



ANNO NONO

GEORGIIV. REGIS.

Cap. cvii.

An Act for more effectually repairing and maintaining several Roads leading from *Lymington* in the County of *Southampton*, and the Road to *Wilverley Post* in the *New Forest*.

[19th June 1828.]

WHEREAS an Act was passed in the Fifth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for repairing and widening several Roads leading from the Quay at Lymington in the County of Southampton*: And whereas an Act was passed in the Twenty-sixth Year of the Reign of His said late Majesty, intituled *An Act to enlarge the Term and alter the Powers of an Act made in the Fifth Year of the Reign of His present Majesty, for repairing and widening several Roads leading from the Quay at Lymington in the County of Southampton*: And whereas an Act was passed in the Forty-sixth Year of the Reign of His said late Majesty, intituled *An Act to continue and amend Two Acts passed in the Fifth and Twenty-sixth Years of His present Majesty,*

5 G. 3. c. 59.
26 G. 3. c. 156.
46 G. 3. c. 14.

[Local.] 28: U for

for repairing several Roads leading from Lymington in the County of Southampton, and for amending and widening the Road to Wilverley Post in the New Forest: And whereas great Progress hath been made in the Execution of the said Acts, and considerable Sums of Money have been borrowed on the Credit of the Tolls authorized to be taken on the said Road, which Money cannot be paid off, nor can the said Road be effectually amended, improved, or kept in repair, unless the Term and Powers of the said Acts are further continued, and some of the Powers and Provisions thereof altered, amended, and enlarged: And whereas an Act was passed in the

3 G. 4. c. 126. *Third Year of the Reign of His present Majesty, intituled An Act 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 Fourth Year of the Reign of His*

4 G. 4. c. 95. *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*

7 & 8 G. 4. c. 24. *Majesty, intituled An Act to amend the Acts for regulating Turnpike Roads in England: 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 the said recited Acts passed in the Fifth, Twenty-sixth, and Forty-sixth Years of the Reign of His said late Majesty, shall be and the same are hereby repealed.*

Recited Acts
of 5, 26, and
46 G. 3. re-
pealed.

This Act to
take effect
for repairing
the Roads
herein men-
tioned.

II. And be it further enacted, That this Act shall commence and take effect and be put in execution for and during the Term herein-after mentioned, for the Purpose of more effectually amending, widening, altering, improving, and keeping in repair the several Roads leading from a certain Quay called *Lymington Quay*, to and through the several Parishes of *Lymington, Boldre* and *Brockenhurst*, to and through *Lyndhurst*, and from *Lyndhurst* aforesaid to and through *Rumbridge* to the Turnpike Road leading from *Salisbury* to *Eling*, and from the said Turnpike Road to the Road adjoining to the *Red Lion Inn* in *Totton Street* in *Totton* within the Parish of *Eling* in the said County of *Southampton*; and also the Road branching from One of the said Roads leading from *Lymington* to *Lyndhurst*, at a Place called *Jenny Cobler's Corner* in the Parish of *Boldre*, to a Place called *Wilverley Post* in the *New Forest*, and leading to *Ringwood*.

Powers of
General
Turnpike

III. And be it further enacted, That the said recited Acts passed in the Third, Fourth, Fifth, 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 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 respectively been re-enacted in the Body of this Act.

Acts to extend to this Act.

IV. And be it further enacted, That this Act, and the Term and Tolls hereby granted, shall be and they are hereby made subject and liable to the Payment of all Monies which have been borrowed and are now due and owing on the Credit of the Tolls authorized to be collected on the said Road, 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 or become due and owing on the Credit or Security of the Tolls granted by this Act.

New Term and Tolls liable to former Debts.

V. And be it further enacted, That all and every Person and Persons who may owe or be subject or liable to the Payment of any Sum or Sums of Money to the Trustees for carrying the said recited Acts hereby repealed into Execution, or to any other Person or Persons for the Benefit of the said Trust, shall be liable to the Payment of all such Sum and Sums of Money to the Trustees for executing this Act.

Persons owing Money to Trustees under recited Acts to be liable.

VI. And be it further enacted, That all Bonds, Covenants, and Agreements, Contracts and Securities entered into by any Person or Persons to or with the Trustees for carrying the said recited Acts into Execution, or to or with their Clerk or Treasurer, or any other Person or Persons on behalf of the said Trustees, according to the Provisions of the said recited Acts, shall remain in full Force and Effect, and be and continue available in all Courts of Law and Equity, until the same are fully satisfied and performed on account and for the Benefit of the Trusts created by this Act; and all Contracts or Agreements duly made or entered into by the said Trustees, or their Clerk or Treasurer, or other Person or Persons on their Behalf as aforesaid, shall, so far as the same are not altered or avoided by this Act, remain in full Force and Effect, and be observed and kept by the Trustees for executing this Act, according to the Terms or Stipulations thereof respectively, notwithstanding the Repeal of the said recited Act.

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

VII. And be it further enacted, That all Books containing the Accounts and Proceedings of the Trustees for executing the said first-recited Act, and made Evidence thereby, shall and may be given in Evidence in all Cases of Appeal, and in all Prosecutions, Suits, and Actions whatsoever, in such and the same Manner as if the said first-recited Act had not been repealed.

Books used under former Acts to be Evidence.

VIII. And be it further enacted, That all Persons who are or have been employed, or who have received any Tolls or other Money

Books, &c. relative to former Acts on to be deliver-

ed to Trus-
tees under
this Act.

on account of the Road by this Act directed to be amended, widened, improved, and kept in repair, or who have or shall have in their Custody or Possession any Books, Accounts, Papers, Writings, or other Things relating to the said Road, shall account for and pay and deliver over the same and every Part thereof to the Trustees in and by this Act named and appointed, in like Manner and under the like Penalties and Forfeitures as the several Collectors or other Persons receiving any Money by virtue of the said recited Acts of the Third and Fourth Years of the Reign of His present Majesty; and this Act, are by the said recited Act of the Fourth Year of the Reign of His present Majesty required to pay or account for the same.

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 said County of *Southampton*, together with the Right Honourable *William Sturges Bourne*, the Right Honourable Sir *George Henry Rose*, Sir *James Woolfe* Baronet, Major General Sir *Charles Philips*, Major General Sir *Richard Hussey Vivian*, General *Henry Wynyard*, Sir *Harry Neale* Baronet, Rear Admiral *Graham*, *John Hammond*, Sir *John Pringle Dalrymple* Baronet, *John Morant* Esquire, *William Edward Tomline* Esquire, *John Armstrong* Esquire, *John Sheddon* Esquire, *Joseph Wild* Esquire, *Edward Wild* Esquire, *Charles Roberts* Esquire, *John Pulteney* Esquire, *Henry Coombe Compton* Esquire, *Edward Pery Buckley* Esquire, the Reverend *Ellis Jones*, the Reverend *George Sloper*, the Reverend *Thomas Bockley*, the Reverend *George Burrard*, the Reverend *Edward Levett*, the Vicar of the Parish of *Boldre* for the Time being, the Vicar of the Parish of *Eling* for the Time being, the Vicar of the Parish of *Milford* for the Time being, the Vicar or Rector of the Parish of *Lyndhurst* for the Time being, the Reverend *William Dixon*, the Reverend *Samuel Harrison*, the Mayor of *Lymington* for the Time being, *Ralph Allen Daniell* Esquire, *Heathfield Tregonnell Frampton* Doctor of Medicine, *Henry Clewer Lys* Esquire, *Samuel Nicholls* Esquire, *Hamborough* Esquire, *Wentworth Bayley* Esquire, *Henry Timson* Esquire, *Buck* Esquire, *Nathaniel Bowden Smith* Esquire, Captain *Atcheson* of *Bushington*, Royal Navy, Captain *Thomas Symonds* Royal Navy, Captain *John Symonds* Royal Navy, the Honourable *de Blaquiere*, Captain *Dashwood* Royal Navy, *Henry Hopkins* Esquire, Captain *Augustus Brine* Royal Navy, *Richard Jennins* the elder, Esquire, *Richard Jennins* the younger, Esquire, *James Monro* Esquire, *John Bursay* Esquire, *Charles Dodd* Esquire, *Philip Ainslie* Esquire, Mr. *John Fluder*, *Thomas Fluder*, *Robert Lillington Rice*, *John Beckley*, *John West*, *John Mason*, *John King*, *James Hunt*, *James Brown* the elder, *William Mursell* senior, *Edward Hicks*, *Charles St. Barbe*, *Samuel St. Barbe*, *George Braxton*, *John Richman*, *John Henry Richman*, *Charles Fluder*, *William Smith*, *Robert Smith*, *John How*, *Isaac Withers*, and *Richard Galpine*, and their Successors, being duly qualified in manner directed by the said recited Acts passed in the Third, Fourth, and Fifth Years of the Reign of His present Majesty; shall

shall be and they are hereby appointed Trustees for amending, widening, repairing, and keeping in repair the said Road, and for carrying into Execution this Act, and such of the Powers and Provisions of the said recited Act of the Third Year of the Reign of His present Majesty as are not expressly varied, altered, or repealed by the said recited Act of the Fourth Year of the Reign of His present Majesty, or varied, altered, or otherwise provided for by this Act, and also such of the Powers and Provisions of the said recited Act of the Fourth Year of the Reign of His present Majesty as are not expressly varied, altered, or otherwise provided for by this Act.

X. And be it further enacted, That it shall be lawful for the Trustees appointed by this Act, at a Meeting to be held for that Purpose, (of which Meeting and of the Purpose thereof Fourteen Days Notice shall be given as is directed by the said recited Act of the Third Year of the Reign of His present Majesty, respecting the Appointment of Trustees on Vacancies,) to elect, nominate, and appoint any Number of fit Persons (not exceeding Three in the whole,) to be Trustees for the Purposes of this Act, in addition to the Trustees hereby nominated and appointed; and such Trustees so elected and appointed shall be and they are hereby invested with the same Powers and Authorities for executing the said recited Acts of the Third and Fourth Years of the Reign of His present Majesty, and this Act, as if they had been nominated and appointed in and by this Act.

Power to
appoint
additional
Trustees.

XI. And be it further enacted, That the said Trustees for executing this Act shall hold their First Meeting at the *Angel Inn* in *Lymington*, or at some other convenient Place in the said Town, on the Tenth Day of *July* after the passing of this Act, or as soon after as conveniently may be, and shall then and there proceed to put the said recited Acts of the Third and Fourth Years of the Reign of His present Majesty, and this Act into Execution; and shall then and there afterwards adjourn to and meet at such Time or Times, and at such Place or Places in the Neighbourhood of the said Road, as the said Trustees shall think proper.

Meetings of
Trustees.

XII. Provided always, and be it further enacted, That the Clerk, Surveyor, and all other Officers, except the Treasurer, who have been appointed under and employed in the Execution of the said former Acts, shall respectively continue to exercise their Offices under this Act until they shall respectively die, resign, or be displaced or be removed by the said Trustees, or be incapable of executing them, and shall be subject to the like Rules and Regulations, and Pains and Penalties, in all respects whatsoever, as if they had been appointed under or by virtue of this Act.

Former
Officers
(except the
Treasurer)
to continue.

XIII. And be it further enacted, That it shall be lawful for the said Trustees to continue or to remove all or any of the Toll Gates
[*Local.*]

Power to
continue and
erect Toll
Gates, &c.
or

or Turnpikes now standing in, upon, or across the said Road, or on the Sides thereof, and also from Time to Time to erect and set up any Toll Gate or Side Gate, in, upon, or across the said Road, or any Part thereof, or upon or across the Entrance to any public Road, Lane, or Way leading into the same, and also to continue or erect proper Toll Houses, with sufficient Outhouses and Conveniences thereto, at or near each and every such Toll Gate or Turnpike, and to inclose on the Sides of the said Roads 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 respectively, and from Time to Time to take down and remove, or alter or discontinue the aforesaid Toll Gates or Turnpikes, as the said Trustees shall from Time to Time think proper and expedient.

Power to
take Tolls.

XIV. And be it further enacted, That the respective Tolls following shall (subject to the Provisions, Restrictions, and Exemptions in this Act, and in the said recited Acts passed in the Third and Fourth Years of the Reign of His present Majesty, contained,) be demanded and taken at each and every Turnpike, Toll Gate, and Side Gate, now set up and continued, or which shall hereafter be set up, upon, across, and by the Side of the Road by this Act directed to be amended, widened, improved, and kept in repair by each and every such Person and Persons as the said Trustees shall from Time to Time by virtue of this Act continue or appoint to receive the same, before any Horse, Mule, Ass, Beast, or other Cattle, Coach, Chariot, Chaise, Waggon, Wain, Cart, or other Carriage, shall be permitted to pass through any such Turnpike, Toll Gate, or Side Gate; (that is to say,)

Tolls.

For every Horse or other Beast drawing any Coach, Chariot, Barouche, Chaise, Hearse, Curricule, Gig, or other such Carriage, the Sum of Three-pence :

For every Horse or other Beast drawing any Waggon, Wain, Cart, or other such Carriage, the Sum of Three-pence :

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

For every Score of Oxen, Cows, or Neat Cattle, the Sum of Ten-pence, and so in proportion for any greater or less Quantity :

For every Score of Calves, Hogs, Sheep, or Lambs, the Sum of Five-pence, and so in proportion for any greater or less Quantity.

Tolls to be
paid but Once
a Day.

XV. And be it further enacted, That in case Toll shall have been paid for or in respect of any Horse, Beast, Cattle, or Carriage, for passing through any of the Turnpikes, Toll Gates, or Side Gates, erected and continued, or hereafter to be erected upon, across, or on the Sides of the Road by this Act directed to be amended, widened, improved, and kept in repair, no Toll shall be demanded or taken for or in respect of such Horse, Beast, Cattle, or Carriage, for returning, passing, or repassing through the same Turnpike Gate, Toll Gate, or Side Gate the same Day, before Twelve of the
Clock

Clock at Night on the same Day, but that every Person on producing a Note or Ticket denoting the Payment of such Toll, shall (except in the Cases herein-after mentioned,) be permitted to pass through such Turnpike, Toll Gate, or Side Gate with such Horse, Beast, Cattle, or Carriage Toll-free; which Note or Ticket (such Ticket to name and specify the Gate freed by such Payment,) the Collectors of the Tolls are hereby respectively required to give *gratis* on Receipt of the Toll.

XVI. Provided also, and be it enacted, That no more than Two full Tolls shall be demanded and taken (except in the Cases herein-after mentioned,) for the passing of the same Horse, Beast, or other Cattle, or Carriage, on the same Day, throughout the whole Line of the said Road by this Act directed to be improved and kept in repair.

No more than Two full Tolls on the same Day on the whole Line.

XVII. Provided always, and be it further enacted, That no Horse or Horses, or other Beast or Beasts of Draught, for which Toll shall have been paid at any of the said Turnpikes, Toll Gates, or Side Gates, returning the same Day through the same Turnpikes, Toll Gates, or Side Gates, drawing any other or different Waggon, Wain, Cart, or other such Carriage, shall be permitted to repass Toll-free through the same Turnpikes, Toll Gates, or Side Gates, the same Day, any thing herein contained to the contrary thereof in anywise notwithstanding.

Horses drawing different Carriages to pay each Time of passing.

XVIII. Provided also, and be it further enacted, That for and in respect of all Horses or other Beasts of Draught drawing any Stage Coach or Stage Waggon, Van, Caravan, Cart, or other Stage Carriage, carrying Passengers or Goods for Payment, Hire, or Reward, for which Tolls shall have been paid, and which shall return on the same Day through the same Turnpike, Toll Gate, or Side Gate, the Tolls hereby made payable shall be paid for every Time of passing and repassing through every such Turnpike, Toll Gate, or Side Gate, in like Manner as if no Toll had been before paid thereat.

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

XIX. And be it further enacted, That the Toll hereby made payable shall be paid for and in respect of all Horses or other Beasts of Draught, travelling for Hire, drawing any Post Chaise or other Carriage, for every Time of passing and repassing along the said Roads on the same Day, as often as a fresh Hiring thereof shall take place.

Post Chaises, &c. on every new Hiring.

XX. And be it further enacted, That all and every the Tolls by this Act authorized to be taken, shall be vested in the said Trustees, and the same and every Part thereof shall be levied, collected, paid, applied, disposed of, and assigned, in the Manner directed by the said recited Acts of the Third and Fourth Years of the Reign of His present Majesty, and this Act.

Tolls vested in Trustees.

XXI. And

Application
of Tolls and
other Monies.

XXI. And be it further enacted, That all the Monies which before the Day of the Commencement of this Act, shall have been raised and produced by virtue of the said recited Acts hereby as aforesaid repealed, and which shall be remaining undisposed of on the Day of the Commencement of this Act, and also all the Monies which shall arise and be produced by and from the Tolls by this Act granted and made payable, together with the Monies which shall be borrowed upon the Credit thereof, and all other Monies which shall arise and be produced by virtue thereof, and not otherwise appropriated or directed to be applied, shall be applied to and for the several Uses, Intents, and Purposes, and in the Order and Manner following; (that is to say,) in the first place, in Payment of all Costs, Charges, and Expences which shall have been incurred in applying for, preparing, obtaining, and passing this Act, and otherwise relating thereto respectively; secondly, in paying and discharging all the Interest which shall from Time to Time be due to any Mortgagee or Mortgagees of the Tolls or Duties payable upon the several Roads by this Act directed to be amended, widened, improved, and kept in repair; thirdly, in defraying the Expences of amending, widening, improving, repairing, and preserving the several Roads by this Act directed to be amended, widened, improved, and kept in repair, and of erecting, altering, and repairing Turnpikes, Toll Gates, and Toll Houses, with suitable Outbuildings upon, across, and by the Side of the same Roads, or otherwise in executing the other Purposes of this Act, and in reducing, paying off, and discharging the several Principal Sums of Money which shall have been borrowed or secured by virtue of the said recited Acts hereby repealed; and also the several Principal Sums of Money which may be hereafter borrowed and secured by virtue of this Act.

Any Sum
not exceed-
ing 50*l.* may
be annually
expended on
the Repair of
the Wilverley
Post Road.

XXII. And whereas the said Road described and mentioned in the said recited Act of the Forty-sixth Year of the Reign of His late Majesty King *George* the Third, as the Road branching from One of the said Roads leading from *Lymington* to *Lyndhurst*, at a Place called *Jenny Cobler's Corner* in the Parish of *Boldre*, to a Place called *Wilverley Post* in the *New Forest*, and leading to *Ringwood*, and by the said recited Act directed to be widened, amended, and kept in repair, or a considerable Part thereof, is extraparochial, and runs through the uninclosed Land in His Majesty's Forest called the *New Forest*, and His said Majesty is Lord of the Soil thereof, and no effectual Toll Gate can be erected thereon, and the said Road cannot be effectually kept in repair by ordinary Course of Law: And whereas Persons passing along the said Road generally pay Toll at One of the Gates erected on the said Roads by the said recited Acts and this Act directed to be amended and kept in repair; be it therefore enacted, That any Sum not exceeding the Sum of Fifty Pounds, arising from the Tolls by this Act granted and made payable, and no more, shall and may, in each and every Year, be applied in amending, widening, improving, repairing, and preserving the said Road branching from One of the said Roads leading from *Lymington* to *Lyndhurst*, at a Place called *Jenny Cobler's Corner* in the Parish
of

of *Boldre*, to a Place called *Wilverley Post* in the *New Forest*, and leading to *Ringwood*, any thing herein contained to the contrary thereof in anywise notwithstanding.

XXIII. And be it further enacted, That it shall not be lawful for the said Trustees to apply the Tolls or any of the Money received or to be received by virtue of this Act, in paving, maintaining, or repairing any of the Streets, Highways, or public Places within the Town of *Lymington*.

No Money to be laid out in repairing Streets, &c. of *Lymington*.

XXIV. And be it further enacted, That no Preference shall be given to any Person or Persons who hath or have heretofore advanced any Sum or Sums of Money on the Credit of the Tolls granted by the said recited Acts, or any of them, or who shall hereafter advance any Sum or Sums of Money on the Credit of the Tolls granted by this Act, or to his, her, or their Assignee or Assignees in respect to the Priority of the Mortgage or Assignment or Mortgages or Assignments, or other Security or Securities for the same, or of advancing such Sum or Sums of Money, but that as well all Persons to whom any such Mortgage or Assignment shall hereafter be made or given, his, her, or their Assignee or Assignees, as also all and every Person or Persons to whom any such Mortgage or Assignment hath or have heretofore been made or given, shall (in proportion to the Sum or Sums therein mentioned) be Creditors under this Act, and in equal Degree one with another, without any Preference or Priority.

No Priority of Mortgages.

XXV. 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 on the Credit of the said Act 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 is truly and *bond fide* entitled to any Sum or Sums of Money secured on the Tolls granted by the said last-mentioned Act, although they may not be able to produce the said 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 Act, 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 Act hereby repealed, 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, or any Three or more of them, 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 Assignment or Transfer; and every Assignment so to be executed shall be valid and effectual for the Purposes thereby intended.

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

Public Act.

XXVI. 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.

XXVII. And be it further enacted, That this Act shall commence and take effect from the First Day of *July* One thousand eight hundred and twenty-eight, and shall thenceforth continue and be in force for and during the Term of Twenty-one Years, and thence to the End of the then next Session of Parliament.

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