

The Horsmonden and Marden Road Act, 1854.

the same cannot be paid off, nor can the said Roads be effectually amended, widened, altered, improved, and kept in repair, unless further Powers are granted and the Term of the said Act be further continued and extended: And whereas by "The Annual Turnpike Acts Continuance Act, 1853," the said recited Act of the Ninth Year of the Reign of His Majesty King *George* the Fourth was continued in force until the First Day of *November* One thousand eight hundred and fifty-four, and no longer, unless Parliament should in the meantime continue the same: And whereas it is expedient that the said first-recited Act should be repealed, and that other and more effectual Powers should be granted in lieu thereof; but the same cannot be effected without the Authority of Parliament: May it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 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,

Recited Act repealed, and this Act to be put in force.

I. That from and after the passing of this Act the said recited Act of the Ninth Year of the Reign of His Majesty King *George* the Fourth shall be and the same is hereby repealed, and that this Act shall thereafter be put in execution for and during the Term herein-after mentioned, for the Purpose of improving, maintaining, and keeping in repair the several Roads herein-after described; (that is to say,)

The Road from *Kippings Cross*, through the Parishes of *Brenchley*, *Horsmonden*, *Goudhurst*, and *Cranbrook*, to *Wilsley Green*, which shall be called the First District of the said Roads, and the Road from *Goudhurst Gore* to *Stilebridge*, and from *Underden Green* to *Wanshutt's Green*, all which lies in the Parishes of *Goudhurst* and *Marden*, and shall be called the Second District of the said Roads.

Tolls to be subject to Payments due under former Act, except Arrears of Interest.

II. That this Act, and the Tolls hereby granted, and to be received on the First and Second Districts of the said Roads, shall be separately but not jointly liable to the Payment of all Moneys which at the Commencement of this Act shall be owing on the Credit of the Tolls authorized to be taken upon the said Two Districts by virtue of the said Act of the Ninth Year of the Reign of His Majesty King *George* the Fourth, hereby repealed, and to all the Debts and Engagements to which the Trustees under the said recited Act were liable at the Repeal thereof, save and except only the Arrears of Interest by this Act extinguished; and that all Rents and Arrears of Tolls and other Moneys due to, and all Property and Choses in Action vested in or belonging to the Trustees under the said Act hereby repealed, shall immediately on the passing 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 and belonged to them under the said recited Act.

Rents, &c. vested in Trustees under this Act.

III. That

The Horsmonden and Marden Road Act, 1854.

III. That in citing this Act for any Purpose it shall be sufficient to use the Expression "The *Horsmonden and Marden Road Act, 1854.*" Short Title.

IV. That all Her Majesty's Justices of the Peace for the Time being acting for the County of *Kent*, together with *John Thomas Austen, Bowman, Henry Brown, William John Campion, Julius Deedes Clerk, Stephen Hooker, Henry Harrison Clerk, Alexander James Beresford Hope, Thomas Law Hodges, Edward Hussey, William Hooker Clerk, George Charles Irving Clerk, William Courtenay Moreland, Stephen Monckton M.D., Stephen Walter Marchant, Frederick Thomas Monkhouse, Ralph Oakden, Philip Roberts, John Henry Hay Ruaxton, Richard Springett, Robert Tooth, William Tomkin, Benjamin Wickham, Humphrey Wickham, Thomas Wickham, Stephen Walter, William Walter, Stephen Walter of West Farleigh, and William Walter of West Farleigh*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be Trustees for putting this Act into execution. Appointment of Trustees.

V. That it shall be lawful for the said Trustees at any Meeting to be holden in pursuance of 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 Persons so elected shall have the same Powers and Authorities for executing this Act as if they had been hereby appointed. Power to appoint additional Trustees.

VI. 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, but shall always be accountable according to the Instructions and Regulations so to be made. Power to appoint Committees.

VII. That the said Trustees shall hold their First Meeting for the said First District at the *Gun Inn*, or at some other convenient House or Place in the Parish of *Horsmonden*, on the Second *Tuesday* next after the passing of this Act, and for the Second District at the *Unicorn Inn*, or at some other convenient House or Place in the Parish of *Marden*, on the Second *Friday* next after the passing of this Act, and shall then and from Time to Time adjourn to and meet for each District at such Times and Places at, near, or upon the said Districts respectively as they shall think proper. First Meeting of Trustees.

VIII. That

The Horsmonden and Marden Road Act, 1854.

Power to
take Tolls;

VIII. That upon and after the passing of this Act it shall be lawful for the said Trustees to demand and take, at the several and respective Toll Gates or Side Gates which shall by virtue of this Act be standing upon, across, or at the Side of the several Roads included in this Act, on every Day (such Day to be computed from Twelve o'Clock at Night till Twelve o'Clock in the succeeding Night), the Tolls following; (that is to say,)

on the First
District;

On the First District of the said Roads,—

For every Horse, Mule, or other Beast drawing any Carriage, the Sum of Fourpence :

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

For every Ox, Cow, or other Neat Cattle, the Sum of One Halfpenny; and for every Hog, Sheep, or Lamb, the Sum of One Farthing :

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 :

on the Second
District.

On the Second District of the said Roads,—

For every Horse, Mule, or other Beast drawing any Carriage, the Sum of Fourpence Halfpenny :

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

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, or other such Carriage having the Fellies of the Wheels thereof of less Breadth than Four and a Half Inches at the Bottom or Soles thereof, Sixpence :

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, or other such Carriage having the Fellies of the Wheels thereof of the Breadth of Four and a Half Inches and less than Six Inches at the Bottom or Soles thereof, Fourpence :

For every Ox, Cow, or other Neat Cattle, the Sum of One Penny :

For every Calf, Hog, Sheep, or Lamb, the Sum of One Halfpenny :

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 :

All which Sums of Money shall be demanded and taken as Toll before any Horse, Mule, Ass, or other Beast, Coach, Waggon, Cart, Truck, or other Carriage, shall be permitted to pass through any of the Toll Gates or Side Gates erected or to be erected across or by the Side or Sides

The Horsmonden and Marden Road Act, 1854.

Sides of the said Roads; and such Tolls are hereby vested in the said Trustees, and shall be applied in the Manner herein-after directed.

IX. That no more than Four full Tolls shall be demanded and taken in the same Day, to be computed as aforesaid, (except as herein-after is mentioned,) in respect of the passing and repassing of the same Horses, Beasts, Cattle, or Carriages through all the several Toll Gates on the First District, and that no more than Three full Tolls shall be demanded and taken in the same Day, to be computed as aforesaid, (except as herein-after is mentioned,) in respect of the passing and repassing of the same Horses, Beasts, Cattle, or Carriages through all the several Toll Gates on the Second District.

Limiting
Number of
Tolls to be
taken on each
District.

X. That no Toll shall be demanded or taken for or in respect of any Horse, Beast, or other Cattle, whether drawing or not drawing, for passing or repassing through any Toll Gate during the same Day when the full Tolls authorized to be taken by virtue of this Act shall have been paid for the same Gate, and on a Ticket being produced denoting such Payment, except as herein-after mentioned, (that is to say,) that no Horse, Beast, or other Cattle drawing any Carriage shall be permitted to pass through any of the said Gates a Third Time in any One Day, to be computed as aforesaid, between the Tenth Day of *October* and the First Day of *April* in every Year, until a Second full Toll shall have been paid in respect of the same, and so, *toties quoties*, for every Third Time that the same Horse, Beast, or other Cattle drawing any Carriage shall pass through any of the said Gates on the same Day the like Toll shall be demanded and taken as if it had been the First Time that such Horse, Beast, or other Cattle had passed through such Gate.

Tolls to be
paid but once
a Day, except
between
10th Oct. and
1st April,
when Horses,
&c. passing a
Third Time
are to pay a
Second Toll.

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.

As to the
Fraction of a
Halfpenny in
Tolls.

XII. That the Tolls hereby made payable shall be paid in respect of the Horses or Beasts drawing any Postchaise or other Carriage conveying Passengers for Hire or Reward every Time of passing or repassing through the said Gates when a new Hiring thereof has taken place, in the same Manner as if no previous Payment of Toll in respect of such Horses or Beasts had been made on the same Day.

Postchaises
to pay each
Time of pass-
ing with fresh
Hiring.

XIII. That for and in respect of all Horses or other Beasts drawing any Stage Coach, or any Stage Waggon, Van, Caravan, or other such Carriage carrying Goods or Passengers for Payment, Hire, or Reward,

Regulations
as to Stage
Coaches.

[Local.]

8 G

for

The Horsmonden and Marden Road Act, 1854.

for which Toll shall have been paid, and which shall return on the same Day carrying Goods or Passengers for Payment, Hire, or Reward, through any Turnpike or Toll Gate on the said Roads, the Tolls hereby made payable shall be again paid for repassing through such Turnpike or Toll Gate in like Manner as if no Toll had been before paid.

Horses, &c. drawing different Waggon, &c. to pay for every Time of passing.

XIV. 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.

Power to remove or alter Toll Gates.

XV. That the said Trustees may continue or remove all or any of the Toll Gates and Toll Houses now standing upon or across the said Roads, or at the Side or Sides thereof, and direct and set up, or cause to be erected and set up, any other Gates, Toll Gates, Weighing Machines, and Toll Houses, with Outhouses and Conveniences suitable thereto, across or by the Side of the said Roads, or across any common Highway leading into the same, and take in and inclose suitable Garden Spots for the said Houses respectively, not exceeding One Eighth Part of a Statute Acre each, and from Time to Time take down and remove or alter the same or any of them, as they shall think proper: Provided always, that no Toll Gates or Toll Houses 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

9 G. 4. c. 77.

Reign of King *George* the Fourth, intituled *An Act to amend the Acts for regulating Turnpike Roads.*

Double Tolls to be taken between 10th Oct. and 1st April for certain Carriages.

XVI. That between the Tenth Day of *October* and the First Day of *April* in every Year double the Tolls herein-before made payable shall be paid at each Gate in respect of every Horse or other Beast drawing any Carriage laden with Timber, Wood (except for firing), Hop Poles, or Iron.

Limitation of Exemptions.

XVII. And whereas the said Roads lead from divers Parts of the Counties of *Kent* and *Sussex* to *Coxheath* and other Places where
great

The Horsmonden and Marden Road Act, 1854.

great Quantities of Stone are obtained for repairing Roads situate a considerable Distance therefrom, and also to several Wharfs upon the River *Medway*, and also to several Stations on the *South-eastern* Railway where Sprats, Rags, Rape Dust, Guano and other artificial Manures are sold, and much of the heaviest Traffic upon the said Roads at all Seasons of the Year (and more especially in Winter) consists of Waggons and Carts laden with the several Matters and Things aforesaid, to the great Injury of the said Roads: And whereas it is expedient that all Horses and other Beasts drawing such Waggons and Carts should be subject and liable to the Payment of Tolls for passing along the said Roads: Be it therefore enacted, That from and after the passing of this Act, between the Tenth Day of *October* and the First Day of *April* in every Year, the Tolls hereby made payable shall be demanded and taken on the said Roads for every Horse or other Beast drawing any Carriage laden with Stones, Bricks, Wood, Timber, or other Materials to be used in the making or repairing of any Turnpike Road whatsoever, or for making or repairing any public Highway, or for building or repairing any present or future Bridge or Bridges, such public Highways, Bridge or Bridges, not being situate in any of the Parishes in which the District of Road on which the said Toll shall be demanded, or any Part thereof, doth lie; and at all Seasons of the Year the said Tolls shall be demanded and taken for every Horse or other Beast drawing any Carriage laden with Dung, Soil, Compost, or Manure for improving Lands (save and except where such Dung, Soil, Compost, or Manure shall be made or produced on any Farms or Lands in the Occupation of the Owner of such Dung, Soil, Compost, or Manure, and shall be carried to the Farms or Lands in the Occupation of the Owner of such Dung, Soil, Compost, or Manure), such Farms or Lands being situate in any of the Parishes in which the District of Road on which the said Toll shall be demanded, or any Part thereof, doth lie, anything in the General Turnpike Acts to the contrary thereof in anywise notwithstanding; and if any Person shall claim or take the Benefit of the Exemptions given by the General Turnpike Acts, not being legally entitled thereto, every such Person shall forfeit and pay any Sum not exceeding Five Pounds, and the Proof of the Exemption shall lie on the Person claiming the same.

XVIII. And whereas the Mortgage Debt upon the Tolls upon the said First District now amounts to the Principal Sum of One thousand nine hundred Pounds, and upon the Second District to the Principal Sum of Two thousand five hundred Pounds, and upon the said Second District there is a large Arrear of Interest due thereon; (that is to say,) the Sum of Two thousand three hundred and four Pounds: Be it enacted, That from and after the passing of this Act such Arrear of Interest shall be and the same is hereby extinguished.

Extinguish-
ment of
Arrears of
Interest.

XIX. That

The Horsmonden and Marden Road Act, 1854.

Application
of Moneys.

XIX. That all Moneys which shall be received 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, such Expenses to be paid rateably and in proportion to the Number of Miles in each District :

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 in each District respectively, 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 Sixty Pounds on the First District, and the annual Sum of Fifty Pounds Ten Shillings on the Second District :

Thirdly, in paying Interest at the Rate of Four Pounds *per Centum per Annum* upon the Principal Sum of One thousand nine hundred Pounds, or such Part thereof as shall for the Time being be due and owing on the Credit of the Tolls authorized to be taken upon the First District of the said Roads, and in paying Interest at the Rate of Three Pounds *per Centum per Annum* upon the Principal Sum of Two thousand five hundred Pounds, or such Part thereof as shall for the Time being be due and owing on the Credit of the Tolls authorized to be taken on the Second District of the said Roads, such Interest respectively not to accrue due until the Proportion aforesaid of the Expenses of obtaining and passing this Act or incident thereto shall have been duly paid; and as regards the Second District, such Interest not to accrue due until the Sum of One hundred and thirty Pounds shall also have been set aside for the Purpose of erecting and building Two new Toll Houses :

Fourthly, in paying the Expenses of improving, maintaining, and keeping in repair the said Roads, subject to the Provisions of this Act, the Amount of such Expenses not to exceed in the whole the annual Sum of One hundred and sixty-five Pounds on the First District, and the annual Sum of One hundred and twenty Pounds on the Second District :

Fifthly, in reducing, paying off, and discharging the said respective Principal Sums of One thousand nine hundred Pounds and Two thousand five hundred Pounds, according to the Provision hereinafter contained :

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

As to Mode
of dis-
charging
Debt.

XX. That when and so often as the Sums applicable to the Discharge of the said Principal Moneys for the Time being due on the Credit of the Tolls in each District shall amount to the Sum of Fifty Pounds, the
Trustees

The Horsmonden and Marden Road Act, 1854.

Trustees shall, at any General Annual or other Meeting, apply such Sums in the Payment of a proportionate Part of the said Principal Moneys 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 Sums, 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 Sums or Portions thereof (as the Case may require) in or towards the Discharge of Moneys owing on the Security of the said Tolls in each District 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 Moneys, and after Payment to such Mortgagee as aforesaid shall apply the Surplus (if any) of such Sums or Portions thereof (as the Case may require) in or towards the Payment of other Moneys owing on the Security of the said Tolls in each District to the Mortgagee who, by Proposal as aforesaid, shall have offered to accept the next lowest Composition in respect of the Principal Moneys due to him, and so in like Manner until the Sums applicable to such Payments shall be exhausted; and if and whenever Two or more Mortgagees, by such Proposals as aforesaid, shall have 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 Moneys to which such Proposals as aforesaid relate, the Trustees may apply the Sums applicable to such Payments, or the Surplus thereof, (as the Case may be,) rateably amongst the Mortgagees on the said Tolls in each District, or may pay the same to such of them as may be determined by Lot, as the Trustees shall think fit.

XXI. That whenever and so long as the Interest by this Act allowed upon all existing Mortgages shall be duly paid within One Calendar Month next after the same shall become due, no Holder of any Mortgage of the Tolls collected upon the said Roads shall be entitled to enter into possession of the Toll Gates, Toll Houses, or Buildings upon the said Roads, or into the Receipt of the Tolls arising therefrom, or of the Rent payable on any Letting of such Tolls; and every Mortgagee entering into the 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 the said existing Mortgages, without any Priority or Preference, and may also reimburse himself any Costs to which he may be entitled; and every Mortgagee being so in possession or

Mortgagees to take possession of Toll Houses, &c. for Payment of Interest only.

[Local.]

8 H

receipt

The Horsmonden and Marden Road Act, 1854.

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 or Clerks of the said Trustees for the Time being a full and true Account of his Accounts, 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 at the Rate herein-before mentioned on such Mortgages up to the last half-yearly Days, and all such Costs as aforesaid, shall have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the said Trustees, pay over to their 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 of such Rent as aforesaid, to the 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.

Separate Accounts to be kept.

XXII. And in order to secure the due Application of the respective Tolls hereby granted to the several Purposes and in the Order aforesaid, be it enacted, That all the said Tolls shall be paid by the Collectors or Lessees thereof into the Hands of the Treasurer or respective Treasurers for the Time being appointed by the said Trustees respectively, who shall keep or cause to be kept separate Accounts thereof, and shall apply the same to the several Purposes and in the Order aforesaid.

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.

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.

Trustee or Clerk to be competent to give Evidence.

XXV. That no Trustee or Clerk acting under the Authority of this Act shall be deemed incompetent to give Evidence or be disqualified from giving Evidence in any Action, Suit, or Proceeding brought by or against him in such his Capacity of Trustee or Clerk, by reason of his being Plaintiff or Defendant in such Action, Suit, or other Proceeding.

Roads not exempt from Provisions of future General Acts.

XXVI. 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.

XXVII. That

The Horsmonden and Marden Road Act, 1854.

XXVII. That this Act shall commence on the Day of the passing thereof, and shall continue in force for the Term of Twenty-two Years, and from thence to the End of the Session of Parliament which shall then next follow. Term of Act.

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