ANNO SEXTO

GULIELMI IV. REGIS.

Cap. lxxxiv.

An Act to amend an Act of the Seventh Year of the Reign of His late Majesty King *George* the Fourth, for more effectually repairing and improving the several Roads leading to and from the Towns of *Newton Bushell, South Bovey*, and *Moretonhampstead* in the County of *Devon*. [21st *June* 1836.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for more effectually repairing and improving several Roads leading to and from the Towns of* Newton Bushell, South Bovey, *and* Moretonhampstead *in the County of* Devon: And whereas an Act was passed in the Fifth Year of the Reign of His present Majesty, intituled *An Act for making, maintaining, and repairing certain Roads near the Towns of* Ashburton *and* Totnes *in the County of* Devon: And whereas it is expedient that the said first-recited Act should be altered and amended as herein-after mentioned, and that some further and additional Powers should be granted; but as the same 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 King's most Excellent Majesty, by and with the Advice and Consent of the

7 G. 4. c. 92.

5 W. 4. c. 35.

Purposes of the Act.

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act the said first-recited Act and this Act shall be put in execution for improving, repairing, and maintaining the several Roads mentioned and comprised in the said first-recited Act; that is to say, from *Newton Bushell* to *Travellers Rest;* from *Moor's Barn* to the Eastern End of *Whitehill Lane*, from thence to *South Bovey;* from *Newton Bushel*, through the Village of *Highweek*, to *Blatchford Brook;* from *South Bovey* to the Turnpike Road leading from *Totnes* to *Chudleigh* near *Newbridge;* and from *South Bovey*, through *Moretonhampstead*, to *Whiddon Down*, with the several Branches or Pieces of Road communicating therewith; which said Roads and Branches or Pieces of Road are particularly described in the said first-recited Act; and also for improving, repairing, and maintaining the several Highways herein-after mentioned; that is to say, from *Travellers Rest* aforesaid to the *Ashburton* Turnpike Road in the Parish of *Ashburton;* from the Western Side of *Knightonheathfield* to the Village of *Knighton* in the Parishes of *Hennock* and *Bovey Tracy*, or one of them; from the Town of *South Bovey* to the Village of *Halford*, and thence to the *Ashburton* Turnpike Road in the Parishes of *Bovey Tracy*, *Teignrace*, and *Ilsington*, or some or one of them; also such Parts of the direct Road or Line of Communication between *South Bovey* and *Whiddon Down* aforesaid, if any, as are now Parish Roads, and were not made Turnpike by the said first-recited Act, situate in the Parishes of *Bovey Tracy*, *Hennock*, *Lustleigh*, *Moretonhampstead*, and *Drewsteignton*, or some or one of them; also from a certain Turnpike Gate called *Moreton Eastern Gate* to the Turnpike Road leading from the Town of *Moretonhampstead* to *Exeter* in the said Parish of *Moretonhampstead*, all in the County of *Devon*.

Appointment of Trustees.

II. And be it further enacted, That *Samuel Branscombe* the younger, *Henry Caunter*, *Elias Cuming*, *John Courtier*, *William Creed* the younger, *George Cann*, *William Charles Clack* Clerk, *John Coniam*, *Richard Dunning*, *George Dolling*, *John Dunning*, *Robert Gee* Clerk, *John Filmore Kingston*, *Charles Kendall*, *John Milward* the younger, *John Rich Mills*, *John May*, *Thomas Pinsent* of *Kingsteignton*, *Thomas Pinsent* of *Hennock*, *John Ponsford* the younger, of *Drewsteignton*, *William Sawdye*, *John Damerel Sawdye*, *William George Parks Smith* Clerk, *Richard Savery*, *Robert Tucker*, *John Turner* Clerk, *Moses Vicary*, *William Vallance*, *Thomas White*, and *Arthur Whipham* Clerk, together with the Trustees appointed or to be appointed under and by virtue of the said first-recited Act, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be the Trustees for carrying the said first-recited Act and this Act into execution, and shall have all the same Powers and Authorities as if they had been originally appointed and were now acting under the said first-recited Act, and that the Trustees herein-before named and appointed shall be and be deemed to be appointed to supply the Vacancies now existing in the Number of Trustees appointed in and by the said first-recited Act: Provided always, that no further or additional Trustees shall be appointed until any Vacancy or Vacancies shall hereafter occur.

III. And

Power to continue the present Toll Gates, and erect other Gates, &c., and take Tolls thereat.

III. And be it further enacted, That, notwithstanding the said Roads comprised in the said first-recited Act have not been wholly and entirely completed, it shall be lawful for the Trustees acting under the said first-recited Act to continue the several Toll Gates, Toll Bars, and Toll Houses at present erected or standing, and from Time to Time to erect any other Toll Houses, Toll Gates, or Toll Bars upon or on the Side of the said Roads comprised in the said first-recited Act and this Act, and for the said Trustees or their Lessees, or any Person or Persons authorized or appointed by them respectively, to demand and take at each such Toll Gate or Toll Bar on every Day (such Day to be computed from Twelve of the Clock in one Night to Twelve of the Clock in the next succeeding Night,) any Sum not exceeding the several Tolls authorized to be demanded and taken in and by the said first-recited Act at the several Toll Gates thereby authorized to be continued and erected.

Allowing certain Exceptions from Toll.

IV. And be it further enacted, That the said Tolls shall be demanded and taken at every such Toll Gate, notwithstanding any thing contained in the said herein-before recited Acts or either of them, save and except that any Person having paid Toll for any Beast or Carriage at any Toll Gate erected by the Trustees of the said first-recited Act or this Act, on any one of the Lines of Roads herein-after mentioned, that is to say, from *Newton Bushell* to *Ashburton*, from *Ashburton* to the Eastern End of *Whitehill Lane*, from *Ashburton* to *Bovey Tracy*, and from *Bovey Tracy* to *Chudleigh Bridge*, shall not be liable to pay Toll for the same Beast or Carriage on the same Day, to be computed as aforesaid, at any Toll Gate erected by the Trustees of the said secondly herein-before recited Act on such one of the said Lines of Road; and that any Person having paid Toll for any Beast or Carriage at any Toll Gate erected by the Trustees of the said secondly herein-before recited Act on any one of the said Lines of Road shall not be liable to pay Toll for the same Beast or Carriage on the same Day, to be computed as aforesaid, at any Toll Gate erected by the Trustees of the said first-recited Act or this Act on such one of the said Lines of Road; provided that in the Cases aforesaid a Ticket be produced denoting Payment of the Toll in the first instance; and provided that this Exemption shall not extend to Horses or other Beasts, or Carriages, travelling or carrying Passengers or Goods for Pay, Hire, or Reward, nor to Horses or other Beasts drawing any other or different Carriage.

Confirming certain Compositions made in virtue of the first-recited Act, with certain other Trustees, &c. 5 G. 4. c. 12.

V. And be it further enacted, That the Composition or Agreement made in pursuance of a Provision contained in the said first-recited Act with the Trustees for executing an Act passed in the Fifth Year of the Reign of His said late Majesty, intituled *An Act for more effectually repairing and improving the Road leading from the End of the* Exeter *Turnpike Road to* Biddaford, *and also several other Roads leading from* Bridgetown-Pomeroy *and* Totnes, *and for making and repairing several other Roads communicating therewith, all in the County of* Devon, *and for taking down and rebuilding* Totnes Bridge *in the same County*, for the Payment by the Trustees of the said first-recited Act to the Trustees of the said Act of the Fifth Year of the Reign of His said late Majesty of an annual Sum of Ten Pounds, in consideration of no Toll Gate being erected by the Trustees of the said last-mentioned

Act

Act on the Road between *Newton Bushell* and the Eastern End of *Whitehill Lane*, if made and completed in pursuance of the said Act lastly herein-before mentioned and the said first-recited Act, shall be continued during the Term of the said first-recited Act and this Act; provided that it shall be lawful for the said Trustees and the Trustees of the Roads comprised in the said Act of the Fifth Year of the Reign of His said late Majesty, by mutual Consent, by any Order or Orders to be entered in their respective Order Books, to rescind, alter, or vary such Composition or Agreement, and to make any Agreement for the maintaining and repairing the Road between *Teignbridge* and *Newton Bushell*.

Tolls not to be applied in repair of Road where there shall be no Toll Gates, nor in the Repair or Improvement of Streets.

VI. And be it further enacted, That no Part of the said Tolls shall be applied towards the Repair of any one of the said Lines of Road comprised in the said first-recited Act or this Act upon which Line there shall not be erected and continued some Toll Gate or Toll Bar, and the said Toll demanded and taken thereat; and that no more Money arising from the said Tolls shall be expended towards the Repair of any such Line of Road than shall be collected thereon; and that none of the said Tolls shall be applied towards the Repair or Improvement of any Street, Highway, or Place within any Town through which the said Roads pass.

Power to sell Toll Houses not wanted.

VII. And be it further enacted, That, notwithstanding any thing herein or in any other Act to the contrary, it shall be lawful for the Trustees of the said first-recited Act to sell and dispose of any of the Toll Houses on or by the Sides of the said Roads comprised in the said first-recited Act or this Act, with the Gardens and Appurtenances thereto belonging, which they shall consider unnecessary or useless, in such and the same Manner as by an Act passed in the Third Year of the Reign of His said late Majesty, intituled *An Act to amend the General Laws now in being for regulating Turnpike Roads in that Part of* Great Britain *called* England, they are authorized and empowered to do in the Cases of any Land or Ground not wanted for the Purposes of any Turnpike Road.

3 G. 4. c. 126.

Power to purchase and redeem Mortgages, &c.

VIII. And be it further enacted, That it shall be lawful for the said Trustees from Time to Time, if they shall think fit, by and with any Monies which shall come to their Hands, to purchase and redeem any of the Mortgages or Securities on the Tolls granted by the said first-cited Act or this Act at and for a less Sum or Sums than is or are secured to be paid by such Mortgages or Securities respectively.

As to the Expences of erecting Fences, &c.

IX. And be it further enacted, That when and as often as any Lands or Grounds shall be purchased for the Purpose of widening, altering, diverting, or improving any of the said Roads, and the Recompence to be made to the Occupiers of any such Lands or Grounds in respect thereof shall be inquired of by a Jury under or by virtue of the said Act of the Third Year of the Reign of His late Majesty, or any Act which shall be then in being, and the said Trustees shall be liable to fence off any such Lands or Grounds, and keep such Fences in repair for any Term or Time, it shall be lawful for such Jury as aforesaid,

and they are hereby authorized and directed, if it shall be so required by the said Trustees, in like Manner to inquire of and assess the reasonable Charges of making such Fences, and keeping the same in repair for the said Term or Time; and after the Assessment hereby directed shall have been made the said Trustees shall thereupon order the Sum of Money so assessed by the Jury to be paid to such Occupier as aforesaid according to the Verdict or Inquisition; and after the Payment or Tender of the Sum of Money so assessed to such Occupier, his Executors or Administrators, the said Trustees shall thenceforth be discharged from the Burthen of making or repairing such Fences, any thing in any Act to the contrary notwithstanding.

The Freehold of purchased Lands for the Purpose of the Roads to remain vested in the Person of whom they were purchased.

X. And be it further enacted, That in case any Lands shall, in pursuance of the said first-recited Act or this Act, and of the Acts for regulating the Turnpike Roads in *England*, or of any of them, be purchased by the said Trustees for the Purposes of the said first-recited Act or this Act, the Freehold and Inheritance of and in the Lands so purchased (notwithstanding any Provisions in the said Acts or any of them to the contrary) shall not by means of any such Purchase, or any Conveyance made in pursuance thereof, be vested in the said Trustees, but that the Freehold and Inheritance of and in the Lands so purchased shall, notwithstanding such Purchase and Conveyance, remain and be vested in the Person or Persons in whom the same were vested immediately prior to such Purchase by the said Trustees; and the said Trustees shall, by means of such Purchase and Conveyance or either of them, be entitled to a perpetual Right of Way in or upon the Lands purchased by them in pursuance of this Act and the said Acts, or any of them.

The Right of Way to cease when Lands are not wanted.

XI. Provided also, and be it further enacted, That if at any Time any Lands purchased by the said Trustees for the Purposes of the Roads mentioned in the said first-recited Act or this Act, or any of them, shall not be wanted for the same, then and in such Case the Right of Way in or upon the said Lands vested in the said Trustees shall cease and be determined and extinguished, and the Freehold and Inheritance of the said Lands shall be and remain in the Person or Persons then entitled to the same, freed and discharged of and from such Right of Way.

Trustees to have same Power of cutting the Lands taken by them as if they had purchased the Fee Simple.

XII. Provided always, and be it further enacted, That the said Trustees shall have such and the same Power and Authority of cutting, digging, and using the Lands and Hereditaments taken by them for the Purposes of the said first-recited Act or this Act, as fully and effectually to all Intents and Purposes as the said Trustees would have had in case they had purchased the Fee Simple of the said Lands and Hereditaments under and by virtue of the Powers contained in any of the Acts now in force for regulating Turnpike Roads in *England*, any thing herein contained to the contrary in anywise notwithstanding.

Application of the Tolls and other Monies, &c.

XIII. And be it further enacted, That, notwithstanding any thing contained in the said first-recited Act, all the Money which shall arise or be produced or come to the Hands of the said Trustees by virtue of the

the said first-recited Act or this Act shall be applied in the Manner following; that is to say, firstly, in the paying all the Costs and Expences of applying for, preparing, obtaining, and passing this Act, and otherwise relating thereto; secondly, in paying all the Interest now or hereafter to become due on any existing Mortgages or Securities on the Tolls heretofore payable under the said first-recited Act; thirdly, in paying and discharging all the Interest which shall hereafter become due upon any such Mortgages or Securities hereafter to be made and granted of the said Tolls; fourthly, in paying and discharging any Sums of Money hereafter to be borrowed on any such Mortgages or Securities, and any other Debts and Sums of Money now due and owing by or on account of the said first-recited Act or this Act, and not herein-before mentioned, with the Interest thereof; fifthly, in defraying the Expences of executing the general Purposes of the said first-recited Act and this Act; and lasty, in reducing, paying off, and discharging the several Principal Sums of Money which have been borrowed and secured by virtue of the said first-recited Act, and all other Debts and Sums of Money not herein-before mentioned now due and which may hereafter become due by or on account of the said first-recited Act and this Act.

Power to borrow Money on the Credit of the Tolls, &c.

XIV. And be it further enacted, That it shall be lawful for the said Trustees to borrow and take up at Interest upon the Credit of the said Tolls such Sum or Sums of Money as may be required for the Purposes of the said first-recited Act or this Act, and to charge and make chargeable therewith the said Tolls.

Power to borrow Money from the Commissioners of Public Works, &c. 1 & 2 W. 4. c. 24.

XV. And be it further enacted, That it shall be lawful for the said Trustees to borrow of and from the Commissioners for carrying into execution an Act passed in the First and Second Years of the Reign of His present Majesty King *William* the Fourth, intituled *An Act to amend several Acts passed for authorizing the Issue of Exchequer Bills and the Advance of Money for carrying on Public Works and Fisheries and Employment of the Poor, and to authorize a further Issue of Exchequer Bills for the Purposes of the said Acts*, and of the several Acts therein recited and referred to, such Sum or Sums of Money as the said Trustees may deem expedient for the Purposes of the said first-recited Act or this Act, upon Mortgage of the said Tolls, and the Toll Gates, Toll Bars, and Toll Houses, with their Appurtenances, upon or by the Side of the said Roads.

Mortgages to the said Commissioners to have the Preference in payment of Interest, &c.

XVI. Provided also, and be it further enacted, That every Mortgage which shall be given or made by the said Trustees to the said Commissioners for the Issue of Exchequer Bills under the Authority of this Act shall have Priority over and shall precede all other Mortgages or Securities upon the said Tolls, any thing in the said first-recited Act or this Act, or in any such Mortgage or Security, to the contrary in anywise notwithstanding.

Public Act.

XVII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

XVIII. And

XVIII. And be it further enacted, That this Act shall commence and take effect upon the passing thereof, and shall from thenceforth continue during the Term of the said recited Act of the Seventh Year of the Reign of His late Majesty King *George* the Fourth. Term of Act.

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