ANNO SECUNDO

GULIELMI IV. REGIS.

****

Cap. xxxiii.

An Act for repairing the Road from *Birmingham* (through *Elmdon*) to *Stonebridge* in the County of *Warwick*. [3d *April* 1832.]

WHEREAS an Act was passed in the Eighteenth Year of the Reign of His Majesty King *George* the Second, intituled *An Act for repairing the Road from* Birmingham *in* 18 G. 2. c.19.
the County of Warwick (*through* Elmdon) *to a Lane leading by the End of* Stonebridge *in the said County:* And whereas another Act was passed in the Tenth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to enlarge the Term and Powers* 10 G. 3. c. 69.
of an Act of the Eighteenth Year of the Reign of King George *the Second, for repairing the Road from* Birmingham *in the County of* Warwick (*through* Elmdon) *to a Lane leading by the End of* Stonebridge *in the said County:* And whereas another Act was passed in the Twenty-eighth Year of the Reign of His said late Majesty King *George* the Third, intituled *An Act to enlarge the Terms and Powers* 28G.3.c.107.
of Two Acts passed in the Eighteenth Year of the Reign of His late Majesty King George *the Second and the Tenth Year of His present Majesty's Reign, for repairing the Road from* Birmingham *in the County of* Warwick, *through* Elmdon, *to a Lane leading by the End of* Stonebridge *in the said County:* And whereas another Act was

passed in the Thirty-fourth Year of the Reign of His said late
34 G. 3. c. 115. Majesty King *George* the Third, intituled *An Act to enlarge the Term and Powers of Three Acts passed in the Eighteenth Year of the Reign of His late Majesty King* George *the Second, and the Tenth and Twenty-eighth Years of His present Majesty's Reign, for repairing the Road from* Birmingham *in the County of* Warwick, *through* Elmdon, *to a Lane leading by the End of* Stonebridge *in the said County:* And whereas the said Road would be greatly improved by the lowering of several Hills and the raising of several Valleys upon the same, and by making a short Deviation of the Line of Road at *Smallheath*, near the Approach to the Town of *Birmingham:* And whereas considerable Sums of Money have been borrowed on the Credit of the Tolls authorized to be taken on the said Road, which Money still remains due and owing, and the same cannot be repaid, nor can the said Improvements be effected, and the Road otherwise maintained and kept in repair, unless the Term and Powers of the said Act be further extended and enlarged: And whereas it would facilitate the Execution of the Purposes aforesaid if the said recited Acts were repealed, and if the Powers thereby given, and such further Powers as may be necessary for repairing and maintaining the said Road, were granted and comprised in One Act: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

Recited Acts repealed.

That from and after the Second Day of *October* next after the passing of this Act, the said recited Acts passed in the Eighteenth Year of the Reign of His Majesty King *George* the Second, and in the Tenth, Twenty-eighth, and Thirty-fourth Years of the Reign of His late Majesty King *George* the Third, shall be and the same are hereby declared to be repealed.

This Act to be put in execution.

II. And be it further enacted, That this Act shall be put in execution, for and during the Term herein-after mentioned, for the Purpose of more effectually improving and keeping in repair the Turnpike Road leading from *Birmingham*, through *Elmdon*, to *Stonebridge* in the said County of *Warwick*.

Trustees.

III. And be it further enacted, That all His Majesty's Justices of the Peace for the Time being acting for the Counties of *Warwick* and *Worcester* respectively, together with *John Arnold*, *Anderson Ashmore*, *Anderson Ashmore* the younger, *William Ashmore*, *Matthias Attwood*, *George Attwood*, *Thomas Attwood*, *Roger Auster*, *Edward Barber*, *John Blount*, *Thomas Bower*, *Thomas Chattock*, *William Francis*, *Samuel Tertius Galton*, *Kelynge Greenway*, *Benjamin Guest*, *Henry Haden*, *William Haines*, *John Harris*, *William Hoddinot*, *George Hodson* Clerk, *George Holmes*, *Thomas Illidge*, *Clement Ingleby*, *George Jones*, *John Kennedy* Clerk, *Henry Eyres Landor*, *John Towers Lawrence*, *Daniel Ledsam*, *Abraham Spooner Lillingston*, *Edward Lillingston*, *Charles Lillingston*, *Alfred Lillingston*, *James Lloyd*, *Francis Lloyd*, *William Marshall*, *Henry Marshall*, *George*

Marshall, William Henry Osborn, Richard Poole, Humphrey Pountney, Humphrey Pountney Clerk, *John Powell, William Westley Richards, Theophilus Richards, John Rotton, Richard Rotton, Samuel Ryland, John Simcox, John Smallwood, Joseph Smallwood, William Spooner* Clerk, *Benjamin Sutton, Charles Thornley, Samuel Thornley, Samuel Thornley* the younger, *Edward Thornley, Robert Webb, Francis Wedge, John Welchman Whateley*, and their Successors, being duly qualified according to the Directions and Provisions of the several Acts for maintaining Turnpike Roads in *England*, shall be and they are hereby appointed Trustees for improving and keeping in repair the said Road and for carrying this Act into execution.

Power to appoint additional Trustees.

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

Meetings of Trustees.

V. And be it further enacted, That the said Trustees shall meet on the Ninth Day of *October* next after the passing of this Act, or as soon after as conveniently may be, at some convenient House or Place in the Town of *Birmingham*, or upon or near to the said Road, and shall and may then and from Time to Time afterwards adjourn to and meet at such Times, and at such Places in *Birmingham* aforesaid, or upon or near to the said Road, as they shall think proper.

Power to take Tolls.

VI. And be it further enacted, That it shall and may be lawful to and for the said Trustees, or for any Person or Persons under their Authority, to demand and take the Tolls following at the several Turnpike Gates or Side Bars continued, erected, or placed by virtue of this Act in, upon, across, or on or near the Side or Sides of the said Road or any Part thereof; (that is say,)

Tolls.

For every Horse, Mule, or other Beast drawing any Coach, Landau, Berlin, Vis-a-vis, Barouche, Phaeton, Curricle, Calash, Chair, Gig, Whiskey, Cart with Springs, Caravan, Hearse, Litter, or other such Carriage, the Sum of Four-pence Halfpenny:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, or other such Carriage, having Wheels of the Breadth of Nine Inches in the Fellies or Soles thereof, the Sum of Three-pence:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, or other such Carriage, having Wheels of the Breadth of Six Inches and less than Nine Inches in the Fellies or Soles thereof, the Sum of Four-pence Halfpenny:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, or other such Carriage, having Wheels of less Breadth than

than Six Inches in the Fellies or Soles thereof, the Sum of Six-pence:

For every Timber Carriage or Drag so constructed as that the Distance between the Axletrees shall be more than Nine Feet, and laden otherwise than with a single Piece or Block of Timber or Stone, the Sum of One Shilling over and above the Toll hereinbefore made payable for such Carriage, and the Horses or Beasts of Draught drawing the same:

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

For every Drove of Oxen or other Neat Cattle, the Sum of One Shilling and Eight-pence *per* Score, and so in proportion for any greater or less Number:

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

For every Carriage, of whatever Description and for whatever Purpose used, not drawn by any Horse or other Beast, but impelled or set and kept in Motion by or by means of Steam or Mechanism, the Sum of Three Shillings:

For every Carriage, of whatever Description and for whatever Purpose used, linked or fastened to any other Carriage whatsoever, and drawn by means of its being so linked or fastened, the Sum of Two Shillings:

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

Tolls to be paid but once a Day.

VII. Provided always, and be it further enacted, That if any Person shall have paid the Tolls hereby authorized to be taken for the passing of any Horse, Cattle, Beast, or Carriage through any One of the said Toll Gates or Turnpikes or Side Bars, such Horse, Cattle, Beast, or Carriage shall, upon the Production of a Ticket denoting the Payment thereof on that Day, be permitted to pass Toll-free through the same Toll Gate, Turnpike, or Side Gate, and also through such other Gate or Gates as the Ticket for such Payment shall free, at any Time or Times during the same Day, to be computed from Twelve of the Clock at Night to Twelve of the Clock in the succeeding Night, any thing in this Act contained to the contrary notwithstanding.

Limiting the Number of Tolls to be taken on the whole Line of Road.

VIII. And be it further enacted, That no more than Two full Tolls as herein-before directed shall be demanded or taken of and from any Person or Persons for the same Horses, Cattle, and Beasts passing and repassing through all or any of the Toll Gates, Turnpikes, or Side Bars erected or to be erected across or on the Sides of the said Road, in any One Day, such Day to be computed in manner before mentioned.

IX. Pro-

Half Toll to be taken in certain Cases.

IX. Provided also, and be it further enacted, That for every Horse or other Beast drawing any Waggon, Wain, Cart, or other such like Carriage, laden, which shall have passed on any Day through any Turnpike or Toll Gate to be continued or erected upon the said Road, and which shall again pass through any such Turnpike or Toll Gate on the same Day with a fresh Load, One Half Toll shall be paid for every such subsequent Passage as often as the same shall happen.

One-horse Carts may be weighed.

X. And whereas it frequently happens that Carts drawn by One Horse passing along the said Road carry a greater Weight than is by Law allowed for Carts drawn by Two or more Horses; be it therefore enacted, That all Carts passing along the said Road drawn by One Horse only shall and may be weighed at any Weighing Machine now erected or to be erected on the said Road, and the like additional Toll demanded, received, and recovered for the Overweight thereof as is by Law payable in respect of the Overweight of Carts drawn by Two or more Horses; and all the Powers, Regulations, and Penalties now in force relating to the weighing of Waggons, Carts, and other Carriages drawn by more than One Horse, shall be applicable to Carts passing on the said Road drawn by One Horse only, and to the Drivers, Masters, and Owners thereof.

Horses, &c. drawing different Waggons or Carts to pay each Time of passing.

XI. Provided always, and be it further enacted, That the said Tolls shall be payable at each and every Turnpike, Toll Gate, and Side Gate erected on the said Road, in respect of Horses, Asses, or other Beasts of Draught drawing any Waggon, Wain, Cart, or other such like Carriage, for each Time during the same Day that any such Horse, Ass, or other Beast of Draught shall pass through any of the said Turnpikes, Toll Gates, or Side Bars drawing any other Waggon, Wain, Cart, or such like Carriage than that which such Horse, Ass, or other Beast of Draught was employed in drawing at any former Time during the same Day, and for which Toll shall have been paid.

Stage Coaches and Steam Carriages to pay each Time.

XII. Provided always, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of all Horses or Cattle drawing any Stage Coach or Stage Waggon, Van, Caravan, or other Stage Carriage, and also for and in respect of every Carriage impelled or set and kept in Motion by Steam or Machinery, conveying Passengers or Goods for Payment, Hire, or Reward, for every Time of passing or repassing along or crossing the said Road: Provided nevertheless, that no further or additional Toll shall be payable in respect of Stage Coaches, on account only of the Horses drawing the same having been changed.

Horses drawing Post Chaises to be subject to Toll on every new Hiring.

XIII. Provided also, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of all Horses or other Beasts of Draught let out to Hire and drawing any Post Chaise, Car, or other Carriage travelling for Hire, for every Time

Time of passing or repassing along the said Road, whenever a new Hiring of such Post Chaise, Car, or other Carriage shall have taken place.

Lime, &c. for Manure to be exempt from Toll.

XIV. And be it further enacted, That no Toll shall be demanded or taken at any of the Turnpikes or Toll Gates erected or to be erected on the said Road for any Horse or other Beast drawing any Waggon, Wain, Cart, or other Carriage loaded, or going empty to be loaded, or returning empty from having been loaded with Lime to be solely used for improving or manuring Land; and if any Person shall claim or take the Benefit of such Exemption, not being legally entitled to the same, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, one Half to be paid to the Informer, and the other Half to the Treasurer of the said Road; and in all Cases the Proof of Exemption shall lie upon the Person claiming the same: Provided always, that no Person shall have or be entitled to the said Exemption from Toll for or in respect of any Waggon, Wain, Cart, or other Carriage having Wheels of less Breadth than Four Inches and a Half on the Sole or Bottom of the Fellies thereof.

Power to make proposed Variation of Line.

XV. And be it further enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and empowered, to make and carry the said proposed Variation of the present Turnpike Road in, upon, over, or through any private Lands or Grounds described in the Map or Plan and Book of Reference herein-after mentioned, and to make the same Road of such Width as they shall think proper, not exceeding Forty-five Feet, together with such Footpaths, Causeways, Bridges, Culverts, Fences, Ditches, and Drains as they shall think necessary or expedient.

Plan deposited with Clerk of the Peace to remain there, and be open to Inspection.

XVI. And whereas a Map or Plan describing the Line of the intended Deviation of the said Road, and the Lands through or over which the same is to be made or carried, together with a Book of Reference containing a List of the Names of the Owners and Occupiers of such Lands, has been deposited at the Office of the Clerk of the Peace for the County of *Warwick*; be it therefore further 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 to take Copies or Extracts thereof or therefrom, at their Will and Pleasure, paying the said 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 of the said Map or Plan and Book of Reference; and the said Trustees in making the said Road shall not deviate more than One hundred Yards from the Line described in the said Map or Plan, without the Consent in Writing of the Person or Persons, Bodies Politic, Corporate, or Collegiate, through whose Lands such Deviation shall be made.

Limiting Deviation from Plan.

XVII. Pro-

Misnomers not to prevent the Execution of the Act.

XVII. Provided always, and be it further enacted, That if any of the Lands, Houses, Buildings, and other Premises to be taken and used for the Purposes of this Act shall happen not to be described in the said Map or Plan and Book of Reference, or any of the Owners and Occupiers of the same, or any of the Lands, Houses, Buildings, or other Premises, described in the said Map or Plan and Book of Reference, or any Part thereof, shall happen to be omitted, misnamed, or inaccurately described, such Omission, Misnomer, or inaccurate Description shall not prevent or retard the Execution of this Act, but the several Lands, Houses, Buildings, and other Premises, and every Part thereof, shall and may be taken and used for the Purposes of this Act as fully and effectually as if the same had been accurately described in the said Map or Plan and Book of Reference, and as if the Owners and Occupiers of the same had not been omitted or were properly and accurately named, provided it shall appear to any Two or more Justices of the Peace for the said County of *Warwick*, and be certified by Writing under their Hands, that such Omission, Misnomer, or inaccurate Description proceeded from Mistake, or that the real Owners or Occupiers of such Lands, Houses, Buildings, or other Premises had notice that the same would be wanted for the Purposes of this Act.

Trustees restrained from pulling down Dwelling-Houses, &c., except such as are mentioned in the Schedule, without the Consent of the Owners.

XVIII. Provided always, and be it further enacted, That the Powers and Authorities given by this Act shall not extend or be construed to extend to empower or authorize the said Trustees to take or pull down, injure or damage, any Dwelling House or other Building, or to take in or make use of any Curtilage, Orchard, Garden, Yard, Park, Paddock, Lawn, Shrubbery, planted Walk, or Avenue to a House, or any inclosed Ground planted or set apart as a Nursery for Trees, or any Part thereof respectively, other than and except such as are specified in the Schedule hereunto annexed, without the Consent in Writing of the Owner or Proprietor thereof or other Person interested therein first had and obtained.

Limiting the Period of purchasing Property.

XIX. Provided always, and be it further enacted, That if the said Trustees shall not, within the Space of Five Years after the passing of this Act, agree for or cause to be purchased and paid for the Buildings, Lands, Tenements, and Hereditaments mentioned in the Schedule to this Act annexed, then and from thenceforth the Powers by this Act granted to them for such Purpose shall cease, determine, and be utterly void and of no effect, save and except with the Consent of the Owners and Occupiers of such Buildings, Lands, Tenements, and Hereditaments, any thing herein contained to the contrary in anywise notwithstanding.

Part of old Road discontinued on Completion of new Line.

XX. And be it further enacted, That from and after the said Line of Deviation shall be completed and opened, that Part of the said former Road leading towards *Birmingham* which lies between the Point of such Deviation near to *Smallheath* aforesaid and the Place where the same joins the present Road again near *Sandy Lane* shall be discontinued

tinued as Turnpike and be no longer repaired under the Authority of this Act.

Application of Tolls and other Monies.

XXI. And be it further enacted, That out of the Tolls and other Monies which shall be raised or received by virtue of this Act, the said Trustees shall, in the first place, pay and discharge all the Expences and Costs relative to the procuring and passing of this Act; and the Remainder of such Monies shall from Time to Time be applied in erecting Toll Houses, Toll Bars, Side Gates, Side Bars, and Weighing Machines, and in making, amending, altering, and improving the said Road and keeping the same in repair, and in defraying all the Charges and Expences of carrying this Act into execution, and in repaying the Principal Monies by this Act charged or to be borrowed, and the Interest due or to grow due thereon.

No Money to be expended in repairing Streets.

XXII. Provided always, and be it further enacted, That no Part of the Money arising or to be received by virtue of the said recited Acts hereby repealed, or of this Act, shall be laid out in repairing, improving, or maintaining any Streets in any Part of the Hamlets of *Deretend* or *Bordesley* near to the Town of *Birmingham*, any thing herein contained to the contrary notwithstanding.

Railroads to be carried either by means of Tunnels under or Archways over the Road.

XXIII. And be it further enacted, That it shall not be lawful for any Person or Persons, unless authorized by Act of Parliament, to make any Railroad or Railroads to cross or pass over the Surface of the said Road or any Part thereof; but such Railroad or Railroads shall be made and carried either under the said Road by means of a Tunnel or Archway or Tunnels or Archways, at such Depth from the Surface of the said Road as will not disturb or injure the same, or over the said Road by means of an Archway or Archways of the same Span as the Width of the said Road, and of the Height of Twenty Feet at least from the Surface thereof; and all such Tunnels or Archways shall be respectively made and done under the Superintendence and Direction of the Surveyor of the said Road; and in case any Railroad or Railroads shall be made or be begun to be made to cross or pass over the said Road, or any Part thereof, contrary to the Provisions of this Act, such Railroad or Railroads is and are hereby declared to be and shall be deemed an Encroachment or Encroachments, and may be removed by the Trustees of the said Road or their Surveyor in such and the same Manner as any other Encroachments on any Turnpike Road may by the Laws for the Time being in force for regulating Turnpike Roads be removed; and the Expences of removing such Railroad or Railroads, and repairing any Injury caused thereby, shall be borne and paid by the Proprietor or Proprietors thereof; and the Proprietor or Proprietors of such Railroad or Railroads shall also forfeit and pay any Sum not exceeding Five Pounds for each and every Day during which the said Railroad or Railroads shall be made or be begun to be made and continue contrary to the Provisions of this Act; which said Expences and Penalties shall be levied and recovered and applied in

such and the same Manner as any Penalty or Forfeiture for any Offence on any Turnpike Road may by any Law or Statute relating to Turnpike Roads be levied, recovered, and applied.

Public Act.

XXIV. And be it further enacted, That this Act shall be deemed and taken to be Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others, without being specially pleaded.

Commencement and Continuance of this Act.

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

The SCHEDULE to which this Act refers.

No. on Plan.	Description.	Owners.	Occupiers.
1	Part of Garden -	Representatives of Thomas Colmore; Stephen Yates, Lessee -	Joseph Fulford.
2	Part of Garden -	John Smith and Elizabeth his Wife, and Representatives of Thomas Colmore -	John Smith.
3, 4, 5, 6, 7, 8, 9, - -	Open Lands used as Gardens -	Representatives of Thomas Colmore; Stephen Yates, Lessee -	Edward Ward, John Smith, Samuel Webb, William Long, Robert Lees, Ralph Wood, Charles Underwood.
13, 14, 15, 16, 17, 18, 19, -	Garden Ground -	Ditto - - - - -	William Dark, John Redhead, Stephen Leadam, William Ryley, Henry Parker, Charles Heath, Joseph Mincham.
20	Cottage and Garden	Ditto - - - - -	William Dark, John Redhead.
21	Ditto - - - -	James Taylor Esquire; Stephen Yates, Lessee	Sarah Hyatt, William Dark.
22	Ditto - - - - -	Ditto - - - - -	Void.
23	Nursery Ground -	Ditto - - - - -	Stephen Yates.
24	Garden - - - -	Ditto - - - - -	William Power.
25	Part of Garden -	James Taylor Esquire -	Thomas Thomas.
26	Part of Yard - -	Ditto - - - - -	William Price.

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