

ANNO OCTAVO & NONO

VICTORIÆ REGINÆ.

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such Conversion, is or shall be applied, and to all Acts of Parliament now in force or which shall hereafter be passed affecting such Highways, Bridges, or Ferries in *Scotland*, saving and excepting such Enactments, Provisions, Matters, and Things as shall be expressly varied, altered, or repealed by any Act that shall be hereafter passed.

The Word "Trustees" to include Justices, &c.

II. And be it enacted, That the Word "Trustees" in this Act shall be held to mean and apply to all Justices of the Peace acting under the Authority of any Act of Parliament for making and repairing Highways, Bridges, and Ferries in *Scotland* by Statute Service, or the Conversion thereof in Money.

Regulation of Meetings.

III. And be it enacted, That all Trustees acting in the Execution of this or any Act of Parliament for making and repairing Highways, Bridges, and Ferries in *Scotland* by Statute Service, or the Conversion thereof in Money, or Assessment in lieu of such Conversion, shall at all their Meetings pay their own Expences, and shall in the first place, where it is not otherwise directed by any local Act, appoint a Preses at every Meeting, who in case of an equal Number of Votes, including his own, shall have the casting Vote; and no Order or Determination at any such Meeting, once made or agreed upon, shall be revoked or altered at any subsequent Meeting, unless Notice of the Intention to propose such Revocation or Alteration shall have been given at a previous Meeting, and entered in the Minutes of such Meeting, and transmitted by Post to every Trustee not present at such previous Meeting who shall have been present at the Meeting where such Order or Determination was made, and such Notice shall also be published by Two several Advertisements in some Newspaper or Newspapers usually circulated in the County or District of the County where the Road or Roads or the principal Part thereof shall be, Ten Days at least previous to such subsequent Meeting; and it shall be lawful for any Two Trustees as aforesaid at any Time to call or require their Clerk to call a Meeting: Provided always, that Notice of such Meeting and of the Purpose thereof shall be published by Two Advertisements as aforesaid.

Officers to be appointed and Security to be taken.

IV. And be it enacted, That all such Trustees may and are hereby authorized to appoint Clerks, Collectors, Treasurers, Superintendents, Surveyors, and other Officers, with reasonable Allowances for their Trouble, and to take such Security from any of them for their Intromissions, and for the faithful Discharge of their Duty, as may be deemed expedient; and no Person acting as such Trustee, Clerk, Collector, Treasurer, Superintendent, Surveyor, or other Officer, shall directly or indirectly have or hold any Share or Interest in any Contract for making or repairing any of the said Highways, Bridges, or Ferries, under a Penalty of Twenty Pounds.

Trustees may pursue and be pursued in the Name of their Clerk, &c.

V. And be it enacted, That all such Trustees may pursue and be pursued in the Name of their Clerk or Treasurer for the Time being; and no Action or Process shall cease by the Death or Removal of such Clerk or Treasurer, but shall be continued in the Name of the Clerk or Treasurer for the Time.

VI. And

Books of Minutes and Accounts to be kept and audited.

VI. And be it enacted, That all such Trustees shall cause a Book or Books to be kept, in which shall be entered all the Minutes of their Orders and Proceedings, as also true and regular Accounts of all Service performed and of all Money received and expended on account of the Highways, Bridges, and Ferries under their Charge, specifying the Sums applied to ordinary Repairs, and to Improvements of each Highway, Bridge, and Ferry, and to Management and Expences, and the Sums due and not recovered, as also the Amount of Debt and Interest thereof; and such Accounts for the Year current at the passing of this Act shall be made up in each County or District of a County, and shall be audited and signed by Two of the said Trustees, or by their Preses, if more than Two be present, within a Year after the passing of this Act; and the Accounts so made up, audited, and signed shall include all Transactions preceding the Period of One Month before the Time at which they are so signed; and similar Accounts shall be annually thereafter made up, and shall in like Manner be audited and signed within One Month from the Time to which they are so made up; and after the first Year from and after the passing of this Act it shall not be lawful for any Person whatsoever to act in any way in the Collection of another Year's Conversion until such Accounts shall have been made up, audited, and signed as above directed.

Permission to inspect Accounts.

VII. And be it enacted, That any Person, having performed Service or paid the Conversion in Money or Assessment for the past or current Year, may see and take a Copy of the said Accounts or any Part thereof, on paying One Shilling to the Clerk or Treasurer for each Time of Inspection; and an Abstract of such Accounts shall be printed and published annually in at least One Newspaper usually circulated in the County or District where the Road or Roads or principal Part thereof shall be, within One Month after the said Accounts are audited and signed as aforesaid; and any Clerk or Treasurer neglecting to make up or refusing or not permitting Inspection of such Accounts as aforesaid, or failing to print and publish the Abstract thereof as aforesaid, shall forfeit and pay a Sum not exceeding Five Pounds to any such Person who shall prosecute for the same, with the Expences of Process or Proceedings.

Proceedings for Recovery of Conversion to commence within Six Months.

VIII. And be it enacted, That it shall not be lawful to commence any legal Process or Proceeding for the Recovery of any Sum due or leviable as Conversion of Statute Service, or Assessment in lieu of such Conversion, for making or maintaining any Highway, Bridge, or Ferry, after Six Months from the Time when the said Sum shall have become leviable; and in all Cases previous Demand shall be made Thirty Days before commencing such Process or Proceeding.

Mode of recovering Conversion Money.

7 W. 4. & 1 Vict. c. 41.

IX. And be it enacted, That it shall be competent to recover any Sum under One hundred Pounds *Scots* due or leviable as aforesaid for making or repairing any Highway, Bridge, or Ferry, according to the Provisions of an Act passed in the Seventh Year of King *William* the Fourth and in the First Year of Queen *Victoria*, intituled *An Act for the more effectual Recovery of Small Debts in the Sheriff Courts*,

Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in Scotland, any thing to the contrary in any local Act notwithstanding: Provided always, that nothing herein contained shall in any way alter or affect any Enactment or Provision in any local Act relative to Warrants for Poinding for the Purpose aforesaid, or any Proceeding consequent thereon, saving and excepting that it shall not be competent after the passing of this Act to imprison any Person for Nonperformance of Statute Labour, or Nonpayment of the Conversion thereof or Assessment in lieu of such Conversion.

No Person liable to work or pay who does not possess Lands, &c. valued at 2*l.* yearly.

X. And be it enacted, That from and after this present Year One thousand eight hundred and forty-five it shall not be lawful to require any Person, not being the Proprietor or Occupier of Lands, Buildings, or other Heritable Subjects of the yearly Value of Two Pounds or more, to work or perform Statute Service on any Highway, Bridge, or Ferry, or to exact or levy Money from any such Person as Conversion of Statute Service, or otherwise for making or maintaining any Highway, Bridge, or Ferry; and all Warrants for Poinding or Imprisonment, and other legal Proceedings whatsoever, against any such Person as aforesaid, on account of Nonperformance of such Work or Service, or Nonpayment of such Money or Conversion, are hereby prohibited and discharged, saving and excepting such Proceedings as shall have been commenced before the last Day of *December* One thousand eight hundred and forty-five, which, notwithstanding any thing herein contained, may be continued and carried on in all respects as if this Act had not been passed.

Power to exempt Persons who do not possess Lands, &c. valued above 5*l.*

XI. And be it enacted, That it shall and may be lawful for all such Trustees, at a General Meeting assembled, on previous Notice of such Purpose being given as above directed, from Time to Time to fix and determine any Amount of yearly Value of Lands, Buildings, and other Heritable Subjects not under Two Pounds and not above Five Pounds, to the Proprietors and Occupiers of which such Trustees shall think fit to extend the said Exemption in any County or District of a County; and it shall not thereafter be lawful to require any Person, not being the Proprietor or Occupier of Lands, Buildings, or other Heritable Subjects of a yearly Value above the Amount so fixed, to work or perform Statute Service on any Highway, Bridge, or Ferry, or to exact or levy Money from any such Person as Conversion of Statute Service or otherwise for making or maintaining any Highway, Bridge, or Ferry.

Proprietors in certain Cases to be assessed instead of Tenants.

XII. And be it enacted, That in all Cases in which, by Authority of any local Act now in force, Money, as Conversion of Statute Service, or Assessment in lieu thereof, is authorized to be assessed on Lands, Buildings, or other Heritable Subjects, and is payable in whole or in part by the Occupiers or Tenants of such Lands, Buildings, or other Heritable Subjects, it shall and may be lawful to assess upon and recover from the Proprietor of any such Lands, Buildings, or other Heritable Subjects such Money, or Part thereof, as the Trustees appointed by such local Act may think proper, so payable by any Occupier or Tenant thereof, who is not Occupier or Tenant

or Proprietor of Lands, Buildings, or Heritable Subjects of the yearly Value in the whole of Two Pounds: Provided always, that if all the Lands, Buildings, or other Heritable Subjects belonging to such Proprietor shall not be of the yearly Value of Two Pounds, no Part of such Money shall be assessed upon or recovered from such Proprietor.

Assessments ceasing by this Act may be levied in any County upon all Lands, &c. not herein-before exempted.

XIII. And be it enacted, That in all Cases in which any Sum of Money heretofore exigible as Conversion of Statute Service, or Assessment in lieu thereof, shall under this Act cease to be so exigible, it shall be lawful for all such Trustees at a General Meeting assembled to assess in any County or District of a County any Sum not exceeding the Amount of the Conversion or other Money which by reason of this Act shall cease to be exigible, and to cause the same to be levied upon all Lands, Buildings, and other Heritable Subjects not herein-before exempted from Assessment, or to be added to the Sums otherwise assessable by any local Act, and that notwithstanding the Rate of Assessment should be thereby raised above the maximum Amount authorized by such local Act; and all such Sums so assessed or added shall be levied and applied in the same Manner as the Money might have been levied and applied in lieu of which the said Sums are assessed; and all such Sums shall be payable, one Half by the Owners, and the other Half by the Occupiers of the Lands, Buildings, or other Heritable Subjects so assessed; and it shall be competent to levy from the Occupiers the Half payable by the Owners, and such Occupiers shall be entitled to deduct such Half from the Rent payable to the Owners or other Parties having Right to such Rent.

Levying of Conversion Money as a Poll Tax to cease.

XIV. And whereas it is expedient to abolish the personal Performance of Statute Service, and the levying of the Conversion thereof in Money, or any Assessment in lieu of such Conversion, as a Poll Tax; be it enacted, That from and after this present Year One thousand eight hundred and forty-five it shall and may be lawful for all such Trustees at a General Meeting assembled, if they shall think fit, to order and direct that in any County or District of a County all such Performance of Statute Service, and all such levying of Conversion or Assessment in lieu thereof, shall cease and determine.

Trustees to ascertain the annual Value of Lands, &c. assessed.

XV. And be it enacted, That in the Case of such Assessment being laid upon Lands, Buildings, and Heritable Subjects as aforesaid, the annual Value thereof shall be ascertained by such Trustees in manner prescribed by the local Acts now in force, or in such and like Manner as the annual Value of Lands, Buildings, and Heritable Subjects is authorized and directed to be ascertained in Counties and Burghs respectively under and by virtue of an Act passed in the Second and Third Years of the Reign of Her Majesty Queen *Victoria*, intituled *An Act to improve Prisons and Prison Discipline in* Scotland; and it shall be lawful for such Trustees, if they shall think fit, to assume the Amount ascertained as the annual Value of such Lands, Buildings, and Heritable Subjects in Counties and Burghs respectively, under the said recited Act, to be the Amount

2 & 3 Vict. c. 42.

on which the Assessment hereby authorized to be levied may be levied for the Purposes of this Act.

Proprietors not exempt from Debts due to Trustees under any other Act.

XVI. And be it enacted, That nothing herein contained shall extend or be deemed or construed to extend to prevent the commencing any legal Process or Proceeding for the Recovery of any Debt or Debts, Sum or Sums of Money, with Interest thereon, allocated and apportioned by virtue of any Act of Parliament now in force upon any Proprietor or Proprietors of Lands, Heritor or Heritors, according and in proportion to the real or valued Rents of such Lands within any County, and now due and owing by any such Proprietor or Proprietors, Heritor or Heritors, to any Trustees acting by virtue of any such Act of Parliament, but all such Debts, Sums of Money, and Interest thereon, may be recovered in the same Manner, to all Intents and Purposes, as if this Act had not been passed.

Wadsetters, &c. to be held Proprietors.

XVII. And be it enacted, That all Liferenters and Wadsetters shall be deemed and held to be Proprietors for all the Purposes of this Act; and that where any House has been or shall be built by any Tenant under a Building Lease, such Tenant, and his Heirs and Assignees, shall for the Purposes of this Act be deemed and taken to be Proprietor of such House.

Power to get Materials.

XVIII. And be it enacted, That it shall be lawful for all such Trustees, or any Person authorized by them, to search for, dig, and carry away Materials for making or repairing any Highway, Bridge, or Ferry, or for building, making, or repairing any Work connected therewith, from any common Land, open uncultivated Land, or Waste, or to deposit Mud or Rubbish thereon, without paying any Surface Damages or any thing for such Materials, except for Stone to be used for building, and to carry the same through the Ground of any Person; such Trustees, or other Persons authorized by them, filling up the Pits or Quarries, levelling the Ground wherefrom such Materials shall be taken, or fencing off such Pits or Quarries, so that the same shall not be dangerous to any Person or Cattle, and paying for or tendering the Damage done by going through and over any inclosed or arable Lands for or with such Materials, Mud, or Rubbish, such Damages to be ascertained as herein-after mentioned; and also that it shall be lawful for such Trustees, and other Persons authorized by them, as aforesaid, to search for, dig, and carry away any such Materials in or out of the inclosed Land of any Person where the same may be found, and to land or carry the same through or over the Ground of any Person (such Materials not being required for the private Use of the Owner or Occupier of such Land, and such Land or Ground not being an Orchard, Garden, Lawn, Policy, Nursery for Trees, planted Walk or Avenue to any House, nor inclosed Ground planted as an Ornament or Shelter to a House, unless where Materials have been previously in use to be taken by the said Satisfaction. Trustees), making or tendering such Satisfaction for Stones to be used for building, and for the Surface Damage done to the Lands from whence such Materials shall be dug and carried away, or over or on which the same shall be carried or landed, as such Trustees shall

shall judge reasonable; and in case such Trustees and the Proprietor or Occupier of such Lands shall differ as to the Amount of such Payments and Damages as aforesaid, it shall be competent to the Sheriff or Justices of the Peace for the Shire wherein the Place from whence such Materials shall have been taken, or on which the same shall have been landed or carried, shall be situate, on the Application of either Party, with Induciæ of Six Days, to hear and determine all Questions as to the Amount of such Payments and Damages, and the Expences attending the same: Provided always, that before taking such Materials from any inclosed Land from which the same shall not previously have been in use to be taken, Fourteen Days previous Notice in Writing, signed by Two Trustees, shall be given to or left at the usual Residence of the Proprietor and Occupier of the Land or Quarry from which it is intended to take the same, or his or her known Agent, to appear before the Sheriff or any Two Justices of the Peace acting for the Shire where the said Lands are situate, to show Cause why such Materials shall not be so taken; and in case such Proprietor, Occupier, or Agent shall attend pursuant to such Notice, or shall neglect or refuse to appear (Proof on Oath in such Case being duly made of the Service of such Notice), such Sheriff or Justices shall authorize or prohibit the Trustees to take such Materials, or make such Order as they shall think fit.

Notice to be given before Materials are taken from inclosed Lands.

XIX. And be it enacted, That it shall not be lawful for any Person to take away any Materials which shall have been procured or provided or used for making or repairing any Highway, Bridge, or Ferry, or to take any Materials out of any Quarry, which shall have been opened by any such Trustees for the Purpose of getting Materials, so as to interrupt or interfere with the Workings carried on by such Trustees; and every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Penalty on taking away Materials provided for repairing Highways, Bridges, or Ferries.

XX. And be it enacted, That it shall be lawful for all such Trustees to make a Road through the Grounds adjoining to any ruinous or narrow Part of any Highway (not being an Orchard, Garden, Lawn, Policy, planted Walk or Avenue to any House, or Nursery for Trees), to be made use of as a public Highway whilst the old Road is repairing or widening, making Recompence to the Proprietor and Occupier of such Grounds for the Damages they may thereby sustain; and in case such Trustees and such Proprietor or Occupier shall differ as to the Amount of such Damages, it shall be competent to the Sheriff or Justices of the Peace for the Shire where such Damages or any Part thereof shall have been incurred, on the Application of either Party, with an Induciæ of Six Days, to hear and determine all Questions as to the Amount of such Damages, and the Expences attending the same.

Power to use adjoining Ground as a temporary Road.

XXI. And be it enacted, That it shall be lawful for all such Trustees to make sufficient Side Drains on any Highway, with Power to conduct the Water therefrom into any adjoining Land, Ditch, or Watercourse (such Land not being the Site of any House or Garden),

Trustees to make Side Drains.

Garden), in such Manner as shall be least injurious to the Proprietor or Occupier of such Land, the said Side Drains to be maintained at the Expence of the Trustees.

Trustees may make Ditches.

XXII. And be it enacted, That it shall be lawful for all such Trustees to make sufficient Ditches along the Side of any Highway, provided that if the Land is inclosed on the Side of such Highway such Ditch shall be made on the Field Side of the Fence, and also to make proper Ditches and Outlets from the said Side Ditches through any Lands adjoining any such Highway (not being the Site of any House or Garden), in such Manner as shall be least injurious to the Proprietor and Occupier of such Land; and the Occupier of such Land (unless such Land be uninclosed and waste) shall be obliged in all Time thereafter to keep clear such Side Ditches and other Ditches or Outlets, as well as all such Ditches already made along the Sides of any Highway, when so required by the said Trustees or their Surveyor; and in case the Proprietor or Occupier shall neglect or refuse to cleanse such Side Ditches or other Ditches or Outlets, when duly required by such Trustees or Surveyors, such Trustees or Surveyors are hereby empowered to cleanse such Side Ditches or other Ditches or Outlets, and levy the Expence thereof from the Occupier of such Grounds: Provided always, that nothing herein contained shall prohibit any Proprietor or Occupier from substituting, to the Satisfaction of the Trustees, any other equally effectual Ditch or Outlet in place of that constructed by the Trustees.

Timber, Stones, &c. left on Roads may be seized.

XXIII. And be it enacted, That it shall be lawful for any such Trustee or Surveyor of any Highway, or other Person authorized by the said Trustees, *brevi manu*, to seize and carry off any Timber, Stone, Dung, Rubbish, or other Matter or Thing whatsoever laid or left upon any such Road or Footpath, or on any Side Drain or Ditch of such Road, and to sell or otherwise dispose of the same as a Forfeiture in such Manner as the Trustees shall direct, unless such Matter or Thing shall be previously redeemed by the Owner thereof by Payment of the Penalty in such Case enacted: Provided always, that the Proprietor or Occupier of any Lands or Houses may lay down any Materials for building or repairing any House or Wall immediately adjoining any Highway, such Materials occupying One Fourth Part of such Road only, and such Proprietor or Occupier giving Three Days previous Notice in Writing to the Clerk or Surveyor of the Road, and erecting such Fence round such Materials, and fixing and lighting Lamps thereon, in such Manner as the Trustees may require.

Penalties on Persons making Encroachments.

XXIV. And be it enacted, That if any Person shall fill up or obstruct any Ditch at the Side of any Highway, or any Ditch used for conveying Water from the said Road, or any Side Drain thereof, or Ditch or Drain under the same, or shall encroach by making any Dwelling House or other Building, or any Hedge, Ditch, or other Fence, or in any other Manner whatever, on any Highway, or shall make any Drain, Gutter, Sink, or Watercourse across, under, or upon, or shall turn or conduct any Drain or Water across, under, or

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upon, or in any way break up the Surface of any Highway, without the Consent in Writing of the Trustees of such Highway, or of their Surveyor, such Person shall forfeit for every such Offence a Penalty not exceeding Five Pounds; and it shall be lawful for the Trustees of any such Highway to cause such Dwelling House or other Building, Hedge, Ditch, or Fence, Drain, Sink, Watercourse, Gutter, or other Encroachment, to be taken down or filled up at the Expence of the Person so offending.

Parishes to defray Damages to Parapets, &c. committed by Persons undiscovered.

XXV. And be it enacted, That it shall be lawful for all such Trustees, where the Parapet of any Bridge, or any Fence, Milestone, Direction Post, or any Erection, Building, Matter, or Thing belonging to the said Trustees, or used for the Purposes of the Trust under their Management, shall be destroyed or injured, and the Persons so offending cannot be discovered and convicted, to complain to the Sheriff or Justices of the Peace of the Shire in which such Damage shall have been committed, having previously given Notice in Writing of their Intention of making such Complaint on the Church Door of the Parish in which the said Damage shall have been committed for Two consecutive *Sundays*, and which Complaint the said Sheriff or Justices shall hear in a summary Way; and if they shall sustain the same they are hereby empowered and required to assess the Amount of such Damage, and the Expences of Process or Proceedings, upon the Proprietors, Occupiers, and such other Persons of the Parish wherein such Damage shall have been committed as aforesaid as would if this Act had not been passed have been liable for the Payment of the Conversion Money leviable for Statute Labour in the Shire in which such Parish is situated, which Assessment shall be levied by the said Trustees upon the same Persons, in the same Proportions, with the same Relief to Landlords against Tenants, and in the same Manner as the said Conversion Money may be levied; and in the event of any fractional Part of such Assessment being less than a Halfpenny the whole of such Halfpenny shall be leviable from the Individual in whose Assessment such Fraction shall occur, and any Surplus that may arise therefrom shall be applied to the Repair of the Roads.

Penalty on Persons committing Nuisances, &c.

XXVI. And be it enacted, That if any Person shall ride upon any Footpath or Causeway on or by the Side of any Highway made or set apart for the Use or Accommodation of Foot Passengers, or shall lead or drive any Horse, Ass, Mule, Swine, or Cattle, or Carriage of any Description, or any Wheelbarrow, Truck, or Sledge, or any single Wheel of any Waggon, Cart, or Carriage apart therefrom, upon any such Footpath or Causeway; or shall wilfully obstruct, or do or cause any Injury or Damage to be done to the same, or to the Hedges, Posts, Rails, or Fences thereof; or shall wilfully pull down or damage any Bridge, Wall, or any Building, Fence, or Erection made by the Trustees of any Highway, or repaired or repairable by them; or shall break, injure, remove, or displace any Tools, Trestles, Bars, Stones, Materials, or other Article whatsoever belonging to such Trustees, or used on any such Road under their Authority; or shall haul or draw, or cause to be hauled or drawn, upon any Part of any Highway, any Timber, Stone, or other Thing, otherwise than upon

upon a wheeled Carriage, or shall suffer any Timber, Stone, or other Thing which shall be carried principally or in part upon a wheeled Carriage to drag or trail upon such Road; or in ploughing or harrowing any adjacent uninclosed Land shall turn any Horse, Plough, or Harrow in or upon such Road or the Side Drains or Ditches thereof; or shall, in or upon such Road, or by the Side or Sides thereof, or in any exposed Situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any Beast, Swine, Calf, Lamb, or other Cattle; or if any Person, driving any Carriage, Cart, Horse, or other Beast on such Road, conveying any Iron Bar or Rod, Tree, Wood, Stone, Basket, or Pannier, or any other Matter or Thing, except Hay and Straw, suffer the same to project by more than Thirty Inches from the Side of such Horse or other Beast, or more than One Foot laterally beyond the Wheels of such Carriage, or so as in any Manner to obstruct or impede the Passage of any Person, or any Horse, Beast, or Carriage travelling along such Highway; or if any Person shall carry any Timber or other Article above Twenty-five Feet long on any Cart or Carriage not having more than Two Wheels; or if any Hawker, Higgler, Gipsy, or other Person shall pitch any Tent or encamp upon or by the Sides of any Part of any Highway; or if any Person occupying or using a Blacksmith's Shop, Foundry, Smelting House, Iron or Brass Work, Boiler-making Work, Glass Work, Soda, Soap, or Chemical Work, shall not, by good and close Shutters, every Evening after it becomes Twilight, or otherwise, bar and prevent the Light from such Shop shining into or upon such Road, and from being dangerous or detrimental to Travellers; or if any Person shall make or assist in making any Fire or Fires commonly called Bonfires, or shall set fire to or let off or throw any Squib, Rocket, Serpent, or other Firework whatsoever within One hundred Feet of the Centre of such Road, or shall discharge any Gun, Pistol, or other Fire-arms, fly Kites, or bait or run for the Purpose of baiting any Bull, or play at Football, Tennis, Fives, Cricket, or any other Game or Games upon such Road, or on the Side or Sides thereof, or in any exposed Situation near thereto, to the Annoyance of any Passenger or Passengers; or if any Person shall leave any Waggon, Cart, or other Carriage whatever upon such Road or on the Side or Sides thereof, without any proper Person in the sole Custody or Care thereof, longer than may be necessary to load or unload the same, except in Cases of Accident, and in Cases of Accident for a longer Time than may be necessary to remove the same, or shall not place such Waggon or other Carriage during the Time of loading or unloading the same, or of taking Refreshments, as near to one Side of such Road as conveniently may be, either with or without any Horse or Beast of Draught harnessed or yoked thereto, or shall lay any Timber, Stone, Hay, Straw, Dung, Manure, Soil, Ashes, Rubbish, or other Matter or Thing whatsoever upon such Road or on the Side or Sides thereof, or the Footpaths or Causeways adjoining; or shall hang or lay any Linen Clothes or other such Article on any Hedge or Fence of any such Road; or shall suffer any Water, Filth, Dirt, or other offensive Matter or Thing whatsoever to run or flow into or upon such Road or Footpaths from any House, Building, Erection, Lands, or Premises adjacent thereto; or if any Person driving any Pigs or Swine upon such Road shall suffer such Pigs or Swine to root up or damage such Road, or the

Fences, Hedges, Banks, or Copse on either Side thereof respectively; or if any Person shall, after having blocked or stopped any Cart, Waggon, or other Carriage in going up a Hill or rising Ground, cause or suffer to be or remain on such Road the Stone or other Thing with which such Cart or other Carriage shall have been blocked or stopped; or if any Person shall pull down, damage, injure, or destroy any Lamp or Lamp Post put up, erected, or placed in or near the Side of any Highway, or shall extinguish the Light of any such Lamp; every Person offending in any of the Cases aforesaid shall for each and every such Offence forfeit and pay any Sum not exceeding Fifty Shillings, over and above the Damages occasioned thereby.

Regulation of Drivers.

XXVII. And be it enacted, That if the Driver of any Cart, Waggon, or other such Carriage on any Highway shall ride on the Shafts, or in or on any other Part of such Carriage, without having and holding Reins attached to each Side of the Bridle of each Beast of Draught drawing such Cart or Carriage, or shall at any Time leave the same travelling on any such Road without having some Person to guide the Beast or Beasts of Draught drawing the same, or shall allow to go at large any Dog that may be attending him, or his Waggon, Cart, or other such Carriage, or shall not chain or fasten the same to such Waggon, Cart, or Carriage, or if the Driver of any Sort of Carriage shall not keep to the left or near Side of such Road on meeting or on being overtaken by any other Carriage or any Rider, or shall wilfully prevent any other Person passing him or his Carriage, such Driver shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds over and above the Damages occasioned thereby.

As to One Driver taking charge of Two or more Carts, &c.

XXVIII. And be it enacted, That if One Person act as the Driver of more than Two Carts, Waggons, or other such Carriages on any Highway, or if the hinder of Two Carts, Waggons, or other such Carriages, under the Care of only One Person, shall be drawn by more than One Horse, or if the Horse of such hinder Cart, Waggon, or Carriage shall not be attached by a Rein to the back of the Cart which shall be foremost, and follow in the same Line therewith, the Horse drawing such hinder Cart not being permitted to be further from the foremost than Six Feet, the Owner or Driver of every such Waggon, Cart, or other Carriage shall for each Transgression in any of the Points aforesaid forfeit and pay a Sum not exceeding Forty Shillings.

Children not to drive Carts, &c.

XXIX. And be it enacted, That no Waggon or Cart travelling on any Highway shall be driven by any Person who shall not be of the full Age of Fourteen Years, under a Penalty for each such Offence not exceeding Forty Shillings, to be paid by the Owner of such Waggon or Cart.

Persons opening up Roads for laying Pipes for Water, &c. must repair them.

XXX. And be it enacted, That if the Causeways and Footpaths of any Highway, or any Part of such Highway, shall be opened up by any Person or Persons, with Leave of the said Trustees, or otherwise having Authority so to do, for the laying of Pipes for Water, Gas, Tunnels, or Railroads, or for any other Purpose whatever, and the same shall

shall not be immediately thereafter repaired, renewed, and rendered completely sufficient and good by the Person or Persons opening up the same to the Satisfaction of the said Trustees or their Surveyor, then the said Trustees or their Surveyor shall have full Power and they are hereby authorized to execute the necessary Repairs on the Part or Parts of such Road or Footpath so opened up, and to restore the same completely, and to charge the Expence thereof against the Person or Persons opening up the same, which shall be ascertained by an Account under the Hands of the said Trustees or a Quorum of them, or of their Clerk or Surveyor; and if any Damage shall happen to the Public from the Operations of the Persons opening up the Road as aforesaid, such Persons shall be solely liable for the same, and be obliged to relieve the said Trustees thereof, and of all Expences attending the same; and in all Cases where any Injury shall arise to any Highway from any Drain, Conduit, Pipe, Water, Matter, or Thing whatsoever being conveyed across, in, under, or upon, or by any thing done upon, any Part of any such Road by any Person having Leave or otherwise entitled so to do, and such Injury shall not be immediately repaired to the Satisfaction of the Trustees, they or their Surveyor are hereby authorized to repair the same, and charge the Expence thereof as aforesaid against the Person occasioning the said Injury, or for whose Uses or Purposes the Thing occasioning the same shall be done or kept.

Surveyors, &c. not to leave Materials unnecessarily on the Roads.

XXXI. And be it enacted, That if the Surveyor of any Highway, or any Contractor or other Person employed on such Road, shall lay on any Part of any such Road any Heap of Stones or other Materials for the Repair thereof, and shall permit the same to remain longer than necessary for the breaking and spreading of such Materials, or shall lay on any such Road any Matter or Thing, or shall knowingly permit to remain on any Part of any such Road any Matter or Thing, which may endanger the Safety of any Passenger, or shall dig any Pit or make any Cut on any Highway without sufficiently fencing the same, such Person shall for every such Offence forfeit and pay a Sum not exceeding Five Pounds over and above the Damages occasioned thereby, and Expences; and it shall be lawful for any Person travelling along any Highway to prosecute for such Sum, Damages, and Expences in manner herein-after provided: Provided always, that it shall be lawful for any such Surveyor, Contractor, or other Person to have on any such Road, during Daylight, any Trestles or Bars in any such Manner as the Trustees of such Road may judge necessary to prevent Interruption of the Work during the repairing of the Road, or to prevent Carts or Carriages from running in Tracks injurious to the Road: Provided also, that such Trestles or Bars shall at all Times be placed in such Manner as not to be more inconvenient to Passengers than may be necessary to prevent Interruption to the Work, or to prevent Carts or Carriages from running in Tracks injurious to the Road.

Proprietors to fence Pits made near the Roads.

XXXII. And be it enacted, That if the Proprietor or Occupier of any Lands adjacent to any Highway shall dig any Pit or make any Cut upon or within Twelve Feet of the Side of any such Road, and shall leave the same unfenced so as to be dangerous to Travellers, and

and shall not fence the same when required so to do by any Two of the Trustees of such Road, or any Procurator Fiscal of the Shire within which the said Pit or Cut is situated, such Proprietor or Occupier shall forfeit and pay a Sum not exceeding Five Pounds for every Day such Pit or Cut shall continue to be unfenced beyond Three Days after Notice shall have been given as aforesaid, and it shall be lawful, after such Notice, for the said Trustees or Procurator Fiscal to cause the same to be fenced at the Expence of such Proprietor or Occupier.

No Animal to be pastured on the Roads.

XXXIII. And be it enacted, That if any Horse, Cattle, Ass, Sheep, Swine, or other Beast of any Kind shall be pastured, or left or permitted to remain, or found straying on any Highway, or the Sides thereof (except on such Parts of any Road as pass through or over any Common or Waste Ground, or Land not inclosed, unless it be arable on one Side), the Person so pasturing or leaving such Beast, or permitting the same to remain, or the Person having the Charge of such Beast, or the Owner thereof if such Person cannot be found, shall forfeit and pay a Sum not exceeding Five Shillings for every such Beast; and it shall be lawful for any Trustee of such Highway, or the Surveyor of such Trustees, or any other Person authorized by them, *brevi manu*, to seize and detain the same until such Penalty and the Expences of Process and Proceeding shall be paid; and in case the said Penalty and Expences shall not be paid within Three Days after Notice of such Detention shall be given at the Parish Church nearest to the Place where such Animal shall be found, the said Surveyor or other Person shall sell the same, with the Authority of the Sheriff 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, such Surveyor or other Person shall pay the Surplus, if any, to the Owner of such Animal so detained.

Side Ridges to be made in uninclosed Lands.

XXXIV. And be it enacted, That every Person in ploughing any uninclosed Land adjoining any Highway shall make Side Ridges along the Sides of such Road of the Breadth of Twelve Feet at the least, under a Penalty not exceeding Five Pounds.

Gates to open inwards.

XXXV. And be it enacted, That no Gate of any Park, Field, or Inclosure whatsoever shall be made to open into or towards any Part of any Highway, or be suffered so to open, except the Hanging Post thereof shall be fixed or placed so far from the Centre of any Part of such Road as that no Part of such Gate shall, when open, project over any Part of such Road, or of any Footpath belonging thereto; and the Occupier of any Park, Field, or Inclosure having any Gate opening outwards, contrary to the Meaning of this Act, shall, within Six Days after Notice to him or her given, either personally or in Writing, from the Trustees of such Road or their Surveyor, cause such Gate to be hung so that no Part of the Gate, when open, shall project over any Part of such Road, or of any Footpath belonging thereto; and if such Occupier fail so to do, the Surveyor of any such Road shall cause the Gate to be hung

as herein-before directed, and charge the Expence of making such Alteration and hanging such Gate against the said Occupier, who shall, over and above such Expence, forfeit and pay a further Sum, not exceeding Five Pounds, for such Neglect.

Weeds to be cut by Trustees.

XXXVI. And be it enacted, That the Trustees of every Highway shall cut or cause to be cut all Weeds growing on the same or the Sides thereof, when inclosed, at a proper Season of the Year, in order to prevent such Weeds coming into Seed; and if they fail so to do for Eight Days after being required by the Proprietor or Occupier of the adjoining Land, by Notice in Writing given to their Clerk or Surveyor, such Proprietor or Occupier may cut the same, and charge the Expence thereof against the said Trustees.

Owners of Waggons, Carriages, &c. shall cause their Names to be painted thereon.

XXXVII. And be it enacted, That the Owner of every Waggon or Cart, and also of every Coach, Post Chaise, or other Carriage, let either in the whole or in part to Hire, shall paint in a straight Line horizontally upon some conspicuous Part on the off or right Side of his Waggon or Cart, and upon the Panels of the Doors of all such Coaches, Post Chaises, or other Carriages, before the same shall be used upon any Highway, the Christian and Surname and Place of Abode of such Person, or the Christian and Surname and Place of Abode of the principal Partner or Owner thereof, in large legible Roman Letters, either of a dark Colour upon a light Ground or of a light Colour on a dark Ground, not less than One Inch in Height, with Numbers, beginning with Number One where more of such Carriages respectively than One shall belong to the same Owner, and proceeding in regular Progression, and shall continue the same thereupon as aforesaid so long as such Waggon, Cart, or other Carriage shall be used upon any Highway; and every Owner of any such Waggon, Cart, or other Carriage using or allowing the same to be used upon any Highway without the Names and Descriptions painted thereon respectively as aforesaid, and every Person driving the same, shall forfeit for every such Offence a Sum not exceeding Forty Shillings; and every Person driving any such Waggon, Cart, or other Carriage, who shall refuse to stop, and permit the Name to be read or uncovered by any Person requiring him so to do, shall over and above forfeit for every such Offence any Sum not exceeding Forty Shillings.

Trustees may prosecute before Sheriff and Justices at the Expence of the Trust.

XXXVIII. And be it enacted, That it shall be lawful for the Procurator Fiscal and for all such Trustees, or any Person authorized by them, or for any One of their Number, to prosecute for any Expences, Penalty, Forfeiture, or Fine imposed by this or any Act made for making or maintaining any Highway, Bridge, or Ferry, and to recover the same, before the Sheriff or the Justices of the Peace of the Shire in which the same shall have become due or been incurred, or where the Offender shall reside, subject to Appeal in manner herein-after mentioned; and it shall be lawful for the said Trustees to allow the Expences of such Prosecutions to be defrayed out of the Funds of the Trust.

XXXIX. And

Proceedings for recovering Penalties, &c.

XXXIX. And be it enacted, That all Expences, Penalties, Forfeitures, and Fines imposed by this or any such Act as aforesaid (excepting such Penalties as are herein otherwise directed to be recovered and applied) shall, after hearing the Party complained of, or on the Nonappearance of such Party after Summons, on an Induciæ of Six Days, personally, or at the Dwelling Place of such Party, (of which the Oath of One Witness, or an Execution of Citation without Witnesses, shall be sufficient Evidence,) upon Proof of the Fact before the Sheriff or Justices of the Peace for the Shire in which the same shall have become due or been incurred, or where the Offender shall reside, either by the Confession of the Party offending or by the Oath of any One credible Witness, or other competent Evidence, be levied, together with the Expences of the Prosecution and Conviction, by Poinding and Sale of the Goods and Effects of the Party offending, by Warrant under the Hand of such Sheriff or Justices (which Warrant such Sheriff or Justices are hereby empowered to grant); and the Surplus (if any), after deducting such Expences, Penalties, Forfeitures, and Fines, and the Expences of the Proceedings and Charges of such Poinding and Sale, shall be returned to the Owner of such Goods and Effects; and in case the same shall not be forthwith paid upon Conviction, then it shall be lawful for such Sheriff or Justices 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 and to the Amount fixed by such Sheriff or Justices, for his or her Appearance before such Sheriff or Justices on such Day as shall be appointed for the Return of such Warrant of Poinding, which Security the said Sheriff or Justices 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 or Justices, in all Cases where the Penalties sought to be recovered shall exceed the Sum of Forty Shillings, 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 where the Offender shall be or reside, there to remain for any Time not exceeding Four Months, unless such Expences, Penalties, Forfeitures, and Fines, and the Expences of the Proceedings, shall be sooner paid; and in all Cases where the Penalties awarded shall be less than the Sum of Forty Shillings the said Sheriff or Justices may, when no Effects can be found as above, commit the Offender to Prison for any Time not exceeding Two Months, unless the said Penalties, Fines, and Expences shall be sooner paid; and the Monies arising by such Penalties, Forfeitures, and Fines respectively, if not otherwise directed to be applied by this Act, or the Act under which the same shall have been incurred, or in so far as not directed by the Sheriff or Justices to be paid towards the Expences of the Proceedings, shall be paid to the Trustees for making and maintaining the Roads, or to their Treasurer, and applied and disposed of for the Purposes of such Roads.

XL. And

Summary Process.

XL. And be it enacted, That it shall be lawful for the Sheriff or any One Justice before whom any Complaint for the Recovery of any such Expences, Penalties, Forfeitures, or Fines may be brought, to proceed, if such Sheriff or Justice, duly considering the Nature of the Case, shall think fit, and not otherwise, in a summary Way, and to grant Warrant for bringing the Parties complained upon before him for Examination, and after hearing Parties, 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, and to grant Warrant for levying the said Penalties by Poinding and Sale, and in the Case of a Return of no Effects, or in case it shall appear to the Satisfaction of such Sheriff or Justice that no sufficient Effects can be found, for Commitment of the Offender as above enacted; but in all such Cases a Record shall be preserved of the Charge and of the Judgment pronounced.

Attendance of Witnesses.

XLI. And be it enacted, That if any Person shall be summoned as a Witness to give Evidence before any Sheriff or before any Justice of the Peace touching any Matter contained in any Act relating to Highways, Bridges, or Ferries, or in this Act, either on the Part of the Prosecutor or the Person accused, and shall refuse or neglect to appear at the Time and Place for that Purpose appointed, without a reasonable Excuse for such Refusal or Neglect, then such Person shall forfeit for every such Offence any Sum not exceeding Five Pounds; and it shall be no Objection to any Witness that such Witness shall have appeared without Citation, or without having been regularly cited.

For securing transient Offenders.

XLII. And whereas Offences may be committed against this Act, or other Acts for making and maintaining Highways, Bridges, or Ferries, by Persons unknown to the Surveyors or other Officers; be it therefore enacted, That it shall be lawful for any of the Trustees of any Highway, or any of their Clerks or their Surveyors or other Officers respectively, and such other Person as any of them shall call to their Assistance, or for any Person seeing any Offence committed against this or any such Act, without any Warrant or other Authority than this Act, *brevi manu*, to seize and detain any unknown Person who shall commit any such Offence, and take such Person without Delay before the Sheriff or any neighbouring Justice of the Peace for the Shire where the Offence shall have been committed or where such Offender shall be seized and apprehended, who shall forthwith examine and discharge or commit such Person till Caution de judicio sisti be found, or shall proceed in the summary Way above directed, as the Case may seem to require.

Appeal.

XLIII. And be it enacted, That any Person who shall think himself or herself aggrieved by any Judgment or Proceedings of any Justice or Justices of the Peace in the Execution of this Act, for which no particular Relief has been hereby provided, may, within Three Months after such Judgment or Proceedings, but not afterwards, appeal to the Justices of the Peace at the Quarter Sessions, the Appellant giving Fifteen Days previous Notice of such Appeal to the

opposite Party, and to the Clerk of the said Trustees and the Clerk of the Justices of the Peace, and finding Caution to pay the Expences of such Appeal; and where by this Act the adjudging of any Penalty, Forfeiture, or Fine, or the determining the Amount of any Payment, Damages, or Expences, or any other Matter, is committed to any Justice or Justices of the Peace, or to the Sheriff, or to the Justices of the Peace assembled in their Quarter Sessions, originally or by Appeal, all Judgments, Determinations, and Proceedings of such Justice or Justices not appealed from as aforesaid, and of such Sheriff or Quarter Sessions, shall be final and conclusive, and shall not be subject to Review by Advocation or Suspension, or by Reduction, or by any Process of Law or Court whatsoever, any Law or Usage to the contrary notwithstanding.

Judgment of Sheriff or Quarter Sessions to be final.

XLIV. And be it enacted, That all Warrants, Interlocutors, Judgments, and Sentences of Sheriffs and Justices, issued or pronounced under the Authority of this Act, may be enforced against the Person or Effects of any Party or Witness in any other County, as well as in the County where the same are issued or pronounced: Provided always, that such Warrants, Interlocutors, Judgments, and Sentences shall be endorsed by the Sheriff or a Justice of the Peace of such other County; and such Endorsation shall be sufficient Authority to the Constables or Sheriff's Officers of the original County or of such other County to put the same to Execution within such other County.

Warrants, &c. may be enforced in any other County.

XLV. And be it enacted, That all Civil Causes and Prosecutions for Penalties, Forfeitures, and Fines commenced before the passing of this Act, on account of any Matter concerning any Highway, Bridge, or Ferry, shall be carried on and concluded in the same Manner as if this Act had not been passed; and nothing contained herein or in any local Act shall render it incompetent for any Sheriff to hear and determine any Civil Causes or Prosecutions for Penalties, Forfeitures, and Fines on account of any of the Matters herein-before or in any local Act enacted, according to the Provisions of an Act passed in the Seventh Year of King *William* the Fourth and in the First Year of Queen *Victoria*, intituled *An Act for the more effectual Recovery of Small Debts in the Sheriff Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in* Scotland.

Existing Causes not to be affected hereby, nor the Powers of Sheriffs.

7 W. 4. & 1 Vict. c. 41.

XLVI. And be it enacted, That all Civil Causes, Petitions, Complaints, and Processes whatsoever, and Prosecutions or Proceedings, for Expences, Penalties, Forfeitures, and Fines imposed by this Act or any local Act, or for any Damages incurred or any Wrongs done or Injuries suffered in any Matter thereto relating, or for any thing done in pursuance of any of the Powers by this or any such Act given and granted, shall be commenced within Six Calendar Months after the Penalty, Forfeiture, Fine, or Damage shall have been incurred, or Wrong done or Injury suffered, or Fact committed, and not afterwards: Provided always, that nothing in this Clause contained shall apply to or affect in any way what is above enacted concerning

Prosecutions to be brought within Six Months.

Processes and Proceedings for the Recovery of any Sum due or leviable as the Conversion of Statute Service, and the Expences thereof.

Not to extend to Middle District, Edinburgh.

XLVII. And be it enacted, That nothing in this Act contained shall be construed to extend or apply to the Middle District in the County of *Edinburgh*.

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