ANNO TERTIO

VICTORIÆ REGINÆ.

Cap. xxxviii.

An Act for repairing and maintaining a Road from *Banbury* in the County of *Oxford* to *Lutterworth* in the County of *Leicester*, and other Roads communicating therewith. [19th *May* 1840.]

WHEREAS an Act was passed in the Ninth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for more effectually repairing and maintaining the Road from* Banbury *in the County of* Oxford, *through* Daventry *and* Cottesbach, *to* Lutterworth *in the County of* Leicester: And whereas the Trustees appointed in and by the said Act have proceeded to put the same into execution, and for that Purpose have borrowed several Sums of Money upon the Credit of the Tolls thereby granted, which still remain due and owing: And whereas it would be a great public Convenience if the said Trustees were authorized and empowered to make and maintain a new Line of Road herein-after particularly mentioned and set forth: And whereas it is expedient that the said recited Act should be repealed, and other Provisions made for the Maintenance and Repair of the Road included in the said recited Act, and also for making and maintaining the said new Line of Road; but the same cannot be effected without the Authority of Parliament: 9 G. 4. c. 86.

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, That from and after the Day of the Commencement of this Act the said recited Act passed in the Ninth Year of the Reign of King *George* the Fourth shall be and the same is hereby repealed.

Recited Act repealed.

This Act to take effect for the Purposes herein mentioned.

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 making, amending, widening, repairing, improving, and maintaining the present Roads, and the new Road herein-after mentioned; that is to say, the present Road from the Eastern Boundary of the Borough of *Banbury* in the County of *Oxford*, and from thence through the Parishes of *Warkworth* and *Chalcombe* in the County of *Northampton*, the Parish of *Wardington* in the said County of *Oxford*, the Parishes of *Chippenwarden*, *Byfield*, *Charwelton*, *Fawsley*, and *Badby*, the Hamlet of *Drayton*, the Town and Parish of *Daventry*, the Parishes of *Welton*, *Ashby*, *Saint Ledgers*, *Kilsby*, *Crick*, *Yelvertoft*, and *Lilbourn*, in the said County of *Northampton*, the Parishes of *Clifton* and *Hillmorton* and the Hamlet of *Biggins* in the County of *Warwick*, and the Parishes of *Catthorpe*, *Shawell*, *Churchover*, *Cottesbach*, and *Misterton*, in the County of *Leicester*, to the South End of *Mill Field* in the Parish of *Lutterworth* in the County of *Leicester*; and also for making and maintaining a new Line of Road from the said Turnpike Road, commencing at or near a certain Place called *Badby Bridge*, to join the *Stratford* and *Dunchurch* Turnpike Road at or near a Place called *Dodford Lane*, passing from, in, through, or into the several Parishes of *Badby* and *Newnham* in the said County of *Northampton*.

Trustees.

III. And be it further enacted, That all of Her Majesty's Justices of the Peace for the Counties of *Oxford*, *Northampton*, *Warwick*, and *Leicester* for the Time being respectively, together with *Benjamin Aplin*, *George Henry Arnold*, *Henry Arnold*, *James Arnold* Clerk, *John Arthur Arnold*, *Francis Annesley* Clerk, *John Bull* Doctor in Divinity, *John Jackson Blencowe*, *James Gramer Blencowe* Clerk, *George Blencowe*, *Robert Blencowe*, *John Ballard* Clerk, *Arden Bayley* Clerk, *Robert Brayne*, *Charles Brickwell*, *Joseph John Alphonsus Brown*, *Thomas Hughes Chamberlain*, *William Cartwright*, *Aubrey Cartwright*, *Stephen Cartwright* Clerk, Sir *Thomas Cartwright*, *Francis Clerke* Clerk, *Robert Canning*, *Richard Trevor Clarke*, *John Alexander Clarke* Clerk, *John Cowley*, *Samuel Cox*, *Alfred Butler Clough*, *William Daniel*, *Henry Grimes*, *William Grant*, *Thomas Green* Clerk, *Charles Gilbee* Clerk, *Thomas Golightly* Clerk, *Joseph Goodman*, *John Clarke Jenkins* Clerk, *Nathaniel Jenkins*, *Samuel Wyment Harrison*, *Lewis Harrison*, *John Higgs Hunt* Clerk, *John Johnson Hodson* Clerk, *Joseph Hunt* Clerk, *Thomas Howes*, *Rainald Knightley*, *Valentine Knightley* Clerk, *Richard Howson Lamb*, *John Loveday*, *William Taylor Loveday*, *Thomas Loveday* Clerk, *Arthur Loveday*, *George*

Mallaber, *Thomas Marfell*, *Robert Marriott* Clerk, *Benjamin Wyment Palmer* the elder, *Benjamin Wyment Palmer* the younger, *William Rose Rose*, *John Rose* Clerk, *Henry Rose* Clerk, *Charles Rose* Clerk, *George Rose*, *Charles Litchfield Swainson* Clerk, *James Swainson* Clerk, *Thomas Smith* Clerk, *John Thomas Henry Smith* Clerk, *Thomas Sanders*, *William Senhouse*, *Samuel Amy Severn*, *John Michael Severn*, *John Spence* Clerk, *Egerton Stafford* Clerk, *Thomas Reeve Thornton*, *Thomas Cook Thornton*, *William Thornton* Clerk, *Edward Thornton*, *Philip Thornton* Clerk, *William Addington Taylor* Clerk, *Edward Thompson*, *William Watkins*, *George Whieldon*, *William Walford* Clerk, *George Whieldon* the younger, *Charles Wyatt*, *John West*, *Charles Williams* Clerk, and *Daniel Veysie* Clerk, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be and they are hereby appointed Trustees for carrying this Act into execution.

Power to elect new Trustees.

IV. And be it further enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and empowered, at any of their General Meetings to be holden in pursuance of this Act, to elect and appoint any Number of Persons, not exceeding Five in the whole, to be Trustees for the Purposes of this Act, in addition to the Trustees by this Act appointed; and such Trustees so elected and appointed, being duly qualified, shall be and they are hereby invested with the same Powers and Authorities as if they had been named and appointed in and by this Act.

First Meeting of Trustees.

V. And be it further enacted, That the said Trustees shall hold their First Meeting at the *Griffin* Public House in the Parish of *Chippenwarden*, or at some other convenient Place on or near to the said Roads, on the Second *Tuesday* next after the passing of this Act, or as soon after as conveniently may be, and shall then and there proceed to put this Act in execution; and the said Trustees shall and may adjourn such First Metting and every subsequent Meeting to such Places on or near to the said Roads as they shall from Time to Time think proper.

Power to make new Line of Road.

VI. And be it further enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and empowered, to set out, make, erect, and complete the said new Line of Road herein-before mentioned and described of such Width as they may think proper, not exceeding Forty Feet nor less than Thirty Feet, together with such Arches, Bridges, Ditches, Drains, Fences, and other Works as they shall think requisite, and for the Purposes aforesaid to pull down or remove all or any of the Dwelling Houses, Outhouses, Edifices, and Buildings, and to use and appropriate the Lands, Yards, Gardens, Orchards, and other Tenements, Hereditaments, and Premises which are mentioned and set forth in the Schedule to this Act annexed, and to take, pull down, and remove any Buildings which may have been erected on any of the Lands specified in the said Schedule since the Thirtieth of *November* One thousand eight hundred and thirty-nine, rendering or making Satisfaction for the same to the Owners of the said Hereditaments and Premises, and other

Persons

Persons interested therein, and for the Damage which such Owners or other Persons may respectively sustain thereby, and also to take under their Care and Management all or any of the Roads or Highways passing in the Line or Direction of the herein-before mentioned new Line or Branch of Road.

Plan deposited with the Clerk of the Peace to remain for Inspection.

VII. And whereas a Map or Plan describing the said new Line of Road herein-before mentioned, and the Lands, Tenements, and Hereditaments through or over which the same is intended to be made or carried, together with a Book of Reference thereto, containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of such Lands, Tenements, and Hereditaments, has been deposited in the Office of the Clerk of the Peace for the County of *Northampton*; be it therefore enacted, That the said Map or Plan and Book of Reference shall remain in the Custody of the said Clerk of the Peace, to the end that all Persons may, at all seasonable Times, have Liberty to inspect and peruse the same, and take Copies thereof or Extracts therefrom, at their Will and Pleasure, paying such Clerk of the Peace the Sum of One Shilling for every such Inspection, and at the Rate of Sixpence for every One hundred Words of such Copies or Extracts; and the said Map or Plan and Book of Reference, or any Copy thereof, or of any Part thereof, certified by the Clerk of the Peace for the Time being to be a true Copy, shall be good Evidence in all Courts of Law and elsewhere: Provided always, that the Trustees acting in the Execution of this Act, in making the said new Line of Road, or any Part thereof, shall not deviate more than One hundred Yards on either Side of the Line described in the said Map or Plan, or extend into the Lands of any Person whose Name is not mentioned in the said Schedule (except as herein-after mentioned), without the Consent in Writing of the Person, or Body Politic, Corporate, or Collegiate, through whose Lands or Grounds such Deviation shall be made; and no such Deviation shall be made in any Lands or Grounds as to which it shall be expressly denoted in the said Map or Plan that no Deviation is intended to be made; and in every Case in which a Limit to such Deviation is expressly denoted on such Map or Plan as to any Lands or Grounds the actual Deviation shall not exceed the Limit so denoted.

Lands may be used notwithstanding Errors in Plan.

VIII. Provided always, and be it further enacted, That it shall be lawful for the said Trustees to make the said new Line of Road through, across, or over the Lands of any Person or Persons who is or are or may be Owner or Owners of the Lands, Tenements, or Hereditaments through or over which the same is respectively set out in the said Map or Plan, and described in the said Schedule hereto, although such Lands, Tenements, or Hereditaments, or the Name or Names of such Person or Persons, may be erroneously described or mis-stated in the said Map or Plan or Schedule hereto, or partly omitted therefrom, in case it shall appear to any Two or more Justices of the Peace for the County of *Northampton*, and be certified in Writing under their Hands, that such erroneous Description, Mis-statement, or Omission happened by Mistake.

IX. And

In case of Lands purchased by Trustees, the Freehold to remain in the Owners of the Lands.

IX. And be it further enacted, That in case any Lands or Hereditaments shall be purchased by the said Trustees for the Purposes of this Act, the Freehold and Inheritance of and in the said Lands so purchased, in case the same shall be of Freehold Tenure, and in case the same shall be of any other Tenure, then the Estate and Interest, of what Nature or Kind soever, therein, shall not by means of such Purchase, or of any Conveyance or Assurance made in pursuance thereof, or by reason of the said Lands or Hereditaments having been appropriated for the Purposes of the said Road by this Act authorized to be made, be vested in the said Trustees, but the Freehold and Inheritance of and in the Lands and Hereditaments so purchased, in case the same shall be of Freehold Tenure, and in case such Lands and Hereditaments shall be of any other Tenure, then the Estate and Interest as aforesaid in such Lands and Hereditaments, shall, notwithstanding such Purchase and Conveyance or Assurance, remain and be vested in the Person or Persons in whom the same were vested immediately prior to such Purchase by the said Trustees, yet so nevertheless that by means of such Purchase and Conveyance or Assurance a perpetual Right of Way in, over, and upon the Lands so purchased by them shall vest in the said Trustees.

Powers of Trustees over the Lands.

X. Provided always, and be it further enacted, That the said Trustees shall have such and the same Powers and Authorities of cutting and digging and otherwise using the Lands and Hereditaments to be taken or purchased by them for the Purposes of this Act in all respects as they would have had in case they purchased the Fee Simple thereof or other Estate and Interest therein.

If Lands purchased should not be wanted, Right of Way and other Rights vested in Trustees to cease.

XI. Provided also, and be it further enacted, That if at any Time any of the Lands or Hereditaments purchased by the said Trustees for the Purposes of this Act shall not be wanted for the Purpose of any Road, and such Road shall cease to be a Highway, then and in such Case the Right of Way, and all other Rights in, over, or upon such Lands or Hereditaments, vested in the said Trustees under this Act, shall cease, determine, and be extinguished, and the Freehold and Inheritance of the said Lands, in case the same shall be of Freehold Tenure, and the Estate and Interest in such Lands, in case the same shall be of any other Tenure, shall be and remain in the Person or Persons entitled to the same, freed and discharged of and from such Right of Way.

Power to erect Toll Gates, Turnpikes, Side Bars, Weighing Machines, &c.

XII. And be it further enacted, That it shall be lawful for the said Trustees, if they think proper, to continue or remove all and every or any of the Toll Gates or Turnpikes and Toll Houses now standing and being in and upon or across the said Roads, or on the Sides thereof, and also to erect and set up or build, or cause to be erected, set up, and built, upon, in, or across the said Roads or any Part thereof, or upon or across the Entrance to any public Road, Lane, or Way leading into the same or any Part thereof, when, where, and as they shall judge necessary, any Gate or Gates, Turnpike or Turnpikes, Side Gate or Side Gates, Side Bar or Side Bars, Chain or

Chains, Weighing Machine or Weighing Machines, and also One or more Toll House or Toll Houses, with Outhouses and Conveniences suitable thereto, at or near each Gate, Bar, Chain, or Weighing Machine, and to take in and inclose on the Sides of the said Road suitable Garden Spots for the same respectively, not exceeding One Eighth Part of a Statute Acre each, as they shall think necessary, and from Time to Time to take down and remove and to alter and discontinue the same or any of them as they the said Trustees shall think proper, and direct or appoint.

Power to take Tolls.

XIII. And be it further enacted, That it shall be lawful for the said Trustees, or such Person or Persons as they shall from Time to Time appoint for that Purpose, to demand and take, at the several Turnpikes, Toll Gates, and Toll Bars already erected or which may be hereafter erected upon, across, or on the Sides of the said Roads included in this Act, before any Horse, Beast, or other Cattle, Coach, Waggon, Chaise, Cart, or other Carriage, shall be permitted to pass through the same, the several Tolls or Sums of Money following; that is to say,

For every Horse, Mule, or other Beast drawing any Coach, Sociable, Berlin, Landau, Chariot, Vis-à-vis, Barouche, Chaise Marine, Calash, Curricle, Chair, Gig, Whiskey, Caravan, Hearse, Litter, or other such like Carriage, a Sum not exceeding Sixpence:

For every Drag so constructed as that the Distance betwen the Axletrees shall be more than Nine Feet, and laden otherwise than with a Single Piece or Block of Timber or Stone, a Sum not exceeding One Shilling and Sixpence, over and above the Toll or Duty payable for each of the Horses or Beasts of Draught drawing the same:

For every Horse, Mule, Ass, Ox, or Bullock, drawing any Waggon, Wain, Drag, Cart, or other such like Carriage, a Sum not exceeding Sixpence:

For every Horse, Mule, or Ass, laden or unladen, and not drawing, a Sum not exceeding One Penny Halfpenny:

For every Drove of Oxen or Neat Cattle, a Sum not exceeding Ten-pence *per* Score, and so in proportion for any greater or less Number:

And for every Drove of Calves, Swine, Sheep, or Lambs, a Sum not exceeding Sixpence *per* Score, and so in proportion for any greater or less Number:

For every Dog drawing any Cart, Carriage, or other Vehicle, a Sum not exceeding Two-pence:

For every Carriage not drawn by any Horse or Beast of Draught, but propelled or moved by Machinery, a Sum not exceeding Two Shillings.

Tolls to be paid but once a Day.

XIV. 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, Beast, Cattle, or Carriage through any One of such Toll Gates or Turnpikes or Side Gates, such Horse, Beast, Cattle, or Carriage shall, upon a Ticket denoting the Payment thereof on that Day being produced, be permitted to pass Toll-free through the

the same Toll Gate, Turnpike, or Side Gate, and also through such other Toll Gates, Turnpikes, and Side Gates (if any) as the Ticket for such Payment shall free, at any Time or Times during the same Day, before Twelve of the Clock at Night, any thing in this Act contained to the contrary thereof in anywise notwithstanding.

Limiting the Number of Tolls on the whole Line of Roads.

XV. Provided also, and be it further enacted, That no more than Six full Tolls shall be demanded or taken, for or in respect of the same Horse, Beast, or Cattle, for passing or repassing at any Time or Times in One Day (to be computed as aforesaid) through all the Toll Gates, Turnpikes, or Side Gates along the whole Line of the said Roads.

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

XVI. Provided also, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of Horses or Beasts drawing any Stage Coach, Diligence, Van, Caravan, or Stage Waggon, or other Stage Carriage, conveying Passengers or Goods for Pay or Reward, for every Time of passing or repassing along the said Road.

Post Chaises to be subject again to Toll on every new Hiring.

XVII. Provided also, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of Horses or Beasts let out to Hire, and drawing any Post Chaise or other Carriage, for every Time of passing along the said Road, whenever any new Hiring thereof shall take place.

Lime for Manure exempted from Toll.

XVIII. Provided always, and be it further enacted, That no Toll shall be demanded or taken upon the said Roads, from any Person or Persons, for any Horse or Horses or other Beasts or Cattle, or for any Waggon, Cart, or other Carriage employed in carrying or conveying, or going empty to fetch, carry, or convey, or returning empty from carrying or conveying, any Lime, for manuring or improving Land situate and being in any of the Parishes or Places aforesaid, or through which the said Road shall pass.

Present Leases to continue in force.

XIX. Provided always, and be it further enacted, That all and every Lease and Leases or Letting of the Tolls arising on the said Roads granted and made or agreed upon by the Trustees for executing the said recited Act, and the several Covenants thereof, shall, notwithstanding this Act, remain and continue in full Force and Effect until the Expiration of the Term or Terms thereby respectively granted or agreed for, or until any legal Determination of any such Lease or Letting; and the same, and the respective Grantees, shall be subject to the Powers and Provisions of this Act, in the same Manner as if such Leases or Lease, or Letting, had been granted or made or agreed upon by the Trustees for executing this Act, and as if the Trustees granting, making, or agreeing upon the same had been Trustees for executing this Act.

Application of Tolls.

XX. And be it further enacted, That out of the Tolls and other Monies collected or received under or by virtue of the said recited Act,

Act, or out of the first Money which shall arise or be received from the Tolls by this Act granted, or otherwise, the said Trustees shall, in the first place, pay and discharge all the Costs and Expences relative to the obtaining and passing of this Act, with Interest for the same; and the Remainder of all such Monies shall (after Payment of the necessary Expences from Time to Time of erecting or repairing Toll Gates, Toll Houses, Mile Stones or Posts, and Fences, and for Books, Advertisements, Salaries of Officers, and other Expences incidental to the Execution of this Act,) from Time to Time be applied, in the first place, in keeping down the Interest of the whole Principal Monies now borrowed and due, secondly, in Payment of the Interest of the Money hereafter to be borrowed on the Credit of the said Tolls, and after Payment thereof then in making, repairing, widening, improving, maintaining, and keeping in repair the said Roads; and in case, after making the Payments and satisfying the Charges aforesaid, and after keeping and maintaining the said Roads in good Repair, there shall at any Time be a Surplus of Money in the Hands of the said Trustees or of their Treasurer applicable to the Purposes of the said Roads, such Surplus shall be applied, first in repaying the Principal Monies which have been heretofore borrowed or advanced on the Credit of the Tolls arising on the said Roads, and secondly the Principal Monies which may be hereafter borrowed or advanced upon the Credit of the Tolls hereby granted on the said Roads.

No Money to be laid out on any Road unless Tolls be taken thereon.

XXI. And be it further enacted, That no Money arising from any of the Tolls hereby authorized to be collected and taken shall be applied in or towards the Repair of any Road authorized to be repaired by virtue of this Act, unless some Toll Gate, Turnpike, or Side Gate shall be erected or placed and continued upon such Road, or on the Side thereof, nor unless the Tolls hereby granted shall be demanded and taken thereat pursuant to the Powers and Provisions of this Act; provided also, that no more Money shall be expended by the said Trustees in or towards the Repair of any such Road than shall be collected thereat, or borrowed on the Credit of the Tolls collected thereon.

Not to apply any Money in repairing the Streets of Daventry.

XXII. 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 *Daventry* aforesaid, or any Roads or Streets in any Town repaired under a Local Act of Parliament.

Commencement and Continuance of this Act.

XXIII. And be it further enacted, That this Act shall commence upon the passing thereof, and shall continue and be in force for Thirty-one Years, and from thence to the End of the then next Session of Parliament.

Nothing herein to exempt Road from Pro-

XXIV. And be it further enacted, 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 Consoli-

dation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament. visions of any general Act.

XXV. 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. Public Act.

The SCHEDULE to which this Act refers.

No. on Plan.	Description of Property.	Owners.	Occupiers.
		Parish of Badby.	
16	Public Highway	Surveyors of Highways of Badby, and the Lord of the Manor	—
		Parish of Newnham.	
25	Pasture Land	Thomas Reeve Thornton, Esquire	John Major.
86	Tenements, Gardens, and Outbuildings	Thomas Key	John Lines. John Russell. Joseph Shaw.
87	House	Thomas Key	Mary Cleaver.
122	Tenements and Garden	Thomas Potts	William Faulkner. Joseph Tallett.
36, 54, 79, 126, 153, 162, 176, 181,	Public Highway	The Surveyors of the Highways of Newnham, and the Lord of the Manor of Newnham	—

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