authorized to be made, and for the Purpose of making the same, it shall not be lawful for the Trustees or any Road Committee to expend any Moneys which they are hereby authorized to levy and raise on any Road, a Return whereof shall not have been made and entered as aforesaid.

XL. It shall be lawful for the Trustees or the District Road Committees, as the Case may be, from Time to Time to cross, alter, divert, or stop up, either temporarily or permanently, all such Roads, Streams, Waters, Sewers, Drains, Pipes, Bridges, and other Works within the Limits of this Act which it may be necessary to cross, alter, divert, or stop up for the Purposes of this Act, or in carrying the same into effect, and in particular it shall be lawful for them to stop up or alter the Course of any existing Road, and to pull down old Bridges which may be superseded by the new Roads hereby authorized: Provided always, that Notice of the Resolution or Order to shut up or alter the Course of any such Road, or pull down any such Bridge, shall be given in Writing to the Owners of the Lands within which the said Road or Bridge respectively is situate, and shall also be given by Advertisement in some local Newspaper, if any, and by printed Placards or Hand Bills posted in public and conspicuous Places within the Parishes within which such Road or Bridge shall pass or be situate, for One Month at least before the said Road shall actually be shut up, or the Course thereof altered, or the said Bridge pulled down; and that any Person who shall think himself aggrieved by such Resolution or Order may, within Ten Days after the Expiration of the said Period, apply to the Sheriff, who is hereby empowered to suspend the Execution thereof, and to hear and determine such Application, and to pronounce such interim or final Order in reference thereto and to the Occupation of the said Road or Bridge as he shall see proper, and the Determination of the Sheriff in the said Matter shall be final and conclusive, and shall not be subject to any Appeal whatsoever: Provided also, that in altering the Course of any Road the Consent of every Heritor through whose Ground the new Line may pass shall be previously obtained; and the said Trustees or District Road Committees, as the Case may be, shall have Power to apply or sell the Materials of any Bridge ordered by them to be pulled down as they shall see proper for the Purposes of this Act.

Trustees  
may stop up  
Roads, &c.

XLI. It shall be lawful for the Trustees or the District Road Committees, as the Case may be, to alter, straighten, or divert the Course of any Part of the High Roads within any District which may be found crooked or inconvenient in such Manner as they shall think proper, for the Purpose of rendering such Roads more commodious and useful for the Public: Provided always, that the previous Consent

Trustees  
may alter or  
straighten  
Roads.

in



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in Writing of the Owner or Owners of the Lands or other Property through which each such Alteration or Diversion is intended to pass shall be first obtained by the said Trustees or Road Committees, except where such Alterations or Diversions shall occur in or pass through undivided Common or Waste Lands, in which Case no such Consent shall be necessary.

Power to  
widen exist-  
ing Roads.  
11 G. 3. c. 53.

XLII. And whereas an Act was passed in the Eleventh Year of the Reign of His late Majesty King *George* the Third, Chapter Fifty-three, intituled *An Act for widening the Highways in that Part of Great Britain called Scotland*, whereby certain Powers were granted to the Justices of Peace and Commissioners of Supply for the respective Shires and Stewartries, and the Commissioners and Trustees of Turnpike Roads established by Special Acts of Parliament within that Part of *Great Britain* called *Scotland*, to make, repair, clear, widen, and extend, and to keep in good Repair after being so cleared, widened, and extended, the several Highways and Roads under their Management and Direction respectively, so as the same shall be in all Places full Twenty Feet and not exceeding Thirty Feet in Width of clear passable Road, exclusive of the Bank and Ditch on each Side of such Highway or Road respectively, Satisfaction being always made in manner directed by the said Act to the Owners and Lessees of Land for so much Ground as shall be taken to widen and enlarge the said Highways and Roads beyond and over and above Twenty Feet in Width, and for the Loss or Damage the Owner or Owners of the Lands may sustain by removing Fences where such are to be removed; and it is expedient that the Powers, Authorities, and Privileges vested by the said Act in the Persons by whom the same is directed to be carried into effect should be vested in and exercised by the Trustees and District Road Committees hereby appointed: Be it enacted, That from and after the passing of this Act the whole Powers, Authorities, and Privileges with respect to making, clearing, widening, and extending Highways and Roads granted by the said Act to and vested in Justices of the Peace and Commissioners of Supply shall be vested in and enjoyed and exercised by the Trustees and District Road Committees respectively acting in pursuance of this Act, in like Manner and as fully in all respects as if they had been named in the said Act in lieu of the said Justices of the Peace and Commissioners of Supply, but subject always to the Provisions and Conditions of the said Act, in so far as the same are not hereby expressly modified or altered: Provided always, that the Trustees and District Road Committees shall not be bound either to hold Two Annual Meetings, as provided by the said Act, or to levy the additional Assessment thereby directed to be levied for the Payment of the Sum or Sums of Money adjudged, as therein provided, to the Owners of Lands to be taken, and of Fences to be removed or altered, for the widening and enlarging



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enlarging the Highways or Roads, but shall pay such Sum or Sums out of the Assessments other than the General Assessment hereby authorized to be levied.

XLIII. Where Lands adjacent to any of the said existing Roads, or any Part or Parts thereof, are not inclosed, the Proprietor or Occupier of such Lands shall not make any Inclosure within Fifteen Feet of the Centre of the Roads without giving at least Two Months previous Notice in Writing to the Trustees, or Road Committee of the District, who are respectively required to insert a Copy of each such Notice in their Minutes; and in case such Proprietor or Occupier shall fail to give such Notice as aforesaid he shall not be entitled to any Compensation for the Expense of any such Inclosure in case the Trustees or Road Committees shall at any future Period think it necessary to demolish the same for the Purpose of widening the Roads and making Footpaths thereon.

Provisions as to new Inclosures.

XLIV. To aid in enabling the Trustees to construct the several Lines of Road, and Jetties or Landing Places connected therewith, within the said District or Island called the Mainland of *Orkney*, hereby specially authorized to be made, and to place such other existing Roads within the said District as may not thereby be superseded in a State of thorough Repair, in the first instance, the whole Owners of Lands and Heritages within the said Island or District are hereby made liable in and shall pay to the Trustees, or to any Collector or other Person appointed by them to receive the same, an annual Assessment not exceeding One Shilling on each Pound of the real Rental or annual Value of their said Lands and Heritages, and the said Assessment shall be called "the Mainland District Assessment," and shall be laid on for the Year One thousand eight hundred and fifty-seven by the Trustees at their First Meeting to be held under this Act, and thereafter such Assessment shall, subject to the Provisions herein-after contained for the eventual Determination of the said Assessment, be annually assessed and laid on by the Trustees at their Annual General Meeting, until the whole Sums of Money which may be borrowed upon the Security of the said Assessment under the Powers of this Act shall be paid off and discharged; and the Trustees are hereby directed and required to make up or cause to be made up annually a List or Schedule of the Persons liable in Payment of the said Assessment, and of the Sum proposed to be levied from each of them.

Assessment on Owners of Lands and Heritages to be levied in the Mainland District.

XLV. For the Purpose of constructing any new Road, Jetty, or Landing Place within any District of the County other than the Mainland, or of placing any existing Road in a State of thorough Repair in the first instance, it shall be lawful for any Road Committee of any such District, at a Meeting to be held for that Purpose, after

Road Committees may levy Assessments on Owners of Lands and Heritages.

[Local.]

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due Notice by Advertisement, to resolve that an Assessment shall be raised on the Owners of Lands and Heritages within such District, which Assessment shall be called "the District Assessment," and shall be at a Rate not exceeding One Shilling on each Pound of the real Rental or annual Value of such Lands and Heritages, and in case any Road Committee shall resolve to raise such Assessment, the said Resolution shall be forthwith reported to the next General Meeting of the Trustees, who, after hearing all Parties having Interest, may either rescind or confirm and approve of the same; and in the event of the Resolution to assess being approved of by the Trustees, such Approval shall be final, and the said Assessment shall thereupon be assessed and laid on at the said Meeting by the Trustees for the Year then current, and shall be annually assessed and laid on until the whole Sums of Money which may be borrowed upon the Security of the said Assessment under the Powers of this Act shall be paid off and discharged, and a List or Schedule of the Persons liable in Payment of the said Assessment, and of the Sum proposed to be levied from each of them, shall be made up by the Trustees at the same Time and in the same Manner in all respects as herein-before directed and provided in the Case of "the Mainland District Assessment."

Commuta-  
tion of Sta-  
tute Labour.

XLVI. From and after the passing of this Act the whole Statute Labour or Service of the said County shall be and the same is hereby converted or commuted into an annual Payment in Money, to be paid, assessed, and levied in manner herein-after provided, and to be applied subject to the Provisions and in execution of the Purposes of this Act.

Assessments  
on Occupiers  
of Lands in  
lieu of Sta-  
tute Labour.

XLVII. All Occupiers of Lands within the said County shall in lieu of such Statute Labour and Service be liable in and shall pay in manner herein-after provided an annual Commutation or Assessment, to be called "the Commutation Assessment," at a Rate not exceeding One Shilling *per* Pound on the real Rental or annual Value of the Lands they so occupy: Provided always, that Lands let for grazing or other Purposes for a shorter Period than One Year shall be held to be in the Occupancy of the Owners thereof, who shall be obliged to pay the Commutations payable in respect of the Rental of such Lands.

Lands let  
for shorter  
Period than  
One Year,  
how to be  
assessed.

Assessment  
on House-  
holders for  
Statute  
Labour.

XLVIII. All Householders in the said County shall in lieu of such Statute Labour or Service be liable in and shall pay in manner herein-after provided an annual Commutation or Assessment, to be called "the Householders Commutation Assessment," at a Rate not exceeding Sixpence *per* Pound on the real Rental or yearly Value of the Dwelling Houses and other Premises occupied by them.

Assessors to  
make up an-  
nually Lists

XLIX. The Assessors of the said County shall, on or before the Second *Thursday* of *April* in every Year, make out or cause to be made



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made out full and complete Lists of the Persons liable in Payment of the said Commutations or Assessments in lieu of Statute Labour within the respective Districts of the County, stating their Possessions and the Rents payable by each, and in the Case of Householders the Number of Articles before specified, if any, for which they may be chargeable as aforesaid, and return the said Lists to the Trustees upon Oath, which Oath any Justice of the Peace is hereby authorized and required to administer; and, subject to the Provisions herein-before contained in regard to the maximum of the said Rates, the said Trustees at their Annual Meeting, or at some Adjournment thereof, shall each Year fix and settle the Rates of Commutation for every District of the said County for the Year then current, and shall forthwith thereafter make up or cause to be made up a List or Schedule of the Persons liable in Payment of such Commutations within each separate District, and the Sums to be levied from each of such Persons, and which Sums shall be paid to the Collectors or other Persons appointed by the Trustees or the Road Committees in their respective Districts to uplift and receive the same.

of Persons liable in Commutations in lieu of Statute Labour.

L. So soon in every Year as the Lists or Schedules of the said respective Assessments are made up by the Trustees in manner before provided, they shall be delivered to the several Collectors thereof in the respective Districts, and the Clerk to the Trustees shall forthwith give Notice by Advertisement in some local Newspaper, if any, and also by printed Placards or Hand Bills posted in public and conspicuous Places within the Districts, that the said Lists have been so made up and delivered as aforesaid, and that the same will lie in the Hands of the said several Collectors for Inspection by all Parties having Interest therein for the Period of Fourteen Days at the least from the Date of such Notice; and any Person considering himself aggrieved in respect of such Assessment or the Amount thereof may, within Ten Days after the Expiry of the said Period, but not thereafter, appeal by Petition to the Sheriff of the County, setting forth the special Grounds of Complaint, and the Extent of the Redress claimed; and the said Sheriff is hereby authorized and empowered to hear the said Appeal in a summary Manner, and to judge of and dispose of the same; and the Judgment of the Sheriff on such Appeal shall be final, and shall not be subject to Advocation, Suspension, Reduction, or any other Process of Review.

Assessment Lists to be delivered to Collectors and be open to Inspection.

Persons aggrieved as to Assessments may appeal to Sheriff.

LI. From and after the passing of this Act the Assessment of Ten Shillings *Scots* on each One hundred Pounds *Scots* of valued Rent heretofore levied from the Heritors of *Orkney* in Terms of the said recited Act of the Parliament of *Scotland*, made in the Year One thousand six hundred and sixty-nine, shall cease and determine, and the said Act shall not thereafter take effect or be put in force within the said County.

Assessment under recited Act of Parliament of Scotland, 1669, c. 16. to cease.

LII. The



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Assessments  
when pay-  
able.

LII. The said respective Assessments before specified shall be calculated from *Martinmas* to *Martinmas*, and shall be payable on the First Day of *June* yearly, and shall be levied upon and paid by the Owners or Occupiers, as the Case may be, for the Time being of the Premises in respect of which the same are assessed, without any new or amended Assessment, notwithstanding any Change during the Year in the Ownership or Occupation of the said Subjects; and no Assessment shall be impeached or affected by reason of any Mistake or Variance in the Christian Name or Surname of any Person chargeable therewith, but the same shall be valid and effectual against the Person or Persons intended to be charged and *bonâ fide* liable in Payment of the same.

Mode of  
recovering  
Assessments.

LIII. The whole Powers and Right of issuing summary Warrants and Proceedings, and all Remedies and Provisions enacted for collecting, levying, and recovering the Land and Assessed Taxes, or either of them, and other Public Taxes, shall be held to be applicable to the respective Assessments authorized by this Act, and the Sheriffs, Magistrates, Justices of the Peace, and other Judges may grant the like Warrants for the Recovery of the Assessments hereby authorized, in the same Form and under the same Penalties as is provided in regard to such Land and Assessed Taxes and other Public Taxes: Provided always, that it shall nevertheless be competent to prosecute for and recover such Assessments by Action in the Sheriff's Small Debt Court.

Feu Duties  
payable to  
Crown not to  
be liable in  
Assessment.

LIV. Nothing in this or any other Act contained shall authorize the Trustees or any Road Committee to make, raise, or levy any Assessment whatsoever upon or in respect of any Feu or other Duties from Time to Time accruing or becoming payable to the Queen's Majesty, Her Heirs and Successors.

Trustees  
may borrow  
on Credit of  
Assessments,  
&c. in Main-  
land Dis-  
trict.

LV. The Trustees may and they are hereby authorized and empowered from Time to Time to borrow and take up at Interest, on the Credit of the Mainland District Assessment and the Commutation Assessments hereby authorized to be levied and raised in the said District or Island called the Mainland, or any of them, any Sum or Sums of Money not exceeding in the whole the Sum of Twenty-five thousand Pounds, and to make and grant Mortgages and Assignations of the said Assessments, or any of them, in security of the Sums so borrowed.

Road Com-  
mittees may  
borrow on  
Credit of  
Assessments  
in their re-  
spective Dis-  
tricts,

LVI. It shall in like Manner be lawful for the Road Committee of any District and they are hereby authorized and empowered from Time to Time to borrow and take up at Interest on the Credit of the District Assessments and Commutation Assessments payable, or which may be assessed and levied in such District under the Authority



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rity of this Act, or on the Credit of either of them, any Sum or Sums of Money not exceeding in the whole Twelve Years gross Produce of the said Assessments respectively, and to make and grant Mortgages and Assignations of the said Assessments, or either of them, in security of the Sums so borrowed; and the several Clauses of the "Commissioners Clauses Act, 1847," incorporated herewith, with respect to the Mortgages to be granted by the Commissioners, shall be held to extend and apply to the Mortgages to be granted by the said District Road Committees: Provided nevertheless, that any Mortgages or Assignations in Security executed by a Quorum of any Road Committee shall be valid and effectual although such Quorum may be less than Five.

Clauses of  
10 & 11 Vict.  
c. 16. as to  
Mortgages  
to extend to  
Road Com-  
mittees.

LVII. It shall be lawful for the Trustees and the Road Committees, or any of them respectively, instead of borrowing on Mortgage or Assignation in Security, as herein-before provided, but without Prejudice to their Right so to do, to borrow or accept or take from any Bank or Banking Company, on a Cash Credit Account, to be opened and kept, according to the Usage of Bankers in *Scotland*, with such Bank or Banking Company in Name of the said Trustees or Road Committees, or any of them, as the Case may be, any Sum or Sums of Money not exceeding in the whole, together with any Sum or Sums which the said Trustees or Road Committees, or any of them respectively, may have raised upon Mortgage or Assignation in Security, the Sums which the said Trustees and the said Road Committees respectively are authorized to borrow as aforesaid, and to make and grant Mortgages and Assignations of the said Assessments in Security and for Repayment of the Sums advanced from Time to Time upon such Cash Credit Account and the Interest thereof.

Power to  
borrow on  
Cash Credit  
Account.

LVIII. Every Mortgage or Assignation in Security authorized to be made under the Provisions of this Act, and every Transfer thereof, may be partly printed and partly in Writing, and may be according to the Forms in the Schedules (A.) and (B.) to this Act annexed, or according to the Forms prescribed by the Commissioners Clauses Act, 1847, incorporated herewith, or to the like Effect, or in such other Form as may be most convenient and in accordance with Law and Usage in respect of Securities of a like Nature in *Scotland*.

Form of  
Mortgages  
and Assigna-  
tions in  
Security.

LIX. If the Trustees or District Road Committees respectively, or any of them, after having raised any Sum or Sums upon Mortgage or Assignation in Security, or by way of Cash Credit Account, under the Powers to that Effect hereby granted, shall pay off the same or any Part thereof except by means of the Sinking Fund herein-after provided for Redemption of the said Debts, it shall be lawful for them again to borrow the Sum or Sums so paid off, and so from Time to Time as Occasion shall require.

Power to  
reborrow.

[Local.]

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No Reduction of Rates of Commutation to prejudice Creditors.

LX. No Reduction of the Rates of Commutation or Assessment in lieu of Statute Labour hereby granted payable by the several Descriptions of Persons before mentioned shall be of any Force or Effect in any Question with any Creditor who may have lent Money on the Security of such Commutation or Assessment.

Assessments and Money borrowed to be applied for the Purposes of this Act.

LXI. The Assessments to be levied and Money borrowed by the Trustees or Road Committees under the Authority of this Act shall be applied in paying the Expense of applying for and obtaining this Act and incidental thereto, as herein-after provided, and in carrying out the Purposes thereof, and to no other Purpose whatever.

As to Sinking Fund.

LXII. In order to discharge the Principal Moneys to be borrowed as aforesaid on Security of the said respective Assessments, or by way of Cash Credit Account, the Trustees or Road Committees respectively by whom the same may be borrowed shall every Year appropriate and set apart out of such Assessments, as a Sinking Fund for Redemption of the Principal of the said Debts, not less than Two Pounds Ten Shillings *per Centum* of such Principal Moneys; and when and so soon as the Principal Moneys borrowed by the Trustees or Road Committee of any District, as the Case may be, upon the Security of the said Assessments, or any of them, shall be fully paid off and discharged by the Application of the said Sinking Fund, it shall not thereafter be lawful for the Trustees or Road Committee, as the Case may be, by whom such Moneys have been borrowed, to levy the District Assessments hereby authorized to be levied on the Owners of Lands and Heritages within the District in respect of which such Money was borrowed, and the Right to levy the said Assessments within such District shall thereupon cease and determine; but the Powers of the said Trustees and Road Committees in respect of the Commutation Assessment and the Householders Commutation Assessment, and in all other respects, shall nevertheless continue in full Force and Effect in so far as necessary for carrying out the Purposes of this Act.

Rental or annual Value defined.

LXIII. In all Questions or Proceedings under this Act in reference to the Rental or annual Value of any Lands, Houses, Buildings, or other Heritages, such Rental shall be held and taken to be of the Amount set forth in the Valuation Rolls of the said County in force for the Time or last in force, made up in Terms of the said Act passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for the Valuation of Lands and Heritages in Scotland*: Provided always, that the yearly Rent or Value of Houses and other Buildings, not being Farmhouses or Offices or other agricultural Buildings, shall be estimated with reference to the Assessments payable by the Owners thereof only, in like Manner as the same are appointed to be estimated with

17 & 18 Vict. c. 91.



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with reference to the Qualification of Commissioners of Supply in Terms of the said Act.

LXIV. That nothing contained in this Act or in any of the Acts herein referred to shall authorize the said Trustees or any Road Committee to take, use, or in any Manner interfere with any Land, Soil, Tenements, or Hereditaments, or any Rights in respect thereof, belonging to the Queen's most Excellent Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them, on behalf of Her Majesty first had and obtained for that Purpose (which Consent such Commissioners are hereby respectively authorized to give), or to take away, prejudice, diminish, or alter any of the Estates, Rights, Privileges, Powers, or Authorities vested in or enjoyed or exerciseable by the Queen's Majesty, Her Heirs or Successors. Saving  
Rights of the  
Crown.

LXV. The Expense of applying for and obtaining this Act and incidental thereto shall be paid by the Trustees and the Road Committees of the several Districts out of any of the Moneys recovered by them under the Powers of this Act, and shall be divided among the several Districts in such Proportions as the Trustees shall agree among themselves to be just and reasonable; and in the event of any Difference among the said Trustees in reference thereto the Sheriff of the said County shall and he is hereby authorized and required to settle and determine the same, and to fix the Proportions of the said Expense which shall be payable and paid by each District, and the Decision of the said Sheriff shall be final and conclusive. Expenses of  
Act.

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SCHEDULES referred to in the foregoing Act.

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SCHEDULE A.

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FORM OF ASSIGNATION IN SECURITY.

BY virtue of "The Orkney Roads Act, 1857," we [*Names and Designations of the Granters*], being a Quorum of the Trustees for the Orkney Roads (or of the Road Committee for the District of [*insert Name of District*]), acting in execution of the said Act, in consideration of the Sum of [*insert Sum*] advanced and paid to the said Trustees (or Road Committee) for the Purposes of the said Act by *A.B.* [*Name and Designation of Creditor*], (or of the Banking Company having allowed to the said Trustees (or Road Committee) a Credit



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*The Orkney Roads Act, 1857.*

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a Credit to the Extent of [*insert Sum*] upon a current Account to be kept in the Books of the said Banking Company in Name of the Treasurer of the said Trustees (*or Road Committee*) for the Time being, and to be operated on by him,) do hereby assign and make over to the said *A.B.*, his Heirs, Executors, or Assignees, (*or to the said Banking Company and its Assignees,*) all and sundry [*here describe the Assessments and Commutations, or such of them as are proposed to be mortgaged*], and all the Right, Title, and Interest of the said Trustees (*or Road Committee*) in and to the same, to be held by the said *A.B.* and his foresaids (*or the said Banking Company and its foresaids*) until the said Sum of [*insert Sum*], with the Interest thereof at and after the Rate of per Centum per Annum, shall be fully satisfied and paid (*or until the Balance which may become due upon the said Cash Credit Account shall be fully paid up*).\* In witness whereof [*insert Testing Clause according to the Form of the Law of Scotland*].

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**SCHEDULE B.**

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**FORM OF TRANSFER.**

I *A.B.* [*Name and Designation of Assignor*], in consideration of the Sum of [*insert Sum*] now paid to me, do hereby assign and convey to and in favour of *C.D.* [*Name and Designation of Assignee*] an Assigment in Security, dated the [*insert Date*], for the Sum of [*insert Sum*], granted by the Trustees for the Orkney Roads (*or the Road Committee for the District of* ), acting in pursuance of "The Orkney Roads Act, 1857;" (*or, if the Transfer be by Indorsement, the within written Assigment in Security*), and all my Right, Title, and Interest therein, and to the Sums of Money thereby secured, Interest due and to become due thereon, and Assessments and Commutations thereby assigned in Security.† In witness whereof [*insert Testing Clause according to the Form of the Law of Scotland*].

\* Where the Security is made under any Qualifications or Conditions, such will be introduced immediately before the Testing Clause.

† If the Granter of the Transfer is not the original Creditor, but one who has acquired Right to the Debt, specify shortly, immediately before the Testing Clause, the Title or Series of Titles by which the Granter acquired such Right.

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