CHAPTER xix.

An Act to provide for the transfer of Cavendish Bridge to the County Council of Leicestershire and for the transfer of. Harrington and Willington Bridges to the County Council of Derbyshire and for winding up the trusts of the said Bridges and for other purposes. A.D. 1896.

[21st May 1896.]

WHEREAS by an Act passed in the thirty-first year of the reign of His late Majesty King George the Second intituled "An Act for building a bridge cross the River Trent at or "near a place called Wilden Ferry" (herein-after referred to as "the Cavendish Bridge Act") certain trustees (herein-after called "the Cavendish Bridge Trustees") were appointed for putting the said Act in execution and were empowered to build and maintain a bridge across the River Trent at or near Wilden Ferry aforesaid and for that purpose to raise money on the credit of the tolls thereby authorised to be demanded and taken for the user of or passage over the said bridge And the said Trustees were required to pay out of the tolls of the said bridge clear of all taxes and deductions an annual rent or sum of one hundred and fifty pounds to Sir Matthew Lamb lord of the manor of Castle Donington his heirs and assigns and an annual rent of three pounds six shillings and eightpence to the field reeves or other officers of the parish of Castle Donington for the use of the said parish and it was by the said Act enacted that the said bridge should be deemed and taken to be situate lying and being in and to be part of the county of Leicester: 31 Geo. 2. c. lix.

And whereas the said bridge was built by means of moneys advanced by members of the Cavendish family and has since that time been called or known by the name of Cavendish Bridge:

And whereas the moneys so advanced for building the bridge were all paid off before the year one thousand seven hundred

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and ninety-seven and the said annual rent or sum payable to Sir Matthew Lamb his heirs and assigns was purchased and extinguished in or about the year one thousand eight hundred and seventeen and the said annual rent or sum of three pounds six shillings and eight pence is now paid to the Castle Donington Rural District Council:

28 Geo. 3. c. lxx.

And whereas by an Act passed in the twenty-eighth year of the reign of His late Majesty King George the Third intituled "An Act "for building a bridge over the River Trent at or near Sawley in "the counties of Derby and Leicester" (herein-after referred to as "the Harrington Bridge Act") certain trustees were appointed to put the said Act in execution and were empowered to build and maintain a bridge across the River Trent at or near a place called Sawley Ferry at Sawley aforesaid and to raise money from persons willing to advance the same for building the bridge and were also empowered to take the tolls thereby prescribed for the user of or passage over the said bridge And the said Trustees were directed out of the said tolls after payment of the expenses of collection thereof to pay an annual rent or sum of fifty pounds to the then Earl of Harrington and after his decease as therein provided and an annual rent or sum of one pound to Sir Henry Harpur his heirs or assigns clear of all deductions and the residue of the said tolls were to be applied as therein directed and it was by the same Act enacted that the said bridge should be deemed and taken to be situate lying and being in and to be part of the county of Derby:

And whereas the said last-mentioned bridge was duly built and completed and has since been called or known by the name of Harrington Bridge:

45 & 46 Vict. c. xxi.

And whereas by the Shardlow (Cavendish) and Sawley (Harrington) Bridges Act 1882 (herein-after called "the Act of 1882") Harrington Bridge was transferred to and vested in the Cavendish Bridge Trustees and their name was changed to "the Trustees of Cavendish and Harrington Bridges" and the said annual rents or sums of fifty pounds and one pound and the shares of the subscribers of the moneys raised for building Harrington Bridge were respectively extinguished and provision was made for the payment of compensation in respect thereof and the Trustees for putting in execution the Harrington Bridge Act were dissolved:

And whereas the Derbyshire County Council are desirous of acquiring and freeing from toll all the existing toll bridges in the county of Derby:

And whereas the Cavendish Bridge Trustees have funds in their hands more than sufficient to provide for the purposes of the

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Act of 1882 and it is expedient that they be authorised to apply a portion of their funds for the purpose of freeing the bridge over the River Derwent at Borrowash belonging to the Right Honourable Charles Augustus Stanhope Earl of Harrington and improving the road communications in the neighbourhood thereof and to enter into agreements in that behalf as herein-after provided:

5 & 6 Will. 4 c. cii.

And whereas by an Act passed in the fifth and sixth years of the reign of His late Majesty King William the Fourth intituled "An Act for building a bridge over the River Trent at Willington in "the county of Derby" (herein-after called "the Willington Bridge Act") trustees (herein-after called "the Willington Bridge Trustees") were appointed to carry the said Act into execution and were empowered to erect or cause to be erected a bridge of stone or other durable materials across the River Trent at or near Willington aforesaid and to form proper approaches to and from the said bridge when made and provision was made for defraying the expense of the erection of such bridge and other the expenses therein mentioned out of sums not exceeding eight thousand pounds to be subscribed for as in the same Act mentioned And the Trustees were authorised to demand and take at the said bridge tolls not exceeding those appointed by the said Act And the moneys so subscribed were divided into shares of twenty pounds each which were vested in the several persons and bodies subscribing for the same and their several and respective executors administrators successors or assigns and the several persons and bodies subscribing for or holding one or more such share or shares (which shares are herein-after called "the said shares") their several and respective executors administrators successors or assigns were to be entitled to and receive an equal proportionable part of the profit and advantages that might arise and accrue by the tolls to be raised or received at the said bridge not exceeding the rate of eight pounds per centum per annum on their respective subscriptions after payment of all expenses of maintaining the said bridge and works in repair and executing the purposes of the said Act and the surplus of the tolls after payment of all incumbrances and demands were directed to be paid and applied in the gradual extinction and discharge of the said shares:

And whereas the bridge authorised by the last-mentioned Act was erected out of moneys subscribed as aforesaid and a sum of two thousand five hundred pounds borrowed on mortgage of the bridge tolls under the powers of the said Act and the said bridge has been and is now known as Willington Bridge:

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And whereas the said shares at the present time amount in the whole to six thousand five hundred pounds nominal value and the revenue arising from the said tolls has hitherto been insufficient to pay the full annual dividend of eight pounds per centum on the said shares and there is now no mortgage on the said tolls:

And whereas it would be of public and local advantage if Willington Bridge were freed from toll and vested in the Derbyshire County Council and maintained by them as a county bridge and it is expedient that the Derbyshire County Council be authorised to acquire and purchase the same to enter into and carry into effect agreements for that purpose and to raise and contribute money for the same purpose and that provision be made for winding up the trusts of Willington Bridge in the event of the Derbyshire County Council acquiring the same:

And whereas it is expedient that the Cavendish Bridge Trustees be authorised to enter into and carry into effect agreements with the Leicestershire County Council and the Derbyshire County Council for vesting in those councils respectively Cavendish Bridge and Harrington Bridge to be maintained by them as county bridges and that the right to take toll in respect of the said bridges be extinguished and that provision be made for winding up the trusts of the Cavendish Bridge Trustees and for applying any residue of the funds in their hands in the manner herein-after provided:

And whereas the purposes of this Act 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):—

Short title.

1. This Act may be cited as the Cavendish Harrington and Willington Bridges (Transfer) Act 1896.

Cavendish Bridge Trustees may apply their funds in or towards freeing bridge at Borrowash from toll.

2. The Cavendish Bridge Trustees and the Derbyshire County Council may enter into any agreement or agreements with respect to the application by the said Trustees from time to time of such sum or sums of money in their hands as they may think fit in or towards the purchase or taking over or freeing from toll of the said bridge at Borrowash or the improving thereof or rebuilding the same on the same or another site or the improving of the communications therewith or the providing of communications with any new bridge.

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Derbyshire County Council may on notice acquire Willington Bridge.

3. At any time after the passing of this Act the Derbyshire County Council may by writing under the hand of their clerk give to the Willington Bridge Trustees notice of their desire to take over and acquire as from a day to be named in such notice not being less than three nor more than six months from the service thereof Willington Bridge and the site thereof and all land toll-houses walls posts fences gates roadways footpaths approaches works and conveniences rights and easements belonging or appurtenant thereto or connected therewith and if such notice shall be given then on and from the day to be named in that behalf in such notice as aforesaid all the same premises shall be and are by virtue of this Act and subject to the provisions herein-after contained transferred to and vested in the Derbyshire County Council and shall be thenceforward maintained by them as a county bridge which transfer and vesting is herein-after called "the transfer."

After transfer bridge tolls extinguished.

4. From and after the transfer the tolls authorised to be taken at Willington Bridge shall cease to be paid or payable and the toll-gate shall be removed and the said bridge shall at all times thereafter be free from toll.

Upon transfer lease of bridge tolls to become void.

5. Upon the transfer any then subsisting lease of the tolls of Willington Bridge shall be and become void but without prejudice to the rights and remedies of the Willington Bridge Trustees for recovery of rent up to the date of the transfer and for antecedent breaches of the covenants and agreements in the said lease and the lessee shall deliver up possession of the toll-house and premises comprised in the lease to the Derbyshire County Council and shall be entitled to receive compensation for the loss or damage sustained by him by reason of the avoidance of such lease and such compensation shall be paid by the Derbyshire County Council and the amount thereof shall in default of agreement be assessed by arbitration under the Lands Clauses Consolidation Act 1845 for which purpose the said county council shall be deemed the promoters of the undertaking and the interest of the lessee under the said lease shall be deemed an interest in land required for the purpose of the undertaking.

Actions &c. not to abate.

6. Any action prosecution or other proceeding whatsoever either pending or commenced by or against the Willington Bridge Trustees at or before the transfer shall not abate be discontinued or prejudicially affected by this Act but the same may be maintained prosecuted or continued and enforced by in favour of or against the Derbyshire County Council in like manner to all intents and

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purposes as if the Willington Bridge Trustees were or continued parties to such action prosecution or other proceeding and this Act had not been passed and the Derbyshire County Council shall indemnify the Willington Bridge Trustees against all costs thereof.

Contracts &c. of Willington Bridge Trustees to continue in force.

7. From and after the transfer all purchases sales grants conveyances assurances deeds bonds contracts and agreements entered into or made by the Willington Bridge Trustees and subsisting and in force at the time of the giving of the said notice to take over and acquire Willington Bridge or approved by the Derbyshire County Council subsequently to the date of such notice (the said lease only excepted) shall be as binding and of as full force and effect in every respect in favour of or against the said county council and may be enforced as fully as if the said county council had been party thereto instead of the Willington Bridge Trustees.

Until transfer Willington Bridge Trustees to receive tolls and maintain bridge.

8. After the service of such notice as aforesaid on the Willington Bridge Trustees and until the transfer the Willington Bridge Trustees shall out of the funds in their hands and accruing to them maintain and continue to maintain Willington Bridge in good and substantial condition and repair as heretofore and shall pay and discharge thereout all their debts and liabilities and shall be entitled subject to the said lease to receive all tolls and revenue of Willington Bridge up to the transfer.

For dissolving the Willington Bridge Trustees.

9. After the transfer all the powers and duties of the Willington Bridge Trustees shall cease and they shall continue to act only for the purpose of paying their debts and discharging as up to the date of the transfer their liabilities incurred before the transfer and distributing any moneys in their hands including the compensation to be paid for the extinguishment of the shares and dividends thereon herein-after mentioned among the persons respectively entitled thereto and winding up their affairs and for such purposes they may meet as often as occasion shall require and any three of their body shall constitute a quorum for the transaction of business.

Books &c. to be handed over to County Council.

10. So soon after the service of such notice as aforesaid as the Willington Bridge Trustees have wound up their affairs they and their clerk and other officers and servants shall deliver to the Derbyshire County Council or to their clerk all books papers deeds writings and documents whatsoever in their hands relating to Willington Bridge Provided always that in the meantime after the service of such notice as aforesaid the clerk of the Derbyshire County Council or any other person appointed by them for that purpose shall at all reasonable times have the right of access to the

said books papers deeds writings and documents and to take copies thereof or extracts therefrom.

On the transfer of Willington Bridge the shares extinguished.

11. From and after the transfer the said shares in the moneys subscribed for the purposes of the Willington Bridge Act and the dividends payable in respect of the said shares shall cease and be extinguished and the holders of the said shares shall in respect thereof cease to have any claim upon the Willington Bridge tolls or upon the Willington Bridge Trustees except in respect of dividends accrued or accruing at the date of the transfer but shall be respectively entitled to compensation in respect of the extinguishment of their said shares and dividends in manner herein-after provided.

Compensation to be paid to the shareholders of Willington Bridge.

12. The Derbyshire County Council shall pay to the Willington Bridge Trustees as and for compensation to the holders of the said shares for the extinguishment of the said shares and dividends such sum as failing agreement (which the Willington Bridge Trustees and the Derbyshire County Council are hereby authorised to enter into) shall be determined by arbitration under the Arbitration Act 1889 by two arbitrators one to be appointed by the Derbyshire County Council and the other by the Willington Bridge Trustees by writing under the hands of their respective clerks or failing agreement between the two arbitrators so appointed as to the compensation to be paid then by an umpire to be appointed by the two arbitrators under their hands before they enter upon the reference together with interest on such sum at the rate of three pounds per centum per annum from the date of the transfer until payment and such sum and interest shall be paid and distributed by the Willington Bridge Trustees to and among the said shareholders their respective executors administrators or assigns in proportion to the amount of their respective shares And the arbitrators or umpire as the case may be shall not in assessing the amount of the compensation make any addition thereto as if the purchase of the said bridge by the Derbyshire County Council were a compulsory purchase within the meaning of the Lands Clauses Acts.

The said sum and the interest thereon shall be paid to the said Trustees within one month after the transfer or after the award of the arbitrator as the case may be and the receipt in writing under the hand of three of the said Trustees shall be a sufficient discharge for the same to the Derbyshire County Council who shall not be bound or concerned to see to the application thereof nor be answerable for any loss or non-application of the same or any part thereof.

The moneys so paid and distributed other than the interest aforesaid shall represent and be in substitution for the shares in

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respect of which the same are respectively paid and all persons to whom any such moneys shall be paid shall stand and be possessed thereof upon the like trusts and subject to the like powers provisoes declarations agreements charges and incumbrances (if any) as the shares in respect of which such moneys were paid were at the date of such payment held upon and subject to and so as to give effect to and not revoke or alter any will or testamentary or other instrument disposing of the same shares or any of them and every such will or instrument shall take effect with reference to the whole or a proportionate part as the case may be of the money substituted for the shares disposed of by or subject to such will or settlement and the said interest shall be paid to the person or persons to whom the same would be payable if the same were dividends accruing in the period in respect of which the same shall be paid.

Receipt in case of persons not suî juris.

13. If any money be payable under this Act by the Willington Bridge Trustees to a shareholder being a minor idiot or lunatic the receipt of the guardian of the estate of such minor or the committee of the estate of such idiot or lunatic shall be a sufficient discharge to the said Trustees.

Willington Bridge Trustees may pay compensation money into Court in certain cases.

14. If any person entitled to receive any compensation money under this Act shall be beyond seas or under any disability not provided for by this Act or cannot be found then it shall be lawful for the Willington Bridge Trustees to pay such compensation money into the county court for Derbyshire or into the High Court as moneys held by them upon a trust in accordance with the provisions of the Trustee Act 1893.

Compensation to be paid to clerk of Willington Bridge for loss of office.

15. The Derbyshire County Council shall pay to the present clerk and solicitor to the Willington Bridge Trustees if he shall be living at the date of the transfer as compensation for the loss of his office such sum as failing agreement shall be determined by the Local Government Board within one month after the completion of the winding up of the affairs of the Willington Bridge Trustees.

County Council may borrow for purposes of this Act.

16. The Derbyshire County Council may by virtue of this Act borrow on the security of the county fund and of any of the revenues of the said county council or on either such fund or revenues or any part of such revenues such sum or sums of money as they shall require for carrying out the purposes of this Act and may from time to time borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan.

Such moneys may be borrowed by mortgage in accordance with sections two hundred and thirty-six to two hundred and thirty-nine of the Public Health Act 1875 or may be raised by county stock created and issued under the Local Government Act 1888 or by debentures or debenture certificates under the Local Loans Act 1875, and the Acts amending the same.

All money borrowed under this section shall be repaid within forty years from the date of borrowing either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund set apart invested and applied in accordance with the Local Loans Act 1875 and the Acts amending the same All money re-borrowed under this section shall be repaid within the period fixed for the discharge of the original loan and every loan for re-borrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan and the obligations of the said county council with respect to the discharge of the original loan shall not be in any way affected by means of such re-borrowing.

Repeal of Willington Bridge Act.

17. From and after the transfer the Willington Bridge Act shall be and is hereby repealed except so far only as may be necessary to enable the Willington Bridge Trustees to pay and discharge their debts and liabilities and recover any moneys owing to them and to carry into effect the provisions of this Act so far as the same may remain to be executed by them.

Cavendish Bridge Trustees may enter into agreements for transfer of Cavendish and Harrington Bridges to county councils.

18. The Cavendish Bridge Trustees on the one hand and the Derbyshire County Council and the Leicestershire County Council respectively on the other hand may enter into and carry into effect agreements or arrangements and execute all necessary assurances for transferring Harrington Bridge to and vesting the same in the Derbyshire County Council and for transferring Cavendish Bridge to and vesting the same in the Leicestershire County Council including in each case the site of the bridge transferred and all lands toll-houses walls posts fences roadways footpaths approaches works and conveniences rights and easements belonging or appurtenant thereto or connected therewith subject to the provisions of this Act and the same respectively shall from and after such transfer be maintained as a county bridge free from toll by the respective county council to whom the same shall have been so transferred.

The Cavendish Bridge Trustees as part of the agreement or arrangement with the Derbyshire County Council shall pay to them such sum as may be agreed on and as part of the agreement or

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arrangement with the Leicestershire County Council shall pay to them the sum of five thousand five hundred pounds and shall retain in their hands sufficient funds for that purpose and the respective sums shall be carried to the respective county funds for general county purposes.

After transfer annual rent charged on tolls of Cavendish Bridge extinguished.

19. From and after the completion of the transfer of Cavendish Bridge as aforesaid the said annual rent of three pounds six shillings and eight pence charged upon and directed to be paid out of the tolls of Cavendish Bridge and now payable to the rural district council of Castle Donington shall be by force of this Act extinguished and the Cavendish Bridge Trustees shall forthwith out of the funds in their hands pay to the said Rural District Council the sum of one hundred and forty pounds as and by way of compensation for the extinguishment of the said rent.

For dissolving the Cavendish Bridge Trustees.

20. After the completion of the transfers of Cavendish Bridge and Harrington Bridge to the county councils of Leicestershire and Derbyshire respectively under the powers of this Act all the powers and duties of the Cavendish Bridge Trustees shall cease and they shall continue to act only for the purpose of paying and discharging their debts and liabilities including the payment of such sum of money as they shall think fit for compensating their clerk for the loss of his office upon the winding up of their affairs and paying or applying the balance of the funds in their hands in manner hereinafter directed or provided and winding up their affairs and for such purposes they may meet as often as occasion shall require and any three of their body shall constitute a quorum for the transaction of business.

If any funds shall remain in the hands of the Cavendish Bridge Trustees after paying and discharging their said debts and liabilities and paying the said compensation money to their clerk and the costs and expenses of and incident to the winding up of their affairs the same shall be paid over to the Derbyshire County Council and be carried by them to the county fund for general county purposes.

Repeal of Acts relating to Cavendish and Harrington Bridges.

21. From and after the completion of the transfers of the Cavendish Bridge and the Harrington Bridge respectively the Cavendish Bridge Act the Harrington Bridge Act and the Act of 1882 shall be and are hereby repealed except so far only as may be necessary to enable the Cavendish Bridge Trustees to pay and discharge their debts and liabilities and recover any moneys owing to them and to carry into effect the provisions of this Act so far as the same may remain to be executed by them.

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Costs of Act.

22. All costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Cavendish Bridge Trustees out of any funds in their hands or under their control.

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