

ANNO QUINTO

GEORGII IV. REGIS.

****

CAP. XXXVIII.

An Act to amend Two Acts for maintaining and keeping in Repair the Military and Parliamentary Roads in the *Highlands* of *Scotland*.

[17th *May* 1824.]

WHEREAS by an Act passed in the Fourth Year of the Reign of His present Majesty, intituled *An Act for maintaining in Repair the Military and Parliamentary Roads and Bridges in the* Highlands *of* Scotland, *and also certain Ferry Piers and Shipping Quays erected by the Commissioners for Highland Roads and Bridges*, the said Commissioners were authorized to notify to the Heritors and Commissioners of Supply of any County in which any of the aforesaid Roads and Bridges are situated, that the County Assessment levied by virtue of an Act passed in the Fifty-ninth Year of the Reign of His late Majesty, intituled *An Act to repeal Two Acts made in the Fifty-fourth and Fifty-fifth Years of the Reign of His present Majesty, for maintaining and keeping in Repair certain Roads and Bridges in* Scotland, *to provide more effectually for that Purpose, and for Regulation of Ferries in* Scotland, together with the Parliamentary Allowance thereby given, is insufficient for the due Repair and Maintenance of the said Roads and Bridges situated in such County, and thereupon requiring the said Heritors and Commissioners of Supply to meet and assemble for the Purpose of considering whether they are willing and desirous further to increase such County Assessment, or that Toll Gates shall be erected and Tolls levied in aid of such County Assessment, or in lieu of such County Assessment,

4 G. 4. c. 56.

59 G. 3. c. 135.

ment, or that the County Assessment shall not be increased, and that no such Toll Gates shall be erected: And whereas the above mentioned Notification was accordingly made by the Parliamentary Commissioners to the Heritors and Commissioners of Supply of the County of *Inverness*, to the Heritors and Commissioners of Supply of the County of *Ross* (and of those Parts of the Counties of *Cromarty* and *Nairn* locally situate therein), to the Heritors and Commissioners of Supply of the County of *Sutherland*, and to the Heritors and Commissioners of Supply of the County of *Caithness*: And whereas the Heritors and Commissioners of Supply of the said County of *Ross* (and of those Parts of the Counties of *Cromarty* and *Nairn* locally situate therein), at their Meeting of the Twenty-ninth Day of *October* last (specially holden in consequence of such Notification), agreed upon a Resolution to increase the County Assessment instead of erecting Toll Gates in aid thereof, and subsequently on the same Day, agreed upon an Amendment of such Resolution thereby agreeing to the erecting of Toll Gates in aid of such Assessment, which Resolution and Amendment thereof not being consistent with each other, cannot be carried into Effect by the Parliamentary Commissioners in Terms of the said Act: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for the said Parliamentary Commissioners, and they are hereby authorized to repeat and renew such Notification to the Heritors and Commissioners of Supply of the said County of *Ross*, in the Manner specified in the said Act, whereupon the said Heritors and Commissioners of Supply shall be summoned to meet accordingly for the Purpose of taking into Consideration such renewed Notification, in so far as to determine whether they are willing and desirous that the County Assessment shall be further increased, so as to defray the total Expence of maintaining in Repair the said Roads and Bridges beyond the Portion of such Expence allotted to the County of *Ross* for that Purpose out of the Parliamentary Allowance of Five thousand Pounds *per Annum*; or whether the said Heritors and Commissioners of Supply are willing and desirous that Toll Gates shall be erected and Tolls levied upon any of the Roads or Bridges situated in such County, in aid of the said County Assessment; and that the Resolution agreed upon by the Heritors and Commissioners of Supply, or the Majority of them present at such Meeting, or any Adjournment thereof, shall forthwith be transmitted to the Parliamentary Commissioners, who shall thereupon proceed in the Manner directed by the said first recited Act.

Parliamentary Commissioners to repeat and renew Notification to Heritors, &c.

In the Case of Sutherland.

II. And whereas the Heritors and Commissioners of Supply of the County of *Sutherland*, at their Meeting of the Twenty-second Day of *September* last (specially holden in consequence of a Notification under the first recited Act), agreed upon a Resolution to increase the County Assessment to a limited Amount and for One Year only, therein not fulfilling the Intentions of the said Act, which remains in full Force, and has Continuance for and during the Term of Twenty-one Years from the passing thereof, and from thence to the

End of the then next Session of Parliament; be it therefore further enacted, That it shall and may be lawful for the said Parliamentary Commissioners, and they are hereby authorized to repeat and renew such Notification to the Heritors and Commissioners of Supply of the said County of *Sutherland*, in the Manner specified in the said Act, whereupon a Meeting of the said Heritors and Commissioners of Supply shall be summoned accordingly, for the Purpose of taking into Consideration such renewed Notification, in so far as to determine whether it will be fit and proper to increase the County Assessment so as to fulfil the Intentions of the said Act, or that Toll Gates shall be erected on any of the said Roads or Bridges situated in such County, in aid of the said County Assessment; and that the Resolution agreed upon by the Heritors and Commissioners of Supply, or the Majority of them present at such Meeting, or any Adjournment thereof, shall forthwith be transmitted to the Parliamentary Commissioners, who shall thereupon proceed in the Manner directed by the said first recited Act.

In the Case of Caithness.

III. And whereas the Heritors and Commissioners of Supply of the County of *Caithness*, at their Meeting of the Thirtieth Day of *September* last (specially holden in consequence of a Notification under the first recited Act), agreed upon a Resolution, that Toll Gates should be erected and Tolls levied in lieu of the County Assessment: And whereas in the Opinion of the Parliamentary Commissioners, the Roads and Bridges in the said County of *Caithness* cannot be maintained in Repair by the Produce of such Tolls, added to the Portion allotted to the County of *Caithness*, out of the Parliamentary Allowance of Five thousand Pounds *per Annum*; be it therefore further enacted, That the Resolution agreed upon at such Meeting of the Thirtieth Day of *September* last shall be null and void, and that it shall and may be lawful for the said Parliamentary Commissioners, and they are hereby authorized to repeat and renew such Notification to the Heritors and Commissioners of Supply of the said County of *Caithness* in the Manner specified in the said Act, whereupon a Meeting of the said Heritors and Commissioners of Supply shall be summoned accordingly, for the Purpose of taking into Consideration such renewed Notification; and that the Resolution agreed upon by the Heritors and Commissioners of Supply, or the Majority of them present at such Meeting, or any Adjournment thereof, shall forthwith be transmitted to the Parliamentary Commissioners, who shall thereupon proceed in the Manner directed by the said first recited Act.

And in case of Change of Circumstances, Reconsideration allowed.

IV. And whereas it may become expedient from a Change of Circumstances, during the Term of the said first recited Act, in any of the said Counties of *Inverness*, *Ross*, *Sutherland*, and *Caithness*, to reconsider and alter the Resolution previously agreed upon by the Heritors and Commissioners of Supply at any Meeting specially holden in consequence of any Notification under the said first recited Act or this Act; be it therefore enacted, That it shall and may be lawful for the Parliamentary Commissioners, upon Application of any One or more of the Heritors or Commissioners of Supply of any County, to notify and declare the Substance of such Application to the Convener

vener of such County if they shall think fit, together with their own Opinion thereupon, whereupon the Convener shall within Three Months thereafter summon the Heritors and Commissioners of Supply to meet and assemble for the Purpose of taking into Consideration such Notification, and if at such Meeting they shall agree upon any Resolution different from the former Resolution, and if the Parliamentary Commissioners shall thereupon concur in Opinion with the Heritors and Commissioners of Supply that the former Resolution ought to be annulled and superseded by the latter Resolution, such former Resolution shall thenceforth be deemed null and void, and the latter Resolution shall be of full Force and Effect in lieu thereof: Provided nevertheless, that it shall remain liable to be superseded in like Manner, upon subsequent Application and Resolution of the Heritors and Commissioners of Supply to that Effect, if confirmed by the Concurrence of the Parliamentary Commissioners therein.

Annual Allowance to the several Counties

V. And whereas in the said first recited Act Part of the annual Parliamentary Allowance of Five thousand Pounds is said to be allotted to the several Counties in aid of the Expence of repairing the Military and Parliamentary Roads and Bridges therein respectively situate, but the said Allotment is not particularly specified and set forth; be it therefore enacted, That the Sum of One thousand and sixty-six Pounds shall be and shall be deemed to be allotted in aid of the Expence of the repairing such Roads and Bridges in the County of *Inverness*, the Sum of Four hundred and thirty-eight Pounds in like Manner to the County of *Ross*, the Sum of Two hundred and twenty-two Pounds in like Manner to the County of *Sutherland*, and the Sum of One hundred and fifteen Pounds in like Manner to the County of *Caithness*, besides which the Parliamentary Commissioners shall defray the entire Expence of Inspection and Management out of the said annual Allowance of Five thousand Pounds.

Clauses in 59G.3.c.135. for Protection of the Roads repealed:

VI. And whereas it is expedient that certain Clauses contained in the herein-before recited Act passed in the Fifty-ninth Year of the Reign of His late Majesty should be repealed and superseded by certain other Clauses; be it therefore enacted, That the Twenty-third Section of the said Act (imposing a Penalty on Persons injuring or obstructing the Roads); also the Twenty-fourth Section of the said Act (providing that Cattle shall not be allowed to run loose on the Roads); also the Twenty-seventh Section of the said Act (directing in what Cases Trees, Bushes, or Underwood are to be removed from the Sides of the Roads); also the Twenty-eighth Section of the said Act (containing Regulations as to planting Trees); shall be repealed, and the same are hereby repealed accordingly, and the following Clauses shall be substituted in lieu thereof; wherefore be it enacted,

And other Clauses substituted; to prevent Nuisances.

That it shall not be lawful for any Person to lay any Timber or Stones (excepting Timber, Stones, and other Materials for building or repairing any Houses or Walls immediately adjoining the Sides of any Military or Parliamentary Road, and which may occupy One-fourth Part of such Road only, or any Dung, Ashes, Rubbish, Scourings of Ditches, or any other Matter or Thing upon any such Road, or upon any Street of any Town or Village which forms a Part of such Road, or a Communication of Road between any such Roads, or upon the Side

Side Drains or Ditches thereof, and every Person so offending shall forfeit and pay any Sum not exceeding Five Pounds; and it shall moreover be lawful for the Parliamentary Commissioners for the Repair of Highland Roads and Bridges, or their Inspector or other Person appointed by them, *brevi manu* to seize and carry off any such Matter as aforesaid, and dispose of the same in such Manner as they shall direct: Provided always, that when the Proprietor or Occupier of any Lands or Houses immediately adjoining any such Road shall lay down any Materials for building or repairing any House or Wall as aforesaid, such Proprietor or Occupier shall erect such Fence round such Materials, and shall fix and light Lamps thereon in such Manner as they the said Commissioners may require, and such Proprietor or Occupier on failing to comply with such Requisition as aforesaid shall forfeit and pay any Sum not exceeding Five Pounds for every Day he shall continue so to offend.

Owners of adjoining Land to cut the Hedges and Branches of Trees obstructing the Roads.

VII. And be it further enacted, That the Owners or Occupiers of the Lands next adjoining to every Military or Parliamentary Road, shall cut, prune, and trim their Hedges to the Height of Six Feet from the Surface of the Ground, and also cut down, prune, or lop the Branches of Trees, Bushes, and Shrubs growing in or near such Hedges or other Fences adjacent thereto (such Fences, Trees, Bushes, or Shrubs, not being in any Garden, Orchard, Plantation, Walk or Avenue to a House, nor any Tree, Bush, or Shrub, being an Ornament or Shelter to a House, unless the same shall hang over the Road, or any Part thereof, in such a Manner as to impede or annoy any Carriage or Person travelling thereon), in such Manner that the Road shall not be prejudiced by the Shade thereof, and that the Sun and Wind may not be excluded from such Road to the Damage thereof; and that if such Owner or Occupier shall not, within Ten Days after Notice given by the Inspector or Sub-Inspector for that Purpose, cut, prune, and trim such Hedges, or cut down, prune, or trim such Branches of Trees, Bushes, and Shrubs in manner aforesaid, it shall and may be lawful for the said Inspector or Sub-Inspector, and he is hereby required to make Complaint to the Sheriff Depute or Substitute, or some Justice of the Peace of the Shire wherein such Road shall lie, who shall summon the Occupier of such Land before him to answer the said Complaint; and if it shall thereupon appear, that such Occupier has not complied with the Requisites of this Act in that Behalf, it shall and may be lawful for such Sheriff Depute or Substitute, or Justice, upon hearing the Inspector or Sub-Inspector, and the Owner or Occupier of such Land, or his Agent (or in default of his or her Appearance, upon having due Proof of the Service of such Summons and considering the Circumstances of the Case), to order such Hedges to be cut, trimmed, and pruned, and such Branches of Trees, Bushes, and Shrubs to be cut down or pruned or trimmed, in such Manner as may best answer the Purposes aforesaid; and if the Owner or Occupier of such Lands shall not obey such Order within Ten Days after it shall have been made, and he or she shall have had due Notice thereof, he or she shall forfeit the Sum of Two Shillings for every Twenty-four Feet in Length of such Hedge which shall be so neglected to be cut, trimmed, and pruned, and the Sum of Twopence for every Tree, Bush, or Shrub which shall be so directed to

be cut down, pruned, or trimmed; and the Inspector, in case of such Default made by such Owner or Occupier, shall and he is hereby required to cut, prune, and trim such Hedges, and to cut down, prune, or trim such Branches of Trees, Bushes, and Shrubs in the Manner directed by such Order, and such Owner or Occupier shall be charged with and pay over and above the said Penalties the Charges and Expences of doing the same, to be recovered in the same Manner as other Penalties by this Act imposed: Provided always, that no Person or Persons shall be compelled, nor any Inspector or Sub-Inspector permitted by virtue of this Act to cut or prune any Hedge at any other Time than between the last Day of *September* and the last Day of *March*, nor to cut down, prune, or lop the Branches of any ornamental Trees (unless the same shall hang over the Road or any Part thereof, so as to impede or annoy any Carriage or Person travelling thereon), if the Proprietor of the Lands shall become bound to pay the additional Expences which their remaining unlopped may occasion to the said Commissioners in keeping any such Road in repair.

Time of cutting or pruning Hedges.

No Animal to be pastured on the Roads.

VIII. And be it further enacted, That if any Horse, Ass, Sheep, Swine, or other Beast or Beasts of any Kind, shall be pastured or left or found straying on any Military or Parliamentary Road, or the Sides of the same where such Road shall be inclosed (except on such Parts of any Road as lead or pass through or over any Common or waste or uninclosed Ground), it shall be lawful for the Inspector or any Sub-Inspector employed by the Parliamentary Commissioners, or any other Person authorized by them, *brevi manu* to seize and detain the same until the Owner thereof shall, for every such Animal, pay a Sum not exceeding Five Shillings and Expences; and in case the said Penalty and Expences shall not be paid within Three Days after Notice of such Detention shall be given to the Owner of such Animal or Animals, the said Inspector or Sub-Inspector or other Person shall sell the same with the Authority of the Sheriff Depute or Substitute, or any Justice of the Peace for the Shire, who are hereby empowered to grant such Authority; and after deducting the Amount of the said Penalty and Expences, shall pay the Surplus (if any) to the Owner of such Animal so detained.

Side Ridges to be made.

IX. And be it further enacted, That every Person in ploughing any uninclosed Land adjoining any Military or Parliamentary Road, shall make Hedge Ridges along the Sides of such Road, of the Breadth of Twelve Feet at the least, under a Penalty not exceeding Five Pounds, to be levied as other Penalties by this Act directed.

For Recovery of Penalties:

X. And be it further enacted, That all Expences, and also all Penalties, Forfeitures, and Fines by this Act directed to be paid or inflicted (the Manner of levying, recovering, and applying whereof is not herein otherwise directed), shall upon Proof of the Offences respectively before the Sheriff Depute or Substitute, or any Justice of the Peace for the Shire wherein the Offence shall have been committed, or where the Offender may reside (as the Case may require), either by the Confession of the Party offending or by the Oath of any credible Witness or other competent Evidence, be levied, together

with the Expences attending the Information and Conviction, by Poinding and Sale of the Goods and Effects of the Party offending, by Warrant under the Hand of such Sheriff Depute or Substitute, or Justice (which Warrant such Sheriff Depute or Substitute, or Justice, are hereby empowered to grant); and the Surplus (if any) after deducting such Expences, Penalties, Forfeitures, and Fines, and the Charges of such Poinding and Sale, shall be returned unto the Owner of such Goods and Effects; and in case such Expences, Fines, Penalties, and Forfeitures shall not be forthwith paid upon Conviction, then it shall be lawful for such Sheriff Depute or Substitute, or Justice, to order the Offender so convicted to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of Poinding, unless the Offender shall give sufficient Security to the Satisfaction of such Sheriff Depute or Substitute, or Justice, for his or her Appearance before such Sheriff Depute or Substitute, or Justice, on such Day as shall be appointed for the Return of such Warrant of Poinding, which Security the said Sheriff Depute or Substitute, or Justice, are hereby empowered to take by Bond of Caution or otherwise; but if, upon the Return of such Warrant, it shall appear that no sufficient Goods and Effects can be found, then it shall be lawful for the said Sheriff Depute or Substitute, or Justice, and they are hereby authorized and required by Warrant under their Hand to cause such Offender to be committed to the Common Gaol or House of Correction of the Shire wherein the Offender shall be or reside, there to remain for any Time not exceeding Three Months, unless such Expences, Penalties, Forfeitures, and Fines, and all reasonable Charges attending the same shall be sooner paid, and the Monies recovered or levied for such Expences shall be applied to the Payment of the same respectively; and the Monies arising by such Penalties, Forfeitures, and Fines respectively shall be paid to the Inspector of Military and Parliamentary Roads and Bridges, to be by him paid over to the Law Agent of the Parliamentary Commissioners in aid of the Assessment levied for the Maintenance and Repair of such Roads and Bridges in the Shire wherein the Offence shall have been committed.

By summary Process:

XI. And be it further enacted, That in recovering the different Penalties imposed by this Act, or by the Act passed in the Fifty-ninth Year of the Reign of His late Majesty, intituled *An Act to repeal Two Acts made in the Fifty-fourth and Fifty fifth Years of the Reign of His present Majesty, for maintaining and keeping in Repair certain Roads and Bridges in* Scotland; *to provide more effectually for that Purpose, and for Regulation of Ferries in* Scotland; it shall be lawful for the Sheriff Depute or Substitute, or Justice, before whom any Complaint for the Recovery thereof may be brought, to proceed in a summary Way, and to grant Warrant for bringing before him for Examination the Parties complained of, and on Confession or Probation by the Oath of any credible Witness or other competent Evidence, to proceed to determine thereon without any written Pleadings or Record of Evidence, it being hereby provided that a Record shall be preserved of the Charge and of the Judgment pronounced: Provided always, that any Person who shall think himself or herself aggrieved by any Proceedings to be had before any Sheriff Depute or Substitute,

Appeal allowed.

tute, or Justice of the Peace in the Execution of this Act, may within Six Months after the Matter complained of shall be done, but not afterwards, appeal to the Justices of the Peace at the Quarter Sessions of the Shire wherein the Cause of Complaint shall have arisen, the Appellant giving Fifteen Days previous Notice of such Appeal to the Defender or Defenders, and to the Inspector of the said Parliamentary Commissioners, and the Clerk of the Justices of the Peace, which Justices shall have Authority to hear and determine the Matter in Dispute, and their Judgment therein shall be final, without being subject to review by Advocation, Suspension, Reduction, or otherwise.

Prosecutions to be brought within Six Months.

XII. And be it further enacted, That all Prosecutions for the Penalties, Forfeitures, and Fines imposed by this Act, or for any Wrongs done or Injuries suffered in any Matter thereto relating, or for any thing done in pursuance of any of the Powers of this Act given and granted, shall be commenced within Six Months after the Penalty, Forfeiture, or Fine is incurred, or Wrong done, or Injury suffered, or Fact committed, and not afterwards.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1824.