ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

****

Cap. clxii.

An Act to repeal the Acts for repairing the Roads from *West Harptry* to the *Bath and Wells* Turnpike Road at *Marksbury*, and other Roads therein mentioned, in the County of *Somerset*, and to make other Provisions in lieu thereof. [4th *August* 1853.]

WHEREAS an Act was passed in the Thirty-third Year of the Reign of His Majesty King *George* the Third, intituled 33 G. 3. c. clxv. *An Act for making, amending, diverting, and widening the Roads leading from* West Harptry *to the* Bath and Wells *Turnpike Road at* Marksbury, *and from* Stowey *to* Chew Magna, *and from* West Harptry *to the* Bath *Turnpike Road at* Emborow, *and from* West Harptry *to* Fore Cross *in the Parish of* Churchill, *and from* West Harptry *to the* Blue Bowl *Inn in* Compton Martin, *and from* Berrington *to the Town of* Wrington, *and from the* Nine Elms *at* North Widcombe *to* Coley *in the County of* Somerset: And whereas an Act

was passed in the Fifty-fourth Year of the Reign of His said Majesty, intituled *An Act for enlarging the Term and Powers of an Act of His present Majesty, for repairing the Roads from* West Harptry *to the* Bath and Wells *Turnpike Roads, and other Roads therein mentioned, in the County of* Somerset, *and for repairing certain other Roads to communicate therewith:* And whereas the Trustees acting by virtue of the said recited Acts have proceeded to carry the same into execution, and have from Time to Time borrowed considerable Sums of Money upon the Credit of the Tolls thereby authorized to be taken on the said Roads, a great Part of which Money still remains owing upon the Credit of the said Tolls, together with an Arrear of Interest thereon, which Money cannot be paid off, nor can the said Roads be effectually improved and kept in repair, unless further Powers are granted, and the Terms of the said recited Acts are further continued and extended: And whereas by "The Annual Turnpike Acts Continuance Act, 1852," the said recited Act of the 54th Year of the Reign of His Majesty King *George* the Third was continued in force until the First Day of *November* One thousand eight hundred and fifty three, and no longer, unless Parliament should in the meantime continue the same: And whereas it is expedient that the said recited Acts should be repealed, and that other and more effectual Powers should be granted in lieu thereof; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

54 G. 3. c. xxviii.

Recited Acts repealed, and this Act to be put in force.

I. That upon the Fourth *Wednesday* next after the passing of this Act the said recited Acts of the Thirty-third and Fifty-fourth Years of the Reign of His Majesty King *George* the Third shall be and the same are hereby repealed, and this Act shall thereafter be put in execution for and during the Term and for the Purposes herein-after mentioned.

Short Title.

II. That in citing this Act for any Purpose it shall be sufficient to use the Expression "The *West Harptry* Road Act, 1853."

All Arrears of Tolls and Monies under recited Acts vested in the Trustees under this Act.

III. That all Rents and Arrears of Tolls and other Monies due to, and all Property and Choses in Action vested in, the Trustees under the said Acts hereby repealed, shall immediately on the Commencement of this Act be vested in and belong to the Trustees for executing this Act, and such last-mentioned Trustees may sue for and recover the same, and act in respect thereof, as effectually as if the same had been vested in them under the said recited Acts, and they shall be liable to all the Debts and Engagements to which the Trustees under the said

said recited Acts were liable at the Repeal thereof, except only the Arrears of Interest hereby extinguished.

Trustees.

IV. That all Her Majesty's Justices of the Peace for the Time being acting for the County of *Somerset*, together with *William Adlam*, *Robert Baker* Clerk, *John Braikenridge*, *Samuel Baker*, *Francis Burdett*, *Henry Clarke*, *George Colthurst*, *John Colthurst*, *Peter Eaton Coates*, *John Day Colston*, *Samuel Baker Coates*, *Thomas Dowling*, *Joseph Walter Daubeny*, *John Nathaniel Davidson* Clerk, *John Dixon*, *Richard Edgell*, *John Thomas Fisher* Clerk, *John Ozen Gray*, *William Hutcheson* Clerk, *George Granville Vernon Harcourt*, *Thomas Henry Hawes* Clerk, *Thomas Day James*, *Thomas Bryan Johnston* Clerk, *Samuel Johnston* Clerk, *Henry Kingsmill* Clerk, *Edward Langford* Clerk, *Charles Mullins*, *Richard Mills*, *Thomas Moore* Clerk, *John Rees Mogg*, *William Rees Mogg*, *Henry Hodges Mogg* Clerk, *Francis Wheat Newton*, *William Benjamin Naish*, *Edward Aislabee Ommanney* Clerk, *Philip Parker*, *James Perrin*, *Francis Popham*, *Henry Richards* Clerk, *Henry Savery* Clerk, Sir *Henry Strachey*, *Edward Strachey*, *Henry Strachey*, *John Shorland*, *Thomas Somers*, *Anthony Blagrave Valpy* R. N., *John Vane* Clerk, *James Vowles*, *William Piquenit Wait* Clerk, *Robert Wright*, *Daniel Wait*, *William Wyllys*, *James Williams*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be Trustees for putting this Act into execution.

Power to appoint additional Trustees.

V. That it shall be lawful for the said Trustees at any Meeting under this Act to elect any Number of Persons, being duly qualified to act as Trustees of Turnpike Roads in *England*, not exceeding Three in the whole, to be Trustees for the Purposes of this Act, in addition to the Trustees hereby nominated, and such Trustees so elected shall have the same Powers and Authorities for executing this Act as if they had been hereby appointed.

First Meeting of Trustees.

VI. That the said Trustees shall hold their First Meeting at the *Pelican* Inn, *Chew Magna*, or at some other convenient Place in the Neighbourhood of the said Roads, upon the Fourth *Wednesday* next after the passing of this Act, and shall then and from Time to Time thereafter adjourn to and meet at such Times, and at such Places in the Neighbourhood of the said Roads, as they shall think proper.

Power to appoint Committees.

VII. That the said Trustees may appoint Committees out of their own Number to take the Care and Management of any particular Part of the said Roads, or to execute any of the other Purposes of this Act, according to such Instructions and Regulations as shall be laid down by the said Trustees at any General Meeting; and the said Committees and the Surveyor may proceed and act according to such

Appointment,

Appointment, but shall always be accountable according to the Instructions and Regulations so to be made.

Roads to which this Act is applicable.

VIII. That this Act shall be put in execution for the Purpose of more effectually improving, maintaining, and keeping in repair the present Turnpike Roads; (that is to say,) the Road leading from the *Bridgewater and Bristol* Turnpike Road at a Place called *Fore Cross* in the Parish of *Churchill* in the County of *Somerset*, through Parts of the several Parishes and Tithings or Hamlets of *Churchill*, *Langford Berrington*, *Rickford*, *Blagdon*, *Ubley*, *Compton Martin*, *West Harptry*, *North Widcombe*, *Sutton Wick*, *Bishop's Sutton*, *Stowey*, *Knighton Sutton*, *Chew Magna*, *Stanton Drew*, *Stanton Wick*, *Chelwood*, *Hound Street*, and *Marksbury*, to the Place where it joins the *Bath* Turnpike Road at or near *Marksbury*; and the Road branching from the above Road at *Stowey* to the Parish of *Chew Magna*; and the Road branching from the first-mentioned Road at *West Harptry* aforesaid, through Parts of the Parishes and Tithings of *West Harptry*, *East Harptry*, *Coley*, *Litton*, *Chewton Mendip*, and *Emborow*, where it joins the *Bath and Wells* Turnpike Road; and also the Road branching from the first-mentioned Road at *West Harptry* aforesaid, through Parts of the several Parishes of *West Harptry* and *Compton Martin*, to the *Blue Bowl* Inn, where it joins the *Bristol and Wells* Turnpike Road; and also the Road branching from the first-mentioned Road, at a Place called the *Nine Elms* at *North Widcombe*, over *Widcombe Common*, through the Tithing of *South Widcombe*, and to join the aforesaid Branch at *Coley* aforesaid; and also the Roads leading from *Knighton Sutton* otherwise *North Sutton*, opposite the House of *Henry Collins*, to the Direction Post on *Chew Hill*, and from the *Pelican* Inn in the Parish of *Chew Magna* aforesaid to a Road leading by *Stanton Drew*, and from thence to join the *Bristol* Turnpike Roads at *Belluton* near *Pensford* in the said County of *Somerset*.

Present Tolls continued.

IX. That, notwithstanding the Repeal of the said recited Acts, the Tolls thereby granted and made payable on the said Roads shall continue to be paid at the Toll Gates or Toll Bars to be continued or erected on or on the Sides of the said Road until Twelve o'Clock at Noon on the Twenty-fifth Day of *March* next after the passing of this Act.

Power to take Tolls.

X. That upon and after Twelve o'Clock at Noon of the said Twenty-fifth Day of *March* next it shall be lawful for the said Trustees to demand and take at the several and respective Toll Gates or Toll Houses which shall by virtue of this Act be upon or on the Sides of the said Roads such Tolls as the said Trustees at any of their Meetings shall direct, not exceeding the Sums following; that is to say,

For every Horse or other Beast drawing any Coach, Stage Coach, Van, Caravan, Berlin, Landau, Chariot, Barouche, Phaeton, Chaise Marine, Chaise, Calash, Car, Curricle, Chair, Gig, Hearse, Litter, or other such like Carriage intended and used for the Conveyance of Persons only, any Sum not exceeding Fourpence Halfpenny:

For every Horse or other Beast drawing any Waggon, Wain, Cart, or other such like Carriage:

If having the Fellies of the Wheels of less Breadth than Four Inches and a Half at the Bottom or Soles thereof, any Sum not exceeding Sixpence:

If having the Fellies of the Wheels of the Breadth of Four Inches and a Half and less than Six Inches at the Bottom or Soles thereof, any Sum not exceeding Fivepence:

If having the Fellies of the Wheels of the Breadth of Six Inches or upwards at the Bottom or Soles thereof, any Sum not exceeding Fourpence:

For every Horse, Mule, or Ass, laden or not laden, and if not laden with Coal, and not drawing, the Sum of One Penny:

For every Horse, Mule, or Ass, laden with Coal and not drawing, the Sum of One Penny:

For every Score of Oxen or Neat Cattle, the Sum of Tenpence, and so in proportion for any greater or less Number:

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

For every Carriage moved or propelled by Steam or Machinery or by any other Power than Animal Power, any Sum not exceeding One Shilling *per* Wheel:

For every Dog or Goat drawing any Cart, Carriage, or other Vehicle, the Sum of One Penny:

Which said Tolls respectively shall be paid before any Horse, Mule, Ass, Beast, or other Cattle or Carriage whatsoever, shall be permitted to pass through any Toll Gate, Side Gate, Toll Bar, or Chain which shall be by virtue of this Act in, upon, or across the said Roads or on the Sides thereof.

As to the Fraction of a Halfpenny in Tolls.

XI. That in all Cases in which there shall be a fractional Part of a Halfpenny in the Amount of the Tolls by this Act authorized to be collected the Sum of One Halfpenny shall be payable in lieu of such fractional Part.

Only One Toll to be payable on Road.

XII. That no more than Three Tolls shall be taken for passing and repassing in the same Day (to be computed from Twelve of the Clock at Night to Twelve of the Clock in the next succeeding Night) with the same Horses, Beasts, Cattle, or other Animal or Thing liable

to Toll or Duty, through all the Toll Gates or Toll Bars erected or to be erected or continued on the said Roads.

Persons having paid Toll to return Toll-free.

XIII. That all Horses, Beasts, and Cattle, (except Horses, Beasts, or Cattle drawing any Stage Coach, Waggon, or other Stage Carriage, as herein-after mentioned,) and Dogs and Goats, (in respect whereof the Toll hereby authorized to be taken shall have been paid at any Toll Gate or Bar on the said Roads or on the Sides thereof,) shall, upon a Ticket denoting such Payment being produced, be permitted, on passing through the same Toll Gate or Toll Bar, and through such other Gate or Bar (if any) as the Ticket for such Payment shall free, to pass Toll-free the same Day.

Postchaises to pay every Time of passing with fresh Hiring.

XIV. That the Tolls hereby made payable shall be paid for all Horses, Beasts, or Cattle, drawing any Postchaise or other Carriage travelling for Hire, as often as any new Hiring shall take place, in the same Manner as if no previous Payment of Toll in respect of such Horses, Beasts, or Cattle had been made on the same Day.

Regulations as to Stage Coaches.

XV. That all Horses, Beasts, and Cattle drawing any Stage Coach, Waggon, or other Stage Carriage conveying Passengers or Goods for Hire or Reward, and any Carriage propelled or drawn by Steam or any other Power than Animal Power, in respect whereof the Toll hereby authorized to be taken shall have been paid at any Toll Gate or Bar, shall, upon a Ticket denoting such Payment being produced, be permitted to pass once Toll-free on the same Day through any other Gate or Bar which such Ticket would free in the Case of Horses, Beasts, or Cattle drawing any other Carriage; and no further or additional Toll shall be payable in respect of any Stage Coach or other such Carriage as aforesaid at any Toll Gate or Bar the Payment at which shall be freed by such Ticket as aforesaid, on account only of their conveying other Passengers, or of the Horses or Cattle drawing the same having been changed.

Horses, &c. drawing different Carriages to be again subject to Toll.

XVI. That in case the Toll in this Act mentioned shall have been paid in respect of any Horses, Beasts, or Cattle drawing any Waggon, Wain, Cart, or other Carriage at any Toll Gate or Bar upon or on the Side of the said Roads, and any such Horses, Beasts, or Cattle shall be afterwards employed on the said Roads during the same Day in drawing a different laden Waggon, Wain, Cart, or other Carriage from that which they were employed in drawing when such Payment was made, all such Horses, Beasts, and Cattle so drawing shall, notwithstanding such Payment, be again liable to Toll, in the same Manner as if no previous Payment of Toll in respect of the same had been made.

XVII. That

Respecting Toll Gates.

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

Exemptions from Tolls.

XVIII. That no Toll shall be demanded or taken by virtue of this Act or the said recited Acts for any Horse, Beast, or other Cattle carrying or conveying, or going for or returning after having been only employed in carrying or conveying, on the same Day, any Lime or other Matter or Thing to be used for Manure only for improving Lands, or Stones, Pipes, Tiles, or other Materials for guttering, tunnelling, or draining of Lands.

Mortgagees not to take possession of Toll Gates, &c. but for Arrears of Interest.

XIX. That whenever and so long as the Interest upon all existing Mortgages of the Tolls under the said recited Acts shall be duly paid within Six Calendar Months next after the same shall become due, no Holder of any such Mortgage shall be entitled to enter into possession of the Toll Gates, Toll Houses, or Buildings upon the said Road, or into the Receipt of the Tolls arising thereon, or of the Rent payable upon any Letting of such Tolls; and every Mortgagee entering into possession of such Toll Gates, Toll Houses, or Buildings, or into the Receipt of such Tolls or Rent, shall pay the Interest from Time to Time due and becoming due upon all the said existing Mortgages, without any Priority or Preference, and may also reimburse himself any Costs to which he may be entitled; and every such Mortgagee so being in possession or receipt as aforesaid shall, within Twenty-one Days next after each of the half-yearly Days whereon the Interest on such existing Mortgages shall be payable, render to the Clerk to the said Trustees for the Time being a full and true Account of his Receipts and Expenditure while so in possession or receipt as aforesaid, with proper Vouchers for the same; and if it shall appear by any such Account that the Interest due on such Mortgages up to the last of such half-yearly Days, and all such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the said Trustees, pay over to their

Treasurer

Treasurer the Balance (if any) remaining in his Hands, and deliver up Possession of the said Toll Gates, Toll Houses, and Buildings, and the Receipt of the said Tolls and of any such Rent as aforesaid, to the said Trustees, or any Person appointed by them to receive the same, anything in this Act, or in any Statute or Law in force relating to Turnpike Roads in *England*, to the contrary notwithstanding.

Application of Monies.

XX. That all Monies which shall be received by the Trustees by virtue of this Act shall be applied as follows; (that is to say,)

First, in paying and discharging the Expenses of obtaining and passing this Act or incident thereto:

Secondly, in defraying the necessary Expenses of maintaining and repairing Toll Gates and Toll Houses, and the necessary and incidental Expenses of Management of the said Roads, including Salaries, but exclusive of Salaries of Toll Collectors, and of the Costs of prosecuting and defending Actions at Law or in Equity, not exceeding the annual Sum of Eighty-five Pounds:

Thirdly, in paying Interest at the Rate of One Pound Ten Shillings *per Centum per Annum* upon the Principal Sums of Money which shall for the Time being be due and owing on the Credit of the Tolls authorized to be taken on the said Roads:

Fourthly, in paying the Expenses of improving, maintaining, and keeping in repair the said Roads, subject to the Provisions of this Act, and of erecting and providing new Toll Gates, Toll Bars, and Toll Houses, the Amount of such Expenses not to exceed in the whole the annual Sum of Three hundred Pounds:

Fifthly, in reducing, paying off, and discharging the several Principal Sums which shall for the Time being be due and owing on the Credit of the Tolls authorized to be taken on the said Roads, according to the Provision herein-after contained:

Lastly, in maintaining and further repairing and improving the said Roads.

As to Amount of existing Debt.

XXI. And whereas the Principal Sum due and owing on the Credit of the Tolls under the said recited Acts amounts to the Sum of Eight thousand five hundred and thirty-five Pounds, including the Sum of One hundred and seventy-five Pounds secured by a Mortgage to *Henry Goodwyn*, in respect whereof no Interest has been paid or claimed since the Year One thousand eight hundred and sixteen, or thereabouts: Be it enacted, That the Sum of Eight thousand five hundred and thirty-five Pounds shall be deemed the whole Principal Money owing on the Credit of the Tolls authorized to be taken on the said Roads; and in case no Claim shall be made in respect of the said Mortgage for the said Sum of One hundred and seventy-five Pounds by any Person legally or equitably entitled thereto within Five Years from the passing of this Act, then the said

said Sum of One hundred and seventy-five Pounds shall be deemed and taken to be satisfied, discharged, and extinguished, and all Claims and Demands in respect thereof shall be thereafter barred and estopped.

As to Mode of discharging Debt.

XXII. That when and so often as the Sum applicable to the Discharge of the Principal Monies for the Time being due on the Credit of the said Tolls shall amount to the Sum of One hundred Pounds, the Trustees shall, at any General Annual or other Meeting, apply such Sum in the Payment of a proportionate Part of the said Principal Monies to the Persons entitled thereto, and shall, Twenty-eight Days at least before such General Annual or other Meeting, cause Notice to be given of such Meeting, and of the Object or Purpose thereof, so far as the same shall relate to the Application of such Sum, by Letter sent by Post to each Mortgagee, directed to his usual Place of Residence or last Place of Abode, and at such Meeting the Trustees shall apply such Sum, or a Portion thereof, (as the Case may require,) in or towards the Discharge of Monies owing on Security of the said Tolls to the Mortgagee who shall by Proposal in Writing transmitted to the Clerk of the Trustees before such Meeting have offered to accept the lowest Composition in respect of such Monies, and after Payment such Mortgagee as aforesaid shall apply the Surplus (if any) of such Sum, or a Portion thereof, (as the Case may require,) in or towards the Payment of other Monies owing on the Security of the said Tolls to the Mortgagee who by Proposal as aforesaid shall have offered to accept the next lowest Composition in respect of the Principal Monies due to him, and so in like Manner until the Sum applicable to such Payment shall be exhausted; and if and whenever Two or more Mortgagees by such Proposals as aforesaid shall have been offered to accept an equal Rate of Composition, it shall be lawful for the Trustees to determine by Lot the Preference between or amongst such Mortgagees, or to pay such Composition rateably between or amongst such Mortgagees, as the Trustees shall think fit; and if there be no such Proposal as aforesaid, or if there be any Surplus of the same applicable to such Payment, after applying the same, so far as may be necessary, in or towards the Discharge of the Monies to which such Proposals as aforesaid relate, the Trustees may apply the Sum applicable to such Payments, or the Surplus thereof, (as the Case may be,) rateably amongst the Mortgagees on the said Tolls, or may pay the same to such of them as may be determined by Lot, as the Trustees shall think fit.

No more Money to be borrowed upon the Tolls.

XXIII. That it shall not be lawful for the Trustees to borrow any further Sum or Sums of Money on the Credit of the Tolls by this Act authorized to be taken.

XXIV. That

No Tolls to be taken or Money laid out in Towns.

XXIV. That no Money shall be laid out on any Part of the Roads comprised in this Act within the Limits of any Act of Parliament passed for the Improvement of any Town, nor shall any be collected therein.

The Roads in this Act not exempt from any future General Act.

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

Term of Act.

XXVI. That this Act shall commence upon the Fourth *Wednesday* next after the passing thereof, and shall continue in force for the Term of Twenty-one Years, and from thence to the End of the Session of Parliament which shall then next follow.

Construction of Terms.

XXVII. That in construing this Act the Word "Person" shall be understood to include Corporation; and the Word "Lands" shall be understood to include Messuages, Tenements, and Hereditaments; unless in any of the Cases aforesaid there be something in the Subject or Context repugnant to such Construction.

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