ANNO VICESIMO QUINTO & VICESIMO SEXTO

# VICTORIÆ REGINÆ.

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## *Cap.* ciii.

**An Act to continue the *Ashborne* and *Belper* Turnpike Trust in the County of *Derby*, and for other Purposes. [30th *June* 1862.]**

WHEREAS an Act was passed in the Eleventh Year of the Reign of King *George* the Fourth, intituled *An Act for more* 11 G. 4. c. cxxx.
*effectually repairing the Road from* Ashborne *in the County of* Derby *to a Messuage or Public House in the Occupation of* John Frost *near* Belper Bridge *in the County of* Derby," (and herein-after called "the recited Act,") and it was thereby enacted that that Act should commence on the First *Monday* next after the passing thereof, and should continue in force for the Term of Thirty-one Years, and from thence to the End of the then next Session of Parliament: And whereas by "The Annual Turnpike Acts Continuance Act, 1861," the recited Act is to continue in force until the First Day of *November* One thousand eight hundred and sixty-two, and no longer, unless Parliament shall in the meantime continue the same: And whereas considerable Sums of Money, amounting in the whole to Five thousand three hundred and ninety-nine Pounds Eleven Shillings and Eightpence or thereabouts, have been borrowed, and are now due on the Credit of the Tolls arising on the Road comprised in the recited Act, or are otherwise owing on account of the said Road: And whereas the Sums aforesaid cannot be

paid off unless a further Term and further Powers be granted: And whereas it is expedient that the recited Act should be repealed, and further and more effectual Powers granted in lieu thereof; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Recited Act repealed.

**1.** Upon the Fourth *Wednesday* next after the passing of this Act the recited Act shall be repealed, and this Act shall thereafter be put into execution during the Term and for the Purposes herein-after mentioned.

Interpretation of Terms.

**2.** In this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Expression "the Trustees" or "the said Trustees" shall mean the Trustees for the Time being acting in execution of this Act:

The Expression "the Road" shall mean the Road by this Act authorized to be maintained:

The Expression "Toll Gate" or "Toll Gates" shall include any Turnpikes, Bars, Chains, or Side Gates:

The Word "Lands" shall include Messuages, Tenements, and Hereditaments of any Tenure.

Short Title.

**3.** This Act may be cited for any Purpose as "*Ashborne* and *Belper* Turnpike Trust Act, 1862."

Monies and Property to vest in new Trustees.

**4.** All Rents and Arrears of Rents, Monies due to, and all Property, Lands, Books, Accounts, Papers, Writings, and other Things, and all Choses in Action and Rights vested in or belonging to the Trustees under the recited Act, shall immediately on the Commencement of this Act be vested in and belong to the Trustees for executing this Act; and such last-mentioned Trustees may sue for and recover the same and act in respect thereof as effectually as if the same had been vested in and belonged to them under the said recited Act, and they shall be liable to all the Debts and Engagements to which the Trustees under the recited Act may be liable at the Repeal thereof, except in so far as those Debts and Engagements are reduced or extinguished by this Act.

Actions, &c. not to abate.

**5.** Any Action, Suit, Prosecution, or other Proceeding commenced by or against the Trustees under the recited Act before the Commencement of this Act shall not abate or be discontinued or prejudiced by reason of the passing of this Act or the Repeal of that Act, but shall continue and take

take effect in favour of and against the Trustees in the same Manner to all Intents as if this Act had not passed and such Repeal had not happened, save only that the Trustees shall be substituted therein for the Trustees under the recited Act.

Appointment of new Trustees.

**6.** All Her Majesty's Justices of the Peace for the Time being acting for the County of *Derby*, together with *Mark Abbott*, *William Adsetts*, *John Adsetts*, *William Alsop*, *Charles Alsop*, *Samuel Alsop*, *Robert Archer*, *Charles Archer*, *George Paul Belcher* (Clerk), *Anthony Beresford*, *William Beresford*, *Matthew Blakiston*, *John Charles Burton Borough*, *Henry Bowyer*, *Septimus Bradley*, *Edwin Bradley*, *David Bradley*, *Thomas Brindley*, *John Carrington*, *William Cox*, *Robert Cresswell*, *Samuel Dawson*, *Philip Dawson*, *Robert Dawson*, *Joseph Frederick Dawson*, *Richard Edensor*, *John Richard Errington* (Clerk), *George Henry Errington*, *John Clifford Etches*, *William Etches*, *Charles Etches*, *William Evans*, *David Evans*, *Richard Finney*, *Richard Henry Fitz-Herbert*, *John Knight Fitz-Herbert*, *William Fletcher*, *William Fletcher* the younger, *Robert Hayston Frank*, *Thomas Garratt*, *Thomas Ginnis*, *Thomas Gould*, *Henry John Goodwin* (Clerk), *Robert Docksey Goodwin*, *Thomas Greensmith*, *Francis Greensmith*, *Thomas Greensmith* the younger, *James Hackett*, *Edward Harland* (Clerk), *Charles Harland*, *John Thomas Harland*, *John Harrison* the younger, *Thomas Litchfield Harrison*, *Robert James Hartshorne*, *Samuel Harwood*, *John Haywood*, *John Haywood* the younger, *John Hodgkinson*, *Humphrey Hollis*, *John Hollis*, *Thomas Hollis*, *John Hulland*, *Robert Hurd*, *Alfred Hurt*, *Thomas Johnson*, *Jesse Keeling*, *John Lee*, *John Wray Lister*, *John Longden*, *James Lucas*, *Thomas Maskery* (of *Little Park*), *Thomas Maskery* (of *Norbury*), *Thomas Morley*, *Joseph Morley*, *Thomas John Mountfort*, *George Mountfort*, *Haughton Charles Okeover*, *William Shipley*, *John Skevington*, *Thomas Carrington Smith*, *Charles Smith*, *William Richard Smith*, *Frank Smith*, *William Statham*, *Thomas Tomlinson*, *William Tomlinson*, *William Webster*, *John Webster*, *Edward Webster*, *William Toogood*, *John Whitham*, *John Whitham* the younger, and *Robert Whittaker*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be and they are hereby appointed Trustees for putting this Act into execution.

Power to appoint additional Trustees.

**7.** The Trustees may from Time to Time, at any Meeting under this Act, elect any Number of Persons duly qualified to act as Trustees of Turnpike Roads in *England*, not exceeding Three in the whole, to be Trustees for executing the Purposes of this Act, in addition to the Trustees hereby nominated, and the Trustees so elected shall have the same Powers and Authorities for executing this Act as if they had been hereby nominated.

**8.** The

Meetings of Trustees.

**8.** The Trustees shall hold their First Meeting in the Town of *Ashborne* in the County of *Derby*, or at some other convenient Place in the Neighbourhood of the Road, between the Hours of Eleven of the Clock in the Forenoon and Three of the Clock in the Afternoon, on the Fourth *Wednesday* next after the passing of this Act, and may then and from Time to Time thereafter adjourn to and meet at such Times and Places in the Neighbourhood of the Road as they shall think proper.

Road to which this Act is applicable.

**9.** This Act shall be put into execution for the Purpose of managing, maintaining, and keeping in repair the Road herein-after mentioned; (that is to say,)

The present Turnpike Road leading from *Ashborne* in the County of *Derby* to a Messuage or Public House now in the Occupation of *Isaac Slater* near *Belper Bridge* in the said County.

Present Tolls continued for a Term.

**10.** Notwithstanding the Repeal of the said recited Act, the several Tolls thereby granted and made payable shall continue to be paid at the Toll Gates to be continued or erected on or on the Sides of the Road until and inclusive of the Thirty-first Day of *December* One thousand eight hundred and sixty-two.

Power to take new Tolls.

**11.** Upon and after the First Day of *January* One thousand eight hundred and sixty-three the Trustees may, subject to the Provisions herein-after contained, demand and take at the several and respective Toll Gates which now are or hereafter shall be upon or on the Sides of the Road such Tolls as the Trustees shall direct, not exceeding the Sums herein-after specified; (that is to say,)

For every Horse or other Beast drawing any Coach, Landau, Barouche, Chariot, Curricle, Berlin, Phaeton, Chaise, Calash, Hearse, Gig, Gig Chair, or other such like Carriage, the Sum of Fourpence Halfpenny:

For every Horse or other Beast drawing any Waggon, Wain, Dray, Cart, Caravan, or other such like Carriage, having the Fellies of the Wheels of the Breadth of Six Inches or more, the Sum of Threepence:

And in case the Fellies of the Wheels thereof are of less Breadth than Six Inches and not less than Four and a Half Inches, the Sum of Fourpence Halfpenny:

And in case the Fellies of the Wheels thereof are of less Breadth than Four and a Half Inches, the Sum of Sixpence:

For every Horse or other Beast drawing any Van, Caravan, or other such Four-wheeled Carriage used for the Conveyance of Goods for Hire, Pay, or Reward, and built and constructed with Springs, the Fellies of which Wheels shall roll upon a Surface of not less than Six Inches, so constructed as not to deviate more than One Quarter of

of an Inch from a flat or level Surface, the Sum of Fourpence Halfpenny:

For every Horse or other Beast drawing any other Van, Caravan, or other such Four-wheeled Carriage used for the Conveyance of Goods for Hire, Pay, or Reward, and built and constructed with Springs, the Sum of Sixpence:

For every Horse, Mule, or Ass, laden or unladen, and not drawing, One Penny:

For every Drove of Oxen, Cows, or Neat Cattle, Tenpence *per* Score, and so in proportion for any greater or less Number:

For every Drove of Calves, Sheep, Lambs, or Swine, Fivepence *per* Score, and so in proportion for any greater or less Number:

And the respective Tolls hereby made payable shall be taken before any Horse, Beast, Cattle, or Carriage whatsoever shall be permitted to pass through any Toll Gate which shall be by virtue of this Act across or upon or on the Sides of the Road.

As to Fraction of a Halfpenny in Tolls.

**12.** In all Cases in which there shall be a fractional Part of a Halfpenny in the Amount of the Tolls by this Act authorized to be collected, the Sum of One Halfpenny shall be taken in lieu of such fractional Part.

Limit of Number of Tolls.

**13.** Except as in this Act otherwise provided, for passing and repassing on the same Day with the same Horses or other Animals, Carriage, or Thing liable to Toll, through all the Toll Gates on the Road, no more than Two and a Half full Tolls shall be taken: Provided always, that it shall not be lawful for the Trustees to demand or take more than One full Toll, either in One full Sum at One Gate or in fractional Parts at several Gates, for and in respect of any Horse or other Animal, Carriage, or Thing liable to Toll passing or repassing on the same Day on that Portion only of the Road situate between a Messuage and Wheelwright's Shop, late in the Possession of *John Osbiston*, situate near the East End of *Turnditch Bridge* and the Termination of the Road near *Belper Bridge*, nor more than One full Toll and a Half for so passing and repassing on the same Day over that Portion of the Road which lies between the Site of the present *Turnditch* Side Bar and the Termination of the Road near *Belper Bridge*.

Persons having paid Toll to return Toll-free.

**14.** Except as in this Act otherwise provided, all Horses, Carriages, Animals, and Things in respect of which Tolls shall have been paid for passing through any Toll Gate upon the Road shall, upon the Production of a Ticket denoting such Payment, be permitted, in going and returning during the same Day through the same and every other Toll Gate upon the Road which the Ticket for such Payment shall free, to pass Toll-free at all Times during the same Day.

As to Post-chaises.

**15.** The Tolls hereby made payable shall be paid for all Horses or other Animals let for Hire, and for all Horses or other Animals drawing any Carriage travelling for Hire, as often as any new Hiring shall take place, in the same Manner as if no previous Payment of Toll in respect of such Horses or other Animals had been made on the same Day.

As to Stage Coaches.

**16.** The Tolls hereby made payable for all Horses or other Animals drawing any Stage Coach, Omnibus, Van, Caravan, or other Stage Carriage conveying or employed for the Purpose of conveying Passengers or Goods for Hire or Reward shall be paid for every Time of passing or repassing along the Road.

Further Regulations as to Stage Coaches.

**17.** Provided always, That all Horses and Animals drawing any Carriage conveying or employed for the Purpose of conveying Passengers or Goods for Hire or Reward, in respect whereof the Toll by this Act authorized to be taken shall have been paid at any Toll Gate, shall, upon Production of a Ticket denoting such Payment, be permitted to pass once Toll-free on the same Day through any other Toll Gate which such Ticket would free in the Cases of Horses or Animals drawing any other Carriage; and no further or additional Toll shall be payable in respect of any Carriage as aforesaid at any Toll Gate, the Payment at which shall be freed by any such Ticket as aforesaid, on account only of their conveying other Passengers, or of the Horses or Animals drawing the same having been changed.

Tolls on Horses drawing different Waggons.

**18.** The Tolls by this Act made payable in respect of all Horses and Animals drawing any Waggon, Wain, Cart, Van, Caravan, or other such like Carriage shall be paid for every Time during the same Day that any such Horse or other Animal shall pass through any Toll Gate on the Road drawing any laden Waggon, Wain, Cart, Van, Caravan, or such like Carriage other than that which such Horse or other Animal shall have been employed in drawing at any former Time during the same Day when Tolls shall have been paid in respect of such Horse or other Animal.

Exemption not to be claimed in certain Cases.

**19.** Provided always, That no Exemption authorized by any Public General Act relating to Turnpike Roads, and now in force, from any of the Tolls by this Act authorized to be taken on the Road, shall be allowed for or in respect of any Horse or other Animal drawing any Waggon, Cart, or other Carriage laden with any Materials for making or repairing any Highway, or for building, rebuilding, or repairing any Bridge, or with any Dung, Soil, Compost, or Manure for improving Lands, or with Ploughs, Harrows, or Implements of Husbandry, or Hay, Straw, or Fodder for Cattle, or Corn in the Straw, Potatoes, or other agricultural Produce, such Cart or other Carriage having the Nails of the Tires of the Wheels thereof projecting more than One Quarter of an Inch

Inch above the Surface of such Tire, or having the Fellies of the Wheels thereof of less Breadth than Four Inches and a Half.

One-horse Carts may be weighed.

**20.** And whereas it frequently happens that Carts drawn by One Horse passing along the Road carry a greater Weight than is by Law allowed for Carts drawn by Two or more Horses: Be it therefore enacted, That all Carts passing along the Road drawn by One Horse only shall be allowed to carry Thirty Hundredweight in Summer and Twenty-five Hundredweight in Winter, including in each Case the Weight of such Cart, and no more; and all such Carts passing along the Road shall and may be weighed at any Weighing Machine now erected or hereafter to be erected on the Road, and the like additional Tolls demanded, received, and recovered for the Overweight thereof as are by Law payable in respect of the Overweight of Carts drawn by Two or more Horses; and all the Powers, Regulations, Penalties, Matters, and Things now in force relating to the weighing of Carts drawn by more than One Horse shall be applicable to Carts passing on the Road drawn by One Horse only, and to the Drivers, Masters, and Owners thereof.

Respecting Toll Gates.

**21.** It shall be lawful for the Trustees to set up in, upon, or across the Road, or on the Sides thereof, any Toll Gate or Toll House, and to remove the present or any future Toll Gates or Toll Houses, as they think proper: Provided always, that no Toll Gate or Toll House shall be removed, erected, or set up upon or across the Road, or on the Sides thereof, unless the same shall be ordered to be removed, erected, or set up at a Special Meeting of the Trustees holden for that Purpose, in conformity with and after such Notices as are required to be given by the Fifth Section of an Act passed in the Ninth Year of the Reign of King *George* the Fourth, intituled *An Act to amend the Acts for regulating Turnpike Roads*.

Extinction of Arrears of Interest.

**22.** All Arrears of Interest on the Principal Sums due and owing on the Credit of the Tolls arising on the said Road or otherwise shall be and the same are hereby extinguished.

Application of Funds.

**23.** All Monies which shall come to the Hands of the Trustees by virtue of this Act shall be applied as follows; (that is to say,)

First, in discharging the Expenses of and incident to the obtaining and passing this Act:

Secondly, in defraying the necessary Expenses of Management of the Road, including Salaries of Officers, Repair of Toll Houses and Toll Gates, and incidental Expenses, but so that the total Amount to be expended in any One Year in defraying such Expenses (exclusive of the Salaries of Toll Collectors, and Proceedings at Law or in Equity or before Justices of the Peace) shall not exceed the Sum of Thirty-five Pounds:

Thirdly, in paying Interest on the Principal Sums due and owing on the Credit of the Tolls arising on the said Road, or such Part of the same Principal Sums as shall for the Time being remain unsatisfied, as follows; (that is to say,) on the Principal Sum of One thousand four hundred and nine Pounds Eleven Shillings and Eightpence due and owing to the Representatives of the late *Joseph Bradley* as herein-after mentioned at the Rate of Two Pounds Ten Shillings *per Centum per Annum*, and on the Residue of the said Principal Sums at the Rate of Two Pounds *per Centum per Annum*:

Fourthly, in maintaining and repairing the Road, but so that the Amount to be applied to that Purpose shall not exceed in any One Year the Sum of One hundred Pounds:

Fifthly, in paying off, in manner herein-after provided, the said Principal Sums due and owing on the Credit of the Tolls arising on the Road:

Lastly, in further maintaining, repairing, and improving the Road.

Debt due to Executors of Joseph Bradley.

**24.** And whereas Sums of Money amounting in the whole to One thousand four hundred and nine Pounds Eleven Shillings and Eightpence, and which form Part of the before-mentioned Sum of Five thousand three hundred and ninety-nine Pounds Eleven Shillings and Eightpence, were previous to and in the Year One thousand eight hundred and thirty advanced by the late *Joseph Bradley* (the then Treasurer of the Road) for the Purposes of the said Road, and that Sum of One thousand four hundred and nine Pounds Eleven Shillings and Eightpence is still due and owing to his Representatives, and no Mortgage or Security has been given for the same, but Interest thereon has been from Time to Time paid at the Rate of Four Pounds *per Centum per Annum*: Therefore the said Sum of One thousand four hundred and nine Pounds Eleven Shillings and Eightpence shall be deemed and taken to be Part of the Principal Monies due and owing at the Time of the passing of this Act on the Credit of the Tolls arising on the Road; and the Trustees shall at any of their Meetings, when thereunto required, make and deliver to but at the Expense of the Executors or Administrators of the said *Joseph Bradley* Mortgages of the Tolls authorized to be taken on the Road for securing the said Sum of One thousand four hundred and nine Pounds Eleven Shillings and Eightpence, with Interest thereon after the Rate of Two Pounds Ten Shillings *per Centum per Annum*, and such Mortgages shall be as near as may be in the Manner and Form directed by any Act for the Time being in force relating to Turnpike Roads in *England*.

Interest postponed to Expenses of Act.

**25.** No Interest shall be paid on any of the Principal Sums due and owing on the Credit of the Tolls arising on the said Road or otherwise until the Expenses of and incident to obtaining and passing this Act shall have been fully paid and satisfied.

**26.** When-

Mortgagees not to take Possession except for Arrears of Interest.

**26.** Whenever and so long as the Interest upon all Mortgages charged upon the Tolls arising on the Road shall be duly paid within Three Calendar Months next after the same shall become due, no Holder of any Mortgage shall be entitled to enter into possession of any Toll Gate, Toll House, or Building upon the Road, or into the Receipt of the Tolls arising thereon or of the Rent payable upon the letting of such Tolls, and every Mortgagee entering into possession of any Toll Gate, Toll House, or Building, or into the Receipt of any Toll or Rent, shall pay the Interest from Time to Time becoming due upon all then existing Mortgages without any Priority or Preference, and may also reimburse himself all Costs to which he may be entitled; and every Mortgagee so in possession or receipt as aforesaid shall, within Twenty-one Days next after each of the Days whereon the Interest on such Mortgages shall be payable, render to the Clerk to the Trustees for the Time being a full and true Account of his Receipts and Expenditure while so in possession or receipt as aforesaid, with proper Vouchers for the same; and if it shall appear by any such Account that the Interest due on all such Mortgages up to the last of such Days, and all such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the Trustees, pay over to their Treasurer the Balance (if any) remaining in his Hands, and deliver up Possession of all Toll Gates, Toll Houses, and Buildings to the Trustees or any Person appointed by them to receive the same, and discontinue the Receipt of the said Tolls and Rents as aforesaid, anything in this Act or in any Statute or Law in force relating to Turnpike Roads in *England* to the contrary notwithstanding: Provided always, that no Mortgagee shall in any Case be entitled to enter into the Possession of any Toll Gate, Toll House, or Building upon the Road, or into the Receipt of the Tolls arising thereon or of the Rent payable on the letting of such Tolls, until after the Expiration of Two Years from the Period when the Expenses of and incident to the obtaining and passing of this Act shall have been fully paid and satisfied.

As to Mode of discharging Debt.

**27.** When and so often as the Fund applicable to the Discharge of the Principal Sums due and owing on the Credit of the Tolls arising on the Road shall amount to One hundred Pounds, the Trustees shall, at some General, Annual, or other Meeting, of which Meeting and of the Objects thereof, so far as the same relate to the Application of such Sums, Ten Days previous Notice at the least shall be given in some Newspaper published in the County of *Derby*, or by Notice in Writing given to each Creditor, or addressed and forwarded to him at his usual or last known Place of Abode, apply such Fund or a Portion thereof (as the Case may require) in or towards the Discharge of the Principal Monies for the Time being due to the Creditor who shall, by Proposal in Writing transmitted to the Clerk for the Time being of the Trustees before such Meeting, have offered to accept the lowest Composition in

respect of such Monies, and after Payment to such Creditor as aforesaid shall apply the Surplus (if any) of such Sum or a Portion thereof, as the Case may require, in or towards the Discharge of other Part of the same Principal Monies to the Creditor who, by Proposal as aforesaid, shall have offered to accept the next lowest Composition in respect of such Monies, and so on in like Manner until the Sum applicable to such Payments shall be exhausted; and if and whenever Two or more Creditors shall, by such Proposals as aforesaid, have offered to accept an equal Rate of Composition, the Trustees may determine by Lot the Preference between or among such Creditors, or may divide the Sum applicable rateably between or amongst such Creditors as the Trustees shall think fit; and if there be no such Proposal as aforesaid, or if there be any Surplus of any such Sum after applying the same so far as may be necessary in or towards the Discharge of the Debts to which all the Proposals relate, the Trustees may apply such Sum or the Surplus thereof (as the Case may be) rateably amongst the Creditors entitled to the Monies, or may pay the same to such of them as may be determined by Lot, or to any of the Creditors, with the Consent of all the other Creditors, as the Trustees think fit.

No Money to be taken or laid out within certain Limits.

**28.** The Trustees shall not lay out or collect any Money on any Part of the Road within the Limits of any Act of Parliament passed for the Improvement of any Town.

Road not exempt from Provisions of General Acts.

**29.** Nothing herein contained shall be deemed to exempt the Road comprised in this Act from the Provisions of any General Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament.

Commencement and Term of Act.

**30.** This Act shall commence on the Fourth *Wednesday* next after the passing thereof, and shall continue in force for the Term of Twenty-five Years, and from thence to the End of the Session of Parliament which shall then next follow.

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