

ANNO TERTIO

VICTORIÆ REGINÆ.

Cap. lxvii.

An Act for further and more effectually repairing and maintaining certain Turnpike Roads in the County of *Elgin*. [4th *June* 1840.]

HEREAS an Act was passed in the Fifty-ninth Year of the Reign of His Majesty King George the Third, intituled An Act for more effectually making and maintain- 59 G. 3. ing certain Turnpike Roads in the County of Elgin; and for more c. 57. effectually converting into Money the Statute Labour in the said County for repairing the Highways and Bridges therein: And whereas another Act was passed in the Eleventh Year of the Reign of His Majesty King George the Fourth, intituled An Act for re- 11 G. 4. & building the Bridges over the Rivers Spey and Findhorn, for making 1 W. 4. Accesses thereto, and for making and maintaining certain new Roads in c. 129. the County of Elgin: And whereas the Trustees appointed in and by virtue of the said first-recited Act for making and maintaining the Turnpike Roads therein mentioned and described, and for executing the Powers and Authorities thereby given in regard to such Turnpike Roads, have proceeded to put the same in execution, and have borrowed large Sums of Money, and have expended the same in making, repairing, and maintaining the said Roads and the Bridges thereon; and a large Debt still remains due and owing, secured partly upon the Credit of the Tolls and Duties granted by the said Act, and partly upon the personal Security of the Trustees acting in the [Local.]16 Q Execution

1 & 2 W. 4.

c. 43.

3° VICTORIÆ, Cap.lxvii.

Execution thereof: And whereas the Trustees acting under the Au-

thority of the said second-recited Act have proceeded in the Execution of the same, and have made and completed certain new Lines of Road in the said County of Elgin mentioned and described in the said Act; and it would be expedient, and of advantage to the Trusts created by the said recited Acts, and to the Public at large, if Powers were given to transfer the Management of the Turnpike Roads mentioned and described in the said second-recited Act to the Trustees to be appointed by this Act, and to consolidate and place the Management of the whole Turnpike Roads mentioned and described in both the said Acts under One uniform Trust, and to alter and amend the said second-recited Act accordingly: And whereas an Act was passed in the First and Second Year 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: And whereas the Term granted by the said first-recited Act is about to expire, in so far as regards the Turnpike Roads therein mentioned; and such Roads cannot be effectually repaired and kept in repair, nor the Money owing in respect thereof repaid, unless the Term and Powers of the said Act be extended and enlarged: But as these Purposes cannot be effected 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 Two first-re- Parliament assembled, and by the Authority of the same, That the cited Acts in said recited Act of the Fifty-ninth Year of the Reign of His Majesty part repeal-King George the Third, in so far only as the same relates to the Turnpike Roads therein mentioned, and also the said recited Act of the effect instead Eleventh Year of the Reign of His Majesty King George the Fourth, in so far only as the same also relates to the Turnpike Roads therein mentioned, be and the same are hereby repealed, and instead thereof this Act shall, from and after the passing of the same, commence and be put in execution for and during the Term herein-after mentioned; without Prejudice, nevertheless, to the Claims and Demands of any Person or Persons who has or have Security on the Tolls to be levied on the said Roads, which Claims and Demands shall be and remain a Burden upon the Tolls hereby authorized to be levied, in all respects as if the said Acts had remained in force, and as if the Management of the said Roads had not been consolidated and placed under One Trust.

The Powers

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cited Act of

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ed, and this

Act to take

thereof.

II. And be it enacted, That the said recited Act of the First and Second Year of the Reign of His said late Majesty, and all and sundry the Powers, Provisoes, Exemptions, Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, save and except such Parts thereof as are hereby expressly varied, altered, plied to this or repealed, shall be applied to this Act, and shall be as good, valid, and effectual for carrying this Act into execution as if the same had been repeated and re-enacted in this Act.

Trustees.

III. And be it enacted, That every Person who, in his own Right or in the Right of his Wife, now is or hereafter shall be in the actual Possession

Possession or Enjoyment, as Proprietor or Liferenter, of the full Property or Dominium utile of Lands in the said County of Elgin rented at One hundred Pounds Sterling, or valued in the Cess Books of the County at One hundred Pounds Scots, all and every the eldest Sons of such Proprietor and Liferenter, or, in the Absence of such Proprietor or Liferenter, the Factor of his Estate in the said County, One Guardian of each Minor enjoying and possessing Lands of the Rent or Valuation aforesaid, One Trustee of every Estate of the Rent or Valuation aforesaid, One Manager or Factor for each Corporation or associated Body holding Lands of the Rent or Valuation aforesaid, the Provost, or, in his Absence, the eldest Bailie of the Burgh of Elgin, the Provost, or, in his Absence, the Dean of Guild of the Burgh of Forres, the Baron Bailie or Chief Magistrate of Fochabers, Rothes, Loissiemouth, Burghead, Grantoun, Covesea, Longbride, and Findhorn respectively, the Sheriff of the County of Elgin, or, in his Absence, his Substitute, all for the Time being, shall be and they are hereby nominated and appointed Trustees for improving, repairing, and keeping in repair the Roads mentioned and described in the said first-recited Act; (that is to say,) the Road from the Bridge of Spey at Boat of Bog near Fochabers, leading through the Burghs of Elgin and Forres to the Confines of the County of Elgin towards Nairn, passing through the Parishes of Speymouth, Urquhart, Longbride, Saint Andrews, Elgin, New Spynie, Alves, Kinloss, Rafford, Forres, and Dyke; and the Road from Elgin to Garmouth, passing through the Parishes of Elgin, Saint Andrews, Longbride, Urquhart, and Speymouth; the Road from Elgin to Lossiemouth, passing through the Parishes of Elgin, Saint Andrews, Longbride, New Spynie, and Drainie; the Roads from Elgin to Burghead, with a Branch to Duffus passing through the Parishes of Elgin, New Spynie, Alves, and Duffus; the Road from Elgin to Mortlach by Rothes and the Craig Elachie Bridge, passing through the Parishes of Elgin, Saint Andrews, Longbride, Birnie, and Rothes, in the County of Elgin, and Parishes of Aberlour and Mortlach in the County of Banff; the Road from Garmouth to Rothes, and from thence to Grantoun by Elchies, passing through the Parishes of Speymouth, Rothes, and Knockando in the County of Elgin, and Cromdale in the County of *Inverness*; the Road from Elgin to Pitnisk by Pluscarden, passing through the Parishes of Elgin, Dallas, Rafford, and Edenkillie; the Road from Forres to Pitnisk, passing through the Parishes of Forres, Rafford, and Edinkillie; the Road from Forres to Burghead, with a Branch to Findhorn, passing through the Parishes of Forres, Kinloss, Alves, and Duffus; and the Road from Forres to the Bridge of Craig Elachie, passing through the Parishes of Forres, Rafford, Dallas, Knockando, and Rothes; and also for making, amending, and keeping in repair the Roads mentioned and described in the said second-recited Act; (that is to say,) the Road from the Bridge over the River Spey at a Place called Boat of Bridge, to join the great Turnpike Road from Fochabers to the Town of Elgin between Longbride and the Bridge of Sheriffston in the County of Elgin, and passing through the Parishes of Rothes, Speymouth, Longbride, Urguhart, and Elgin; and the Road from Dava to join the present Turnpike Road from Forres at or near Pitnisk by Edinkillie, with a Branch from Edinkillie towards Elgin, to join the Line described in the said first-recited Act at Craigmill, and

and from thence to Rimmichie, at the West End of the Valley of Pluscardine, situated in the said County of Elgin, and partly in the Counties of Nairn and Inverness, and passing through the Parishes of Cromdale, Ardclach, Edinkillie, Dallas, and Elgin; and for putting in execution all the Powers and Authorities by this Act given and granted.

Quorum of Trustees.

IV. And be it further enacted, That the Quorum or Number of Trustees necessary to do Business in General Meetings shall be Five; but if only One, or any Number less than Five, shall be present at any of the Stated or other General Meetings, such Trustee or Trustees shall have Power to adjourn the Meeting, and in that Case Notice shall be given of the Day, Place, and Purpose of such Adjourned Meeting by Two several Advertisements in any Newspaper published in Elgin, Aberdeen, or Inverness, the first of which Advertisements being at least Fourteen Days before the Day of such Adjourned Meeting; or any Two or more of the said Trustees, or the Clerk of the said Trustees, shall have Power, and the Clerk is hereby required, when directed (by Writing under the Hands of Two or more Trustees), to call at any Time a General Meeting, giving the like previous Notice of the Time, Place, and Purpose of the Meeting; and at such Meetings no Business shall be entered or decided upon other than what is specified in the Notice given as aforesaid; and it shall not be in the Power of any Stated or General Meeting to rescind, alter, or vary the Determination of any former Stated or General Meeting, unless previous Notice of the Intention of so doing, and the Time and Place of Meeting, be given by Advertisements in any Elgin, Aberdeen, or Inverness Newspaper as aforesaid.

Qualification of
Trustees,
and Regulations as to
voting.

V. Provided always, and be it enacted, That no Factor, Guardian, Trustee, or Manager, nor any Trustee of any Proprietor, shall be entitled to vote and act as such, except in the Absence of his Constituent; and provided also, that no such Sheriff, Sheriff Substitute, or Factor, or any such Provost, Bailie, Dean of Guild, or Chief Magistrate of any Burgh, shall be capable of acting as a Trustee for the said Turnpike Roads, unless he shall be qualified to act as a Commissioner of Supply for the said County, or unless he shall be possessed of a Personal Estate alone, or of a Real and Personal Estate together, of the Amount or Value of Five hundred Pounds Sterling: Provided also, that although a Person being a Trustee in his own Right shall claim as Guardian, Trustee, or Factor as aforesaid, or appear in Two Capacities, he shall have but One Vote; and that no Person of any Description claiming as a Trustee under this Act shall have more than One Vote on any Pretence whatsoever, except the Preses, who, in all Cases of Equality, shall, in addition to his original Vote, also have a casting Vote.

Meetings of Trustees.

VI. And be it further enacted, That the said Trustees shall hold their First Stated or General Meeting by virtue of this Act at Elgin upon the Fourth Monday after the passing of this Act, or as soon thereafter as conveniently may be, and shall thereafter hold Two Stated

Stated General Meetings in each Year during the Continuance of this Act, one upon the Day upon which the Commissioners of Supply shall meet for assessing the said County in the Land Tax, and the other upon such Day as the said Trustees, at their First Meeting to be held after the passing of this Act, shall fix and determine; with Power to the said Trustees, or the Majority of those present at any of the said Stated or General Meetings, to adjourn to such other Time and Place as they shall think convenient; with Power also to name Committees of their Number, being Heritors or Factors of Heritors in the respective Parishes through which any Road intended to be put under the Charge of such Committee shall pass, to have the more immediate Care and Management of the said Roads, or particular Parts or Branches thereof, and to give such Committees (whereof Three to be a Quorum) such Instructions and such Powers as they shall think fit and expedient, not being inconsistent with this Act.

VII. And be it further enacted, That the Clerk or Treasurer to the Special said Trustees, when required by a written Order specifying the Meetings. Purposes for which and the Place where a Meeting is desired to be held, signed by any Two or more Trustees, shall and he is hereby required to call a Special Meeting of the Trustees, at such Time and Place as shall be thought proper by the Trustees making such Requisition, by Advertisements in such Newspapers and in such Manner as aforesaid, in which the Purposes and Place of Meeting shall be specified; and in case of the Clerk or Treasurer refusing or neglecting to call such Meeting, when so required, or in case of there being no Clerk or Treasurer at the Time, it shall be lawful for any Two or more Trustees to call such Special Meeting by such Advertisement as aforesaid; and all Acts and Deeds done at such Meetings called in manner before mentioned shall be as valid and effectual as if they had been done at a General or Adjourned Meeting: Provided always, that nothing shall be done, nor any Matter discussed, at such Special Meetings, but what relates to special Purposes for which such Meet-

VIII. And be it further enacted, That all Persons who have been. Officers unemployed or who shall have received any Tolls or other Money by virtue or in pursuance of the said recited Acts, so far as hereby in account. part repealed, or who shall have in their Custody or Possession any Books, Accounts, Papers, Writings, or Things relating to the said Roads, shall account for, pay, and deliver over the same to the Trustees acting under the Authority of this Act, in like Manner and under the like Penalties as are by the said recited Act of the First and Second Year of the Reign of His said late Majesty King William the Fourth imposed in respect of Persons receiving any Monies, or having the Possession of any Books, Writings, or other Things, by virtue of the said Acts hereby in part repealed, or this Act.

ings may be called.

der the former Acts to

IX. And be it further enacted, That the Whole of the Tolls and Tolls and Duties by this Act granted and imposed shall be charged and made Duties liable subject to the Payment of all Monies heretofore borrowed or ad-[Local.]16 Rvanced

still owing.

vanced and now due or owing upon the Credit or on account of the said recited Acts of the Fifty-ninth Year of the Reign of His Majesty King George the Third, and of the Eleventh Year of the Reign of His Majesty King George the Fourth, respectively, in so far as the same relate to the Turnpike Roads before described, or secured upon or made payable out of the respective Tolls and Duties granted in relation to the same, or any Part thereof, and of all Interest due or to grow due thereon, as fully and effectually to all Intents and Purposes as if such Monies had been borrowed and become due on the Credit of this Act, or of the Tolls hereby authorized to be collected: Provided always, that none of the Funds arising from the Tolls and Duties levied and collected upon the Roads mentioned and described in the said first-recited Act of the Fifty-ninth Year of the Reign of His Majesty King George the Third shall be applied in or towards Payment of any of the Debts now due or owing upon the Credit of the Tolls and Duties granted by the said recited Act of the Eleventh Year of the Reign of His Majesty King George the Fourth, or any Interest thereon, without the Consent of the Creditors upon the Tolls and Duties under the said first-recited Act.

Officers to continue.

X. And be it further enacted, That the Clerks, Surveyors, Collectors, Tacksmen of Tolls, and all Officers, excepting the Treasurer, who have been appointed under and employed in the Execution of the said recited Acts hereby in part repealed, so far as the same relate to the Turnpike Roads therein mentioned, shall respectively continue to exercise their Offices under the Authority of the Trustees appointed by this Act until they shall respectively be displaced or removed by such Trustees, or be incapable of executing their Offices, and shall be subject to the like Rules and Regulations, and Pains and Penalties, in all respects whatsoever, as if they had been appointed under and by virtue of this Act, without prejudice, nevertheless, to the Re-election of the said Treasurer; and all Tolls leviable at the Time of the passing of this Act by virtue of the said Acts hereby in part repealed shall continue to be levied andtaken until the Term of Whitsunday which shall be in the Year One thousand eight hundred and forty-one, unless previously altered by the said Trustees.

Tolls to be taken.

XI. And be it further enacted, That the said Trustees, or any Person or Persons duly authorized by them, shall be and they are hereby authorized and empowered to demand and take, or cause to be demanded and taken, at the several Gates, Bars, or Turnpikes already erected or which may hereafter be erected upon the said Roads, before Passage be permitted, any Sums of Money not exceeding the Tolls following; (that is to say,)

For every Horse or other Beast of Draught, drawing any Coach, Berlin, Landau, Chariot, Chaise, Calash, or other such Carriage with Four Wheels, when drawn by Six or more Horses or other Beasts of Draught, the Sum of One Shilling Sterling; and when drawn by Four Horses or other Beasts of Draught, the Sum of Nine-pence Sterling; and when drawn by Three Horses or other Beasts of Draught, the Sum of Eight-pence Sterling; and

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when drawn by Two Horses or other Beasts of Draught, the Sum of Nine-pence; and when drawn by One Horse or other Beast of Draught, the Sum of Eight-pence Sterling:

For every Horse or other Beast of Draught, drawing any Chaise, Gig, Curricle, or other like Carriage with Two Wheels, the Sum

of Sixpence Sterling:

For every Horse or other Beast of Draught, drawing any Waggon, Cart, or other like Carriage, when drawn by Six or more Horses, Oxen, or other Beasts of Draught, the Sum of One Shilling and Two-pence Sterling; and when drawn by Five Horses, Oxen, or other Beasts of Draught, the Sum of One Shilling Sterling; and when drawn by Four Horses, Oxen, or other Beasts of Draught, the Sum of Nine-pence Sterling; and when drawn by Three Horses, Oxen, or other Beasts of Draught, the Sum of Sixpence Sterling; and when drawn by Two Horses, Oxen, or other Beasts of Draught, the Sum of Four-pence Sterling; and when drawn by One Horse, Ox, or other Beast of Draught, the Sum of Four-pence Sterling:

For every Horse, Mare, or Mule, with or without a Rider, laden or unladen, and not drawing, the Sum of Two-pence Sterling:

For every Drove of Oxen, Neat Cattle, Asses, Horses, or Fillies unshod, the Sum of Five-pence Sterling per Score, and so in proportion for any greater or less Number:

For every Drove of Calves, Hogs, Sheep, Lambs, or Goats the Sum of Five-pence Sterling per Score, and so in proportion for any

greater or less Number:

For every Carriage moved or propelled by Steam or Machinery, or by any other Power than Animal Power, the Sum of Two Shillings:

Provided always, that on that Portion of Road betwixt the Town of Forres and the Seaport of Findhorn there shall only be taken and levied a Sum or Sums of Money not exceeding One Half of the before-mentioned Rates hereby authorized to be taken and levied at the Gates and Turnpikes to be placed on the other Parts of the Roads to be made under the Authority of this Act.

XII. And be it further enacted, That in all Cases where there shall Fractional be a fractional Part of a Halfpenny in the Calculation of the Tolls hereby granted and authorized to be taken, or any of them, the in Toll. Sum of One Halfpenny shall be taken in lieu of such fractional Part.

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XIII. And be it further enacted, That no Person, having Occa- Tolls to be sion to pass through any Gate or Turnpike erected and con-paid only tinued or to be erected by virtue of this Act, and who shall return once a Day, through the same Gate or Turnpike on the same Day, to be com- except with a new Loadputed from Twelve of the Clock at Night to the like Hour ing. in the succeeding Night, with the same Coach or Cart or other Wheel Carriage, drawn by the same Horse or Horses, or with the same Horse or other Cattle, shall be liable or compelled to pay the Tolls or Duties more than once, but every Person shall, after

after Payment of Toll or Duty, on Demand, be furnished with a Note or Ticket signifying the Payment of such Toll or Duty, which Note or Ticket shall give Liberty and Access to such Person returning the same Day as aforesaid to repass the said Gate or Turnpike Toll-free.

Weighing Engines to be erected.

XIV. And be it further enacted, That the said Trustees shall, if they find it necessary, cause Weighing Engines to be erected upon such Parts of the said Roads as they shall think fit, for weighing all Waggons, Carts, and other Carriages which shall pass along the said Roads, and receive and take, over and above the Tolls and Duties hereby granted, the following Sums of Money as additional Toll for every Hundred Weight of One hundred and twelve Pounds to the Hundred Weight which any Waggon, Cart, or any such Carriage, together with its Loading, shall weigh at any of the said Weighing Engines, over and above the Weight which such Waggon, Cart, or such Carriage is allowed to weigh, without paying additional Toll; (that is to say,)

Additional Tolls on heavy Carriages. For the First and Second Hundred of such Overweight, the Sum of Three-pence for each Hundred:

For every One Hundred Weight of such Overweight above Two Hundred and not exceeding Five Hundred, the Sum of Sixpence:

For every One Hundred Weight of such Overweight above Five Hundred and not exceeding Ten Hundred, the Sum of Two Shillings and Sixpence:

For every One Hundred Weight of such Overweight, and not exceeding Fifteen Hundred, the Sum of Five Shillings:

For every One Hundred Weight of such Overweight above Fifteen Hundred, the Sum of Seven Shillings and Sixpence:

And that before they respectively shall be permitted to pass through such Gate or Turnpike; and the same shall be applied as the other Tolls and Duties are by this Act directed to be applied: And every Person having the Charge of and travelling with any Waggon, Cart, or other such Carriage shall, when required thereto by any Collector or Tolls, permit the same to be weighed, and shall assist in weighing the same; and in case any Person shall hinder or obstruct the weighing of any such Carriages as aforesaid, or shall refuse to assist in weighing the same, each such Person shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings Sterling.

Tolls may be diminished on Waggons and Carts having broad Wheels.

XV. And be it further enacted, That it shall be in the Power of the said Trustees and they are hereby authorized, at any of their Stated General Meetings assembled, to diminish the Tolls to such Extent as they may think fit, but so that the same shall in no Case be diminished below One Half of such Tolls on all Waggons, Carts, or other such Carriages with Two or more Wheels, provided the Fellies or Rollers of the Wheels are of such Breadth and Construction as the said Trustees may deem least calculated to injure the Roads; with Power to the said Trustees, before granted such Diminution, to establish

such

such Rules and Regulations as they may think proper touching the Weight of the Loading which such Waggons, Carts, or other such Carriages may be permitted to carry.

XVI. And be it further enacted, That where any Drag Iron or other Drag Irons Instrument shall be affixed under the Bottom or Sole of the Wheel not to be of or Wheels of any Coach, Waggon, or other Carriage passing along than Fellies the said Roads, to make the Passage of such Coach, Waggon, or of the Carriage more safe down steep Hills, every such Drag Iron or Wheels. other Instrument shall be flat at the Bottom or Sole thereof, and shall not be of less Breadth than the Fellies of the Wheels under which the same shall be affixed, on pain of the Owner of every such Coach, Waggon, or other Carriage forfeiting any Sum not exceeding Ten Shillings Sterling at every Gate or Turnpike on the said Roads through which such Coach, Waggon, or other Carriage shall pass.

less Breadth

XVII. And be it enacted, That the several Sums of Money hereby Application authorized to be demanded, levied, and taken in Name of Toll of the Tolls. or Duty upon the said Roads shall (subject to the Payment of the Expences of procuring and passing this Act in manner hereinafter mentioned) be applied, in the first place, towards Payment of the general Expences of Management, and towards the repairing and maintaining the said Roads and Bridges thereon, excepting always the Bridges over the Rivers Spey and Findhorn, rebuilt or erected under the Authority of the said recited Act of the Eleventh Year of the Reign of His Majesty King George the Fourth, and the Accesses thereto, and in the next place, but subject always to the Provisions herein-before contained, in paying the Interest of the Money borrowed, advanced, and owing at the Time on the said Roads, and the Surplus shall, subject also to the Provisions herein-before contained, be appropriated annually to extinguish the Principal of the Money so borrowed, advanced, and owing, and to no other Purpose whatsoever.

XVIII. And be it further enacted, That the Expence of preparing, Expence of applying for, procuring, and passing this Act shall be paid out of the this Act. first and readiest of the Tolls and Duties received and levied on the said Roads, or by or out of the first Monies that shall be in or come to the Hands of the said Trustees under and by virtue of the said Two first-recited Acts or of this Act.

XIX. And be it enacted, That nothing herein contained shall be This Act not deemed or construed to exempt the Turnpike Roads by this Act authorized to be repaired and maintained from the Provisions of any general Act relating to the Consolidation or other improved Arrange- any general ments of Turnpike Roads which may pass during the present or any Act. future Session of Parliament.

to be exempted from Provisions of

XX. And be it further enacted, That this Act shall be deemed and Public Act. taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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XXI. And

Commencement and Continuance of this Act.

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

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