ANNO NONO

GEORGII IV. REGIS.

Cap. xxxiv.

An Act for repairing the Road from *Spernal Ash* in the County of *Warwick*, through *Studley*, to *Birmingham*. [9th *May* 1828.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for repairing and widening the Road from* Spernal Ash *in the County of* Warwick, *through* Studley, *to a Street called* Digbeth, *in the Town of* Birmingham: And whereas another Act was passed in the Eleventh Year of the Reign of His said late Majesty, intituled *An Act for enlarging the Term and Powers of an Act made in the Seventh Year of the Reign of His present Majesty, for repairing and widening the Road from* Spernal Ash *in the County of* Warwick, *to a Street called* Digbeth, *in the Town of* Birmingham: And whereas another Act was passed in the Forty-eighth Year of the Reign of His said late Majesty, intituled *An Act for enlarging the Term and Powers of Two Acts passed in the Seventh and Eleventh Years of His present Majesty, for repairing and widening the Road from* Spernal Ash *in the County of* Warwick, *through* Studley, *to the Town of* Birmingham: And whereas the Trustees appointed in or by virtue of the said Acts have proceeded in the Execution thereof, and have from Time to Time, for that Purpose, borrowed several considerable Sums of Money on the Credit of the Tolls authorized to be taken on the said Road, which Money still remains due and owing, and the same cannot be repaid, nor can the said Road be effectually amended and kept in repair, unless the Terms and Powers of the said Acts are enlarged, and the Tolls increased: And whereas an Act was passed in the Third Year of the Reign of His present Majesty, intituled *An Act to amend the General Laws now in*

7 G. 3. c. 77.

11 G. 3. c. 61.

48 G. 3. c. 30.

3 G. 4. c. 126.

in being for regulating Turnpike Roads in that Part of Great Britain *called* England: And whereas another Act was passed in the Fourth
4 G. 4. c. 95. Year of the Reign of His present Majesty, intituled *An Act to explain and amend an Act passed in the Third Year of the Reign of His present Majesty, to amend the General Laws now in being for regulating Turnpike Roads in that Part of* Great Britain *called* England: And whereas another Act was passed in the Fifth Year of the Reign of His
5 G. 4. c. 69. present Majesty, intituled *An Act to enable Justices of the Peace for Ridings, Divisions, or Sokes, to act as Trustees for repairing and maintaining Turnpike Roads:* And whereas another Act was passed in the Seventh and Eighth Years of the Reign of His present Majesty,
7 & 8 G. 4. c. 24. intituled *An Act to amend the Acts for regulating Turnpike Roads in* England: And whereas it would facilitate the Execution of the Purposes aforesaid, if the said first Three recited Acts were repealed, and if the Powers thereby given, and such further and other Powers and Provisions as may be necessary, were granted and comprised in One Act: 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 Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That upon the First Day of *January* next after the passing of this Act the said recited Acts passed in the Seventh, Eleventh, and Forty-eighth Years of the Reign of His late Majesty King *George* the Third, shall be and the same are hereby declared to be repealed.

Recited Acts of 7, 11, and 48 G. 3. repealed.

This Act to be put in execution for the Term after mentioned.

II. And be it further enacted, That this Act shall be put in execution for and during the Term herein-after mentioned, for the Purpose of more effectually amending, widening, improving, and keeping in repair the present Turnpike Road leading from *Spernal Ash* in the County of *Warwick*, through *Studley*, to the Town of *Birmingham*; and which said Turnpike Road passes through the several Parishes, Hamlets, or Places of *Coughton*, *Studley*, *Solihull*, *Bordesley*, and *Aston nigh Birmingham*, in the County of *Warwick*, and *Beoley*, *King's Norton*, and *Moseley*, in the County of *Worcester*, and terminates at the Top or Entrance of a Street called *Bradford Street*, communicating with a certain other Street called *Digbeth*, in the Town of *Birmingham*.

New Term and Tolls liable to former Debts.

III. And be it further enacted, That this Act, and the Term and Tolls hereby granted, shall be and the same are hereby made subject and liable to the Payment of all Monies heretofore borrowed and now due and owing upon the Credit or on Account of the said Acts hereby repealed, or any of them, or secured upon or made payable out of the Tolls thereby authorized to be taken, and of all Interest due and to grow due thereon, as fully and effectually, to all Intents and Purposes, as if such Monies had been borrowed and become due on the Credit of this Act, or of the Tolls hereby authorized to be collected.

Powers of General Turnpike Acts to extend to this Act.

IV. And be it further enacted, That the said recited Act passed in the Third Year of the Reign of His present Majesty, and all and every the Powers, Provisions, Exemptions, Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, (save and except such Parts thereof as are varied, altered, or repealed,) and also the said recited Act passed in the Fourth Year of the Reign of His present Majesty, and all and every the Powers, Provisions, Exemptions,

Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, (save and except such Parts thereof as are varied, altered, or repealed,) and also the said recited Act passed in the Fifth Year of the Reign of His present Majesty, and also the said recited Act passed in the Seventh and Eighth Years of the Reign of His present Majesty, and all and every the Powers, Provisions, Exemptions, Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, (save and except such Part or Parts thereof as are varied, altered, or repealed,) shall respectively be as good, valid, and effectual for carrying this Act into Execution, as if the same had been incorporated, repeated, and re-enacted in the Body of this Act.

Former Debts, &c. vested in new Trustees.

V. And be it further enacted, That all Arrears of Tolls or Rents, or other Monies due to, and Property Real or Personal, and all Choses in and Rights of Action, either at Law or in Equity, vested in the said Trustees under the said first Three recited Acts or any of them, shall, immediately on the Commencement of this Act, be vested in the Trustees for executing this Act, who shall be and are hereby enabled to sue for and recover the same, and for that Purpose to cause to be commenced and prosecuted all Actions and Suits at Law or in Equity, and to act in respect thereof as effectually as if the same had become due to or had been vested in them under and by virtue of this Act; and all the Costs to be incurred by the Trustees, or Persons in whose Names such Proceedings shall be had, shall be paid and defrayed by and out of the Monies to be received by virtue of this Act; and the Monies, when recovered, shall be paid over to the Treasurer or Treasurers of the said Trustees, to be applied for the Purposes of this Act.

Books under former Acts to be Evidence.

VI. And be it further enacted, That all and every the Books and Book of Proceedings which have been kept by the Trustees acting in the Execution of the Acts hereby repealed, or any of them, or by their Treasurer or Clerk under their Direction, according to the Provisions and Directions of such Acts, and made Evidence thereby, shall be admitted as Evidence in all Courts, and by all Judges, Justices, and others.

Bonds, Contracts, &c. to be in force.

VII. And be it further enacted, That all Bonds, Conveyances, Covenants, Agreements, Contracts, Leases, Mortgages, and Securities made to or by, or entered into by any Person or Persons to or with the Trustees for executing the said recited Acts hereby repealed, or any of them, shall remain in full Force and Effect, and be and continue available in all Courts of Law and Equity, until the same be fully satisfied and performed on account of the Trusts under this Act; and all Bargains, Contracts, Agreements, or Notices, made, entered into, or given by the Trustees for executing the said recited Acts hereby repealed, or any of them, with or to any Person or Persons, for any Purpose relating to the said Road, or to the Execution of such Acts, shall remain in full Force and Effect, and be observed and kept by the Trustees under this Act, and by the other respective Parties to such Contracts, Agreements, or Notices, according to the Terms and Stipulations thereof.

Where old Securities are lost, new ones may be executed.

VIII. And whereas divers Creditors on the said Road may have lost or mislaid the Mortgages or Assignments of the Tolls executed by the Trustees, for securing to him, her, or them the Principal Money lent

lent on the Credit of the said Acts hereby repealed, or the Tolls thereby granted, with Interest for the same, or the Transfers of such Mortgages or Assignments, and it is reasonable that in Cases where it can be proved, to the Satisfaction of the Trustees, that any Person or Persons is or are truly and *bonâ fide* entitled to any Sum or Sums of Money secured on the Tolls granted by the said last-mentioned Acts or any of them, although he, she, or they may not be able to produce the said original Mortgage Security, that another Assignment of the Tolls hereby granted shall be executed for securing the Repayment of the Money now due on the Credit of the said Acts, or the Tolls thereby granted; be it therefore further enacted, That in all Cases where it shall appear, by any satisfactory Evidence adduced at any Meeting of the said Trustees, that any Person or Persons is or are a Creditor or Creditors on Security of the Tolls granted by the said Acts hereby repealed, or any of them, and that the Mortgage or Assignment of the Tolls for securing any such Sum or Sums of Money, or the Transfer thereof, has been lost, mislaid, or by Accident destroyed, it shall and may be lawful for the said Trustees to execute, at the Expence of the Person or Persons applying for the same, an Assignment of the Tolls by this Act granted for the Sum or Sums of Money mentioned in such original Mortgage, Assignment, or Transfer; and every Assignment so to be executed shall be valid and effectual for the Purposes thereby intended.

Appointment of Trustees.

IX. And be it further enacted, That all His Majesty's Justices of the Peace for the Time being acting for the Counties of *Warwick* and *Worcester* respectively, together with the Right Honourable *Walter Hutchinson* Lord *Aston* Clerk, *Samuel Avery*, *Stephen Barber*, *John Burman*, *Thomas James Philip Burman*, *Richard Burman*, *Richard Simcoe Carles* Clerk, *Hugh Casement Carlton* Clerk, *William Chambers*, *John Chambers* Clerk, *Thomas Chambers* Clerk, *Thomas Dolben Dolben* Clerk, *John Ellis* Clerk, *Thomas Entwisle*, *Henry Haden*, *William Hamper*, *William Heath* Clerk, *Francis Holyoake*, *Francis Lyttelton Holyoake*, *Francis Edward Holyoake*, *Henry Holyoake* Clerk, *William Holmes*, *Edward Bolton King*, *Robert Knight*, *Henry Raleigh Knight*, *John Towers Lawrence*, *Thomas Lea*, *Thomas Lea* Clerk, *William Welch Lea*, *Thomas Lee*, *William Millington*, *Matthew Mills*, *John Mills*, *John Lewis Moilliet*, *Richard Morgan*, *Robert Edward Eden Mynors*, *Henry Eden Mynors*, *Francis Palmer* Clerk, *Samuel Peshall* Clerk, *Samuel D'Oyley Peshall* Clerk, *Poyntz Stewart Ward Porter* Clerk, *Thomas Purton*, *John Reeve*, *John Rich*, *Francis Rufford* Clerk, *William Squire Rufford* Clerk, *William Congreve Russell*, *John Simcox*, *Richard Smith*, Sir *Edward Joseph Smythe* Baronet, *James Taylor*, *William Taylor*, Sir *Charles Throckmorton* Baronet, *Robert Throckmorton*, *Poyntz Steward Ward* Clerk, *William Deakin Whitehouse*, *James Hemming Whitehouse*, *Philip Wren* Clerk, *George Yates*, and their Successors, being duly qualified according to the Provisions and Directions of the said recited Acts passed in the Third, Fourth, Fifth, and Seventh and Eighth Years of the Reign of His present Majesty, shall be and they are hereby appointed Trustees for amending, widening, improving, and keeping in repair the said Road, and for otherwise carrying this Act into Execution.

Meetings of Trustees.

X. And be it further enacted, That the said Trustees shall meet together on the Third *Wednesday* next after the Commencement of this

this Act, or as soon after as conveniently may be, between the Hours of Ten of the Clock in the Forenoon and Two of the Clock in the Afternoon, at the *Marlborough's Head Inn* in *Studley* aforesaid, or at some other convenient Place in *Studley* aforesaid, and shall then and there proceed to carry this Act into Execution; and shall and may then and from Time to Time afterwards adjourn to and meet at such Times, and at such Place or Places on or near to the said Road, as the said Trustees, or the major Part of them present at any such Meeting, shall think proper and appoint.

Power to appoint additional Trustees.

XI. And be it further enacted, That it shall and may be lawful for the said Trustees, and they are hereby authorized and empowered, from Time to Time, at any of their Meetings, to elect and appoint any Number of Persons, being duly qualified according to the Provisions and Directions of the said recited Acts passed in the Third and Fourth Years of the Reign of His present Majesty, not exceeding Five in the whole, in addition to the Number of Trustees herein named and appointed, to be Trustees for the Purposes of this Act; and such Persons so elected and appointed shall be Trustees for the Purposes of this Act, and are hereby invested with the same Powers and Authorities for executing this Act, as if they had been herein named.

Former Officers (except the Treasurer) to continue.

XII. And be it further enacted, That each and every Clerk, Receiver, Collector, Surveyor, and other Officer, other than and except the Treasurer, appointed under and by virtue of the said Acts hereby repealed, shall hold and enjoy such their several and respective Offices and Employments until removed therefrom by the Trustees for executing this Act; and each and every such Clerk, Receiver, Collector, Surveyor, and other Officer shall have the like Power and Authority for the Purposes of this Act, and for carrying the same into Execution, and shall be subject to the like Pains and Penalties, and to the like Power of Removal, and to the like Rules and Regulations in all respects whatsoever, as if he had been appointed by virtue of this Act.

Power to continue and erect Toll Gates, &c.

XIII. And be it further enacted, That it shall be lawful for the said Trustees to continue or to remove all and every or any of the Toll Gates and Toll Houses, Turnpikes, Side Bars, and Chains now standing or being in or upon or across any Part of the said Road, or on the Sides thereof, and also from Time to Time to erect and set up, or cause to be erected and set up, in, upon, across, or by the Side of the said Road, or any Part thereof, when, where, and as the said Trustees shall judge necessary or expedient, any Toll Gate or Toll Gates, Turnpike or Turnpikes, Side Bar or Side Bars, Chain or Chains, and also to continue, or, where need shall be, to erect and build, or cause to be erected and built, proper Toll Houses, with sufficient Outhouses and Conveniences thereto, at or near each and every such Toll Gate, Turnpike, Side Bar, or Chain, and to inclose on the Sides of the said Road suitable Gardens, not exceeding One Eighth Part of a Statute Acre each, for the Use and Convenience of the Occupiers of the said Toll Houses; and from Time to Time to take down and remove, or alter and discontinue the aforesaid Toll Gates, Turnpikes, Side Bars, and Chains, Toll Houses and Gardens, or any of them, as the said Trustees shall from Time to Time think proper and expedient.

Power to take Tolls.

XIV. And be it further enacted, That it shall be lawful for the said Trustees, or any Person or Persons to be appointed or continued Collector or Collectors of the Tolls to be taken by virtue of this Act, to demand and take the Tolls following at the several and respective Turnpikes or Toll Gates or Toll Houses, or Side Bars or Side Gates or Chains, which are or is or shall be standing or being, or continued or erected by virtue of this Act, in, upon, across, or on the Side or Sides of the said Road or any Part thereof, Once on every Day, such Day to be computed from Twelve of the Clock at Night to Twelve of the Clock in the next succeeding Night; (that is to say,)

Tolls.

For every Horse, Mule, or Ass, drawing any Coach, Chariot, Sociable, Landau, Barouche, Phaeton, Curricle, Chaise, Gig, Caravan, Hearse, Litter, or other such Carriage, the Sum of Four-pence Halfpenny:

For every Horse, Mule, or Ass, drawing any Waggon or other such Four-wheeled Carriage, having the Wheels of the Breadth of Six Inches or more, if the Number so drawing shall exceed Five, the Sum of Three-pence Halfpenny; and if the Number so drawing shall exceed Three and not exceed Five, the Sum of Four-pence each; and if the Number so drawing shall not exceed Three, the Sum of Five-pence each:

For every Horse, Mule, or Ass, drawing any Waggon or other such Four-wheeled Carriage, having the Wheels of the Breadth of Four Inches and a Half and less than Six Inches, if the Number so drawing shall exceed Five, the Sum of Four-pence; and if the Number so drawing shall exceed Three and not exceed Five, the Sum of Four-pence Halfpenny each; and if the Number so drawing shall not exceed Three, the Sum of Five-pence Halfpenny each:

For every Horse, Mule, or Ass, drawing any Waggon or other such Four-wheeled Carriage, having the Wheels of less Breadth than Four Inches and a Half, if the Number so drawing shall exceed Five, the Sum of Four-pence Halfpenny; and if the Number so drawing shall exceed Three and not exceed Five, the Sum of Five-pence each; and if the Number so drawing shall not exceed Three, the Sum of Sixpence each:

For every Horse, Mule, or Ass, drawing any Cart or other such Two-wheeled Carriage, having the Wheels of the Breadth of Six Inches or more, if the Number so drawing shall exceed Two, the Sum of Three-pence Halfpenny; and if the Number so drawing shall not exceed Two, the Sum of Five-pence each:

For every Horse, Mule, or Ass, drawing any Cart or other such Two-wheeled Carriage, having the Wheels of the Breadth of Four Inches and a Half and less than Six Inches, if the Number so drawing shall exceed Two, the Sum of Four-pence Halfpenny; and if the Number so drawing shall not exceed Two, the Sum of Sixpence each:

For every Horse, Mule, or Ass, drawing any Cart or other such Two-wheeled Carriage, having the Wheels of less Breadth than Four Inches and a Half, if the Number so drawing shall exceed Two, the Sum of Five-pence; and if the Number so drawing shall not exceed Two, the Sum of Sixpence each:

For every Horse, Mule, or Ass, not drawing, the Sum of One Penny:

For every Drove of Oxen, Cows, Bullocks, or Beasts, the Sum of Ten-pence *per* Score, and so in proportion for any greater or less Number:

For

For every Drove of Calves, Hogs, Swine, Sheep, or Lambs, the Sum of Five-pence *per* Score, and so in proportion for any greater or less Number:

Which said respective Tolls or Sums of Money shall be demanded and taken as aforesaid before any Horse, Mule, Ass, or other Beast or Cattle, or Carriage, upon which any Toll is by this Act imposed, shall be permitted to pass through any such Turnpike or Toll Gate, Side Bar or Side Gate or Chain; and such respective Tolls or Sums of Money shall be and are hereby vested in the said Trustees, and shall be applied in manner herein-after directed.

Tolls to be paid but Once a Day.

XV. Provided always, and be it further enacted, That if any Person shall have paid the Toll hereby authorized to be taken for the passing of any Horse, Cattle, Beast, or Carriage through any One of the said Toll Gates continued or erected or to be erected by virtue of this Act, such Horse, Cattle, Beast, or Carriage shall, upon a Ticket denoting the Payment thereof for that Day being produced, be permitted to pass Toll-free through the same Toll Gate, and also through such other Gate or Gates (if any) as the Ticket for such Payment shall free, at any Time or Times during the same Day, to be computed as aforesaid; any thing in this Act contained to the contrary thereof in anywise notwithstanding.

No more than Two full Tolls to be paid on the whole Line of Road on the same Day.

XVI. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to empower the said Trustees to cause more than Two full Tolls to be demanded or taken for or in respect of the Passage of the same Horse, Beast, Cattle, or Carriage, on the same Day, through all the several Turnpikes or Toll Gates now erected or to be erected on the said Road, except for Stage Coaches and other such public Carriages as herein-after mentioned; (that is to say,) One full Toll between *Birmingham* and *Inkford Brook*, and One full Toll between *Inkford Brook* and *Spernal Ash*.

Stage Coaches, &c. to pay every Time of passing.

Post Chaises on every new Hiring.

XVII. Provided always, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of the Horses drawing any Stage Coach, Van, Caravan, or Stage Waggon, or other Stage or public Carriage, conveying Passengers or Goods for Pay or Reward, for every Time of passing or repassing along the said Road; and also for and in respect of the Horses drawing any Post Chaise, or other Carriage travelling for Hire, for every Time of passing or repassing along the said Road, whenever a new Hiring of such Post Chaise or other Carriage shall have taken place, if the Trustees of the said Road shall by Writing order and direct such Tolls to be paid and taken.

Application of Tolls and other Monies.

XVIII. And be it further enacted, That out of any Monies already received by virtue of the said recited Acts hereby repealed, or any of them, or out of the first Monies which shall be raised or received by virtue of this Act, the said Trustees shall in the first place pay and discharge all the Expences and Costs relative to the procuring and passing of this Act; and the Remainder of such Monies shall from Time to Time be employed in erecting Turnpikes, Toll Houses, and Weighing Machines, and in making, amending, widening, altering, and improving the said Road, and keeping the same in repair, and in defraying

defraying all the Charges and Expences of carrying this Act into Execution, and in repaying the Principal Monies by this Act charged or to be borrowed, and the Interest due and to grow due thereon; but it shall not be lawful for the said Trustees to lay out or expend any Sum or Sums of Money which shall be raised or received by virtue of this Act in repairing or improving any Street, Road, or Way in or through the Town of *Birmingham* aforesaid.

As to present Leases of Tolls.

XIX. And be it further enacted, That all Demises or Leases of the Tolls arising on the said Road by this Act authorized to be repaired, and all Bonds or other Securities which have been given, or which may be given previous to the Commencement of this Act, for Payment of the Rents reserved by such Leases respectively, and for the Performance of the Covenants and Agreements in such Leases contained on the respective Lessee's Part, shall respectively continue in force until the respective monthly Days on which the Rents therein respectively reserved shall become payable, and happening next after the Commencement of this Act, on which respective Days the said respective Leases, Bonds, or other Securities aforesaid shall cease and determine, in the same Manner as if such Leases, Bonds, or other Securities had expired by Effluxion of Time, (save as to the Obligations, Covenants, or Agreements for Payment of Rent and Performance of Covenants, in such Leases, Bonds, or Securities, on the respective Lessee's or Obligor's Part to be observed and performed during the Continuance of such Leases, Bonds, or Securities, by virtue of this Act); and until such Determination of such Leases respectively, the respective Lessees thereof shall be entitled to collect and receive, from the Commencement of this Act, the respective Tolls by this Act granted and made payable.

Differences in vacating Leases how to be settled.

XX. And be it further enacted, That in case any of the Lessees of the said Tolls shall claim to be entitled to any Compensation or Satisfaction for or on account of such Continuance or Determination of his or their Lease or Leases as aforesaid, then if the said Trustees and such Lessee or Lessees cannot agree as to the Amount of such Compensation or Satisfaction, such Lessee or Lessees may sue for and recover the same, by Action of Debt or on the Case, in any of His Majesty's Courts of Record at *Westminster*.

Public Act.

XXI. 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, without being specially pleaded.

Term of Act.

XXII. And be it further enacted, That this Act shall commence on the First Day of *January* next after the passing thereof, and shall continue and be in force for the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

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