ANNO TRICESIMO

VICTORIÆ REGINÆ.

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Cap. xix.

An Act for the better Regulation of the Market at *Exmouth* in the County of *Devon*, and for other Purposes, and of which the Short Title is "*Exmouth* Market Act, 1867."

[3d *May* 1867.]

WHEREAS by an Act (Local) of the Session of the First and Second Years of Her present Majesty, Chapter 5, intituled *An Act for regulating the Market in the Town of* Exmouth 1 & 2 Vict.
in the County of Devon, the Right Honourable *John* Lord *Rolle*, now c. v.
deceased (in this Act called Lord *Rolle*), his Heirs and Assigns, were authorized to enlarge and maintain the Market House and to remove thereto the Market then held in the Streets of *Exmouth*, and to hold the Market there and to take Tolls in respect thereof, and to provide a Public Weighing House and to take Tolls in respect thereof, and divers Provisions were made with respect to the Market, but the Act was not to extend to that Part of *Exmouth* which lay within the Parish of *Withycombe Raleigh* in the County of *Devon*: And whereas the Market House was enlarged and improved, and the Market was removed thereto and still is held therein, and the Weighing House was provided: And whereas by the Act (Local) of the Session of the Fourth and Fifth Years of Her present Majesty,
Chapter 46, intituled *An Act to alter, amend, and enlarge the Powers* 4 & 5 Vict.
c. xlvi.

and Provisions of an Act passed in the First Year of the Reign of Her present Majesty, intituled 'An Act for regulating the Market in the 'Town of Exmouth *in the County of* Devon,' further Provision was made with respect to the Market and the Tolls thereof: And whereas by the *Rolle* Estate Act, 1865, whereby it appears that Lord *Rolle* by his Will devised his real Estates (which included the Market and the Market House and Weighing House, and the Tolls and divers Messuages and Lands in the Parish of *Littleham and Exmouth*, comprising the greater Part of *Exmouth*) to Trustees upon divers Trusts (which are not yet fulfilled), the Trustees of Lord *Rolle*'s Will were authorized (Section 7) from Time to Time, with the Sanction of the Court of Chancery, to be obtained in a Suit of *Drake* versus *Trefusis* for establishing Lord *Rolle*'s Will and carrying into execution the Trusts thereof under the Direction of the Court (and which Suit is still pending), to lay out or appropriate any Parts of the Hereditaments in the County of *Devon*, subject to the Trusts of the Will, for Roads, Paths, Squares, Gardens, or other open Spaces, Sewers, Drains, or Watercourses, or other Works of Accommodation or Convenience, either to be dedicated to the Public or not, and to make, construct, and complete any such Roads, Paths, Squares, Yards, Gardens, Sewers, Drains, or Watercourses, or other Works, and to do all such Things for effectuating the Appropriation as should be considered necessary or expedient, and out of any Monies in their Hands, and liable to be invested in the Purchase of Hereditaments to be settled upon the Trusts of the Will, to pay all the Costs, Charges, and Expenses of laying out, appropriating, building, constructing, and completing any Roads, Paths, and other Works thereby authorized to be made and constructed: And whereas the Trustees of the Will are making a new Street to pass, as to Part thereof, through the Town of *Exmouth*, which new Street will be a great Improvement to *Exmouth*, but that Improvement cannot be effected without taking down Part of the present Market House: And whereas since the passing of the recited Acts the Town of *Exmouth* has extended in the Parish of *Withycombe Raleigh*, and the present Market House is inadequate for the Town, and its Situation is inconvenient to the Inhabitants of many Parts of the Town: And whereas it would be of public Advantage if a new Market House were erected in a more central Situation in *Exmouth*, and the Market were held there instead of in the present Market House, and the present Market House were taken down: And whereas it is expedient that the recited Acts be repealed and further Provision be made with respect to the Market: And whereas no Market is held in the Parish of *Withycombe Raleigh*, and it is expedient that so much of that Parish as is Part of the Town of *Exmouth* as well as the Parish of *Littleham* and *Exmouth*, which comprises the Residue of the Town, be included within the Limits of the Market: And whereas the Objects of this Act cannot be attained without

28 & 29 Vict. c. 4. (*Private*)

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 for all Purposes be cited as "*Exmouth* Market Act, 1867."

10 & 11 Vict. c. 14. incorporated.

2. "The Markets and Fairs Clauses Act, 1847," (save so far as any of the Provisions thereof are excepted or varied by this Act,) is incorporated with and forms Part of this Act: Provided that Sections 6 to 8 (both inclusive) and 50 and 53 of that Act are not incorporated with this Act, and the Writing prescribed by Section 42 of that Act may be under the Hand and Seal of One of the Undertakers, and until the Market be removed from the present Market Place to the new Market Place the Provisions of that Act incorporated with this Act, or any of them, do not apply to the present Market Place in *Exmouth* or the Market held there, or any Person, Proceeding, Matter, or Thing with respect to the same.

Interpretation of Terms.

3. The several Words and Expressions to which by the Act in part incorporated with this Act Meanings are assigned have in this Act the same respective Meanings, unless excluded by the Subject or Context; and the Expressions "Superior Courts" or "Court of competent Jurisdiction" in this Act or the Act in part incorporated with this Act shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute; and the Expression "the Undertakers" means and includes the Persons and Person who now and from Time to Time hereafter are and is the Trustees and Trustee of Lord *Rolle*'s Will, and their Heirs and Assigns, being real Representatives of Lord *Rolle*.

Power to make and maintain new Market Place, &c.

4. The Undertakers may appropriate and use for the Purposes of a new Market Place for *Exmouth* such Lands at or near to the Crossing leading from *Rolle Street* to *Chapel Street*, *Buck Street*, and *South Town* in the Parish of *Littleham* and *Exmouth*, and being Part of Lord *Rolle*'s Trust Estate, as they think fit, and may thereon make and from Time to Time enlarge, improve, and maintain, a Market House, with a public Weighing House and such Approaches, Offices, Buildings, Drains, Works, and Conveniences as they think fit.

Period for opening new Market Place.

5. The new Market Place shall be completed and fit for public Use within Three Years after the passing of this Act, and if it be not so completed and fit, then on the Expiration of that Period the Powers by

by this Act granted to the Undertakers for making the new Market Place, or otherwise in relation thereto, and for removing the Market from the present Market House to the new Market Place, and for closing and pulling down the present Market House, and all incidental Provisions, shall cease and be void.

Market to be removed from the Strand to new Market Place.

6. When the new Market Place is completed and fit for public Use the Market now held in the present Market Place in the *Strand* at *Exmouth* shall be removed to and shall thenceforth be held, maintained, and regulated by the Undertakers as the Owners thereof at the new Market Place, and shall be so held, maintained, and regulated for the Sale of such Meat, Fish, Poultry, and other Provisions, Corn, Grain, and Seeds, Goods, Wares, and other marketable Commodities and Things, as the Undertakers from Time to Time appoint to be sold therein, and the Market shall not again be held in the present Market Place: Provided that whatever marketable Commodities and Things have been ordinarily sold in the present Market House may be sold in the new Market Place.

Limits of Market.

7. From and after the Time for the Removal of the Market to the new Market Place the Limits of the Market under this Act shall be the Limits of what from Time to Time is the District of the Local Board of Health for *Exmouth*.

Limits of Market.

8. The Market of the Undertakers shall be the only Market held within the Limits of the Market.

Present Market Days.

9. The Undertakers may hold the Market in the new Market Place on *Saturdays*, and during the Hours in which it has hitherto been held in the present Market House.

Power to appoint Market Days.

10. The Undertakers may from Time to Time, if they think fit, appoint such other Days for holding the Market in the new Market Place as they think fit, and may alter the Days for holding the Market there: Provided that the Market shall not be held on *Sunday*, *Christmas Day*, or *Good Friday*, or on a Day appointed for a public Fast or Thanksgiving.

PublicNotice of Market Days to be given.

11. When the Undertakers appoint any Day for holding the Market in the new Market Place, or change the Day for holding the Market there, they shall give public Notice thereof by Advertisement in a Newspaper circulating in *Exmouth*, and also by Placards posted at conspicuous Places in *Exmouth*.

Period for Change of Market Days.

12. Provided, that if and when the Undertakers appoint any Day other than any of the present Market Days for holding the Market in

in the new Market Place, the Change of Day shall not take effect until the Expiration of One Month after the Publication by the Undertakers of the prescribed Notice of the Change of the Market Day.

Evidence of Publication of Notice.

13. A Statutory Declaration by an Officer of the Undertakers that public Notice of the Appointment or Change of a Market Day has been given in accordance with this Act shall be *primâ facie* Evidence of the Facts thereby declared.

Market Tolls as in First Schedule.

14. The Undertakers may from Time to Time demand and take from any and every Person occupying or using any Shop, Shed, Stall, or Place in the new Market Place, or bringing into that Market Place any marketable Commodity specified in the First Schedule to this Act annexed, such Tolls as the Undertakers from Time to Time appoint, not exceeding the respective Market Tolls specified in that Schedule.

Market Tolls for Stalls, &c. payable by successive Occupiers.

15. The several Market Tolls payable in respect of the Occupation or User of any Shed, Stall, or Place in the new Market Place shall be paid not only by the original Taker or Occupier thereof for a Part of a Day, although he do not occupy it the whole Day, but also by every subsequent Taker or Occupier of the same for any subsequent Part of the same Day.

Weighing and measuring Tolls as in Second Schedule.

16. The Undertakers from Time to Time may demand and take for the weighing or measuring of any Article sold or brought for Sale by Weight or Measure in the Market Place from any Person having the Article weighed or measured at any Weighing House or Place for measuring or weighing provided by the Undertakers any Tolls not exceeding the respective weighing and measuring Tolls specified in the Second Schedule to this Act annexed.

Market, &c. vested in Undertakers.

17. The Market under this Act and the new Market Place, with the Market House, Buildings, Works, and Conveniences connected therewith, shall continue to be Part of Lord *Rolle*'s Trust Estate, and the several Tolls by this Act granted are by this Act vested in the Undertakers as Part of Lord *Rolle*'s Trust Estate.

Tolls to be taken by Officers of Undertakers Lessees.

18. The several Tolls respectively specified in the First and Second Schedules to this Act annexed from Time to Time may be demanded and taken by the Officers of the Undertakers and by the Lessees of the Undertakers and their Officers respectively.

Power for Undertakers to license Basket Men.

19. The Undertakers from Time to Time, if and when they think fit, may grant to any Person who is desirous of selling or exposing for Sale in any of the open Places within the Limits of the Market, not being

being the new Market Place, any Article in respect of the Sale or Exposure for Sale whereof in the new Market Place any Toll is by this Act granted, a Licence so to do for not exceeding One Year at a Time, and on such Terms and Conditions as the Undertakers from Time to Time think fit, and the Undertakers may demand and take for every such Licence any Sum not exceeding Twenty Shillings.

Penalty for Sale out of Market Place without Licence.

20. If any Person, not having a Licence from the Undertakers so to do, sell or expose for Sale in any open Place within the Limits of the Market, not being the new Market Place or his own Dwelling House or Shop, any Article in respect of the Sale or Exposure for Sale whereof in the new Market Place any Toll is by this Act granted, every Person so offending shall for every such Offence forfeit not exceeding Forty Shillings: Provided that nothing in this Act shall prejudice or interfere with the lawful Exercise by licensed Hawkers of the Callings for which they are so licensed, or restrain or prohibit any Person who shall have first paid the Tolls by this Act granted from carrying or crying for Sale, or from selling from Door to Door within the said Limits, any Fish, Poultry, Eggs, Butter, Fruit, Herbs, or Vegetables, or any other Commodity usually so carried or cried.

Power to pull down present Market House.

21. At the Time for the Removal of the Market to the new Market Place the Undertakers shall close the present Market House in the *Strand*, and from Time to Time thereafter they may pull down and remove the same and the Buildings and Works belonging thereto, and may deal with and dispose of the Materials and the Site thereof as Parts of Lord *Rolle*'s Trust Estate.

Recited Acts repealed.

22. At the Time for the Removal of the Market to the new Market Place the first and secondly recited Acts are by this Act repealed.

General saving of Rights.

23. Notwithstanding the Repeal of the first and secondly recited Acts, and except only as is by this Act otherwise expressly provided, everything before the Repeal done, suffered, and confirmed respectively under or by the repealed Acts respectively, and every Right by the repealed Acts saved, shall be as valid as if the Repeal had not happened, and the Repeal and the Operation of this Act respectively shall accordingly be subject and without Prejudice to everything so done, suffered, and confirmed and all Rights so saved respectively, and to all Rights, Liabilities, Claims, and Demands, both present and future, which if the Repeal had not happened would be incident to or consequent on everything so done, suffered, and confirmed and all Rights so saved respectively: Provided that the Generality of this Provision shall not be restricted by any of the other Sections and Provisions of this Act.

24. Not-

Provisions of other Acts continued.

24. Notwithstanding the Repeal, and except only as is by this Act otherwise expressly provided, all the Provisions of any and every Act of Parliament (other than the repealed Acts) relating to the Market or Lord *Rolle*, his Heirs or Assigns, or his or their respective Officers or Servants, or any other of the Subject Matters of the repealed Acts or either of them, and on the Commencement of this Act in force, shall be of like Force as if the Repeal had not happened, and in accordance with the Provisions of this Act may be exercised, enforced, and enjoyed by and against the Undertakers and their Officers and Servants respectively in as full and beneficial a Manner to all Intents and Purposes as if the Repeal had not happened.

Contracts, &c. preserved.

25. Notwithstanding the Repeal, all Purchases, Sales, Conveyances, Mortgages, Bonds, Deeds, Securities, and Contracts before the Repeal made or entered into under or by virtue of the repealed Acts or either of them, or with respect to any of the Purposes thereof, shall continue and be as effectual to all Intents as if the Repeal had not happened and may be proceeded on and enforced accordingly.

Actions not to abate.

26. Notwithstanding the Repeal, any Action, Suit, Prosecution, or other Proceeding commenced before the Repeal under or by virtue of the repealed Acts or either of them, or with respect to any of the Purposes thereof, shall not abate or be discontinued or prejudicially affected by this Act, but on the contrary shall continue and take effect in like Manner to all Intents and Purposes as if the Repeal had not happened.

Tolls, &c. due to be paid.

27. Notwithstanding the Repeal, all Tolls, Rents, Stallages, and other Dues and Payments immediately before the Repeal due and payable to the Undertakers shall be payable and paid to and may be collected and recovered by the Undertakers in like Manner as if the same were Tolls payable under this Act.

Debts, Penalties, &c. to be recoverable.

28. Notwithstanding the Repeal, all Debts and Sums of Money, Penalties, Damages, Costs, and Expenses which if the Repeal had not happened would under the repealed Acts or either of them be payable to or recoverable by or against the Undertakers or any other Person shall be payable and recoverable in like Manner as if the Repeal had not happened.

Books, &c. continued Evidence.

29. Notwithstanding the Repeal, all Documents, Books, and Writings which if the Repeal had not happened would be receivable in Evidence shall be admitted as Evidence in all Courts of Law and Equity and elsewhere accordingly.

30. The

Liability to Toll, &c. not to disqualify Justice.

30. The Liability to the Payment of any Toll or other Money payable under this Act shall not disqualify a Justice for acting in any respect in the Execution of this Act.

Recovery of Tolls, &c. by Distress.

31. All Tolls and other Monies, Damages, Costs, and Expenses payable under this Act to the Undertakers, and the Amount of which is not contested, may be levied by Distress, and any Justice on Application by the Undertakers shall issue his Warrant accordingly, the Party proceeded against being first duly summoned.

Costs of Distress.

32. The Justice who issues a Warrant of Distress for the Recovery of any Money payable under this Act may order that the Costs of the Proceedings for the Recovery of the Money be paid by the Person liable to pay the Money, and the Costs shall be ascertained by the Justice and included in the Warrant of Distress for the Recovery of the Money.

Recovery of Tolls, &c. otherwise than by Distress.

33. Nothing in this Act shall prevent the Undertakers from recovering any Toll or other Money payable to them in any Court of competent Jurisdiction, or by any other lawful Means.

Several Names in One Warrant, &c.

34. Any Warrant of Distress, Summons, or Notice issued under this Act may comprise in the Body thereof, or in a Schedule thereto, several Names and several Sums.

Authentication of Notices, &c.

35. Any Summons, Demand, Notice, or other such Document under this Act may be in Writing or in Print, or partly in Writing and partly in Print, and if it require Authentication by the Undertakers the Signature of their Agent shall be a sufficient Authentication thereof.

Service of Notices, &c.

36. Any Summons, Writ, Notice, or other Proceeding at Law or in Equity requiring to be served on the Undertakers for the Purposes of this Act may be served by delivering the same personally to any One of the Undertakers or to their Agent.

Saving Rights of Court of Chancery as to Lord Rolle's Will, &c.

37. Nothing in this Act shall take away, lessen, or prejudicially affect any Jurisdiction or Authority of the High Court of Chancery with respect to Lord *Rolle*'s Will, or the "*Rolle* Estate Act, 1865," or Lord *Rolle*'s Trust Estate, or any Part thereof, or any Person in relation thereto.

Saving Rights of Local Board of Health.

38. Nothing in this Act shall take away, lessen, prejudice, or alter any of the Jurisdictions, Estates, Rights, Interests, Powers, Authorities, Privileges, or Immunities of the Local Board of Health for *Exmouth*.

39. The

Act not to prevent leasing, &c. of Market, &c. as Part of Lord Rolle's Trust Estate.

39. Nothing in this Act shall prevent or interfere with the leasing, mortgaging, selling, or otherwise dealing with or disposing of the Market and the Tolls by this Act granted, and the Market Place or any Part thereof as Part of Lord *Rolle*'s Trust Estate, but subject to the Provisions of this Act.

Saving Rights of Undertakers.

40. Except as is by this Act expressly provided, nothing in this Act shall take away, lessen, prejudice, or alter any of the Franchises, Estates, Rights, Interests, Powers, Authorities, or Privileges of the Undertakers.

Market not exempt from Provisions of General Acts.

41. Nothing in this Act shall exempt the Market from the Provisions of any General Act hereafter passed with respect to Markets, or from any Revision by Parliament of the Tolls by this Act granted.

Expenses of Act.

42. All the Costs, Charges, and Expenses of applying for and passing this Act, or preliminary or incidental thereto, shall be paid by the Trustees.

SCHEDULES.

The FIRST SCHEDULE referred to in the aforegoing Act.

Market Tolls.

	s.	*d.*
For every Butcher's Stall, for every Day - - - -	1	0
For every Stall, Sitting, or Place for the Sale of Fruit or Vegetables, for every Day - - - - - -	0	9
For every Fish Stall, Sitting, or Place - - - -	0	6
For every Stall, Sitting, or Place for Sale of Poultry, Butter, Eggs, Cheese, Bacon, or any other Article of Provision usually sold in Poultry Markets (except Vegetables and Fruit), for every Day - - - - - -	0	6
For every Stall, Standing, or Place for the Sale of manufactured Goods, Wares, or Merchandise, for every Day - - -	1	0
For every Bag of Potatoes, Carrots, Turnips, or other Vegetables, Apples, Pears, Plums, or other Fruit - - -	0	2
For every Basket or Hamper of Potatoes, Carrots, Turnips, or other Vegetables, Apples, Pears, Plums, or other Fruit -	0	1
For Two Panniers - - - - - - -	0	3
For every Hand Basket carried by a Person containing Fish, Poultry, Butter, Eggs, Vegetables, Fruit, or any other Article of Provision - - - - - -	0	2
For every Stall or Standing for the Sale of Shoes - - -	0	9
For every Cart with a Load for Sale - - - - -	0	6
For every Donkey Cart, with ditto - - - - -	0	3
For every Bushel of Wheat, Peas, Beans, or Malt - - -	0	2
For every Bushel of Barley or Oats - - - - -	0	1
For every One hundred and twelve Pounds Weight of Flour, Clover, Trefoil, Turnip, or other Seeds, and so in proportion for a greater or less Quantity - - - - -	0	6

The SECOND SCHEDULE referred to in the aforegoing Act.

Weighing and Measuring Tolls.

	s.	*d.*
For every Quantity of Meat, Article, or Thing weighing not exceeding One Hundredweight - - - - -	0	0½
Above One Hundredweight, and not exceeding Two Hundredweight - - - - - - - -	0	1
And so in proportion for any greater Quantity than Two Hundredweight.		
For every Quantity of Goods, Articles, or Things sold by Measure, for every Bushel or any less Quantity - -	0	0½

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