ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. xix.

An Act to alter and amend the Powers and Provisions of an Act relating to the *Lower King's Ferry* Roads in the Counties of *Flint* and *Chester*, and for making a new Road to communicate therewith; and for other Purposes relating thereto.

[9th *May* 1838.]

WHEREAS an Act was passed in the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for improving and keeping in repair certain* 5 & 6 W. 4.
Roads in the Counties of Flint *and* Chester, *and for the better* c. 88.
maintaining the Ferry over the River Dee *called* the Lower King's Ferry *in the County of* Flint: And whereas it would be of public Advantage if a new Line of Road were made to connect the present Turnpike Road leading from the *King's Ferry* aforesaid to *Woodbank* with the present Turnpike Road leading from *Chester* to *Liverpool*, all in the said County of *Chester*: And whereas it may be expedient, when the said new Line of Road shall be completed and open for the Passage for the Public, that so much of the said Road comprised in the said recited Act as lies between the Boundary ofthe River *Dee* Company's Marsh Land and the ancient Lands of *Henry Brereton Trelawney* Esquire in the Township of *Great Saughall*, and the Termination of it adjoining the Turnpike Road leading from *Chester*

to *Parkgate*, and being wholly in the several Parishes, Townships, Hamlets, or Places of *Great Saughall*, *Shotwick Park* or *Woodbank*, and *Shotwick*, all in the said County of *Chester*, should be discontinued as Turnpike, and that the Trustees acting in the Execution of the said recited Act and of this Act should thenceforth be discharged from the future Care, Repair, and Management of such Part of the said Road as shall be so discontinued: And whereas it is also expedient that some of the Powers and Provisions of the said recited Act should be altered, extended, and enlarged; but inasmuch as the several Objects aforesaid cannot be effected without the Aid and 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 Parliament assembled, and by the Authority of the same, That the said recited Act, and all and every the Powers and Provisions therein contained, (save and except such of them as are by this Act varied, altered, or repealed,) shall extend, and be construed, deemed, and taken to extend to this Act, in as full and ample a Manner to all Intents and Purposes as if the same were repeated and re-enacted in this Act.

Powers of recited Act extended to this Act.

Power to make new Road.

II. And be it further enacted, That it shall be lawful for the Trustees acting in the Execution of the said recited Act and of this Act to make and maintain the new Line of Road herein-after described; that is to say, to commence from and out of the present Turnpike Road leading from the *King's Ferry* aforesaid to *Woodbank* at or near the End of the Embankment of the River *Dee* Company, and near the Boundary between the said Company's Marsh Land there and the ancient Lands in the Township of *Great Saughall* in the Parish of *Shotwick* in the said County of *Chester*, and thence to pass from, in, through, or into the several Parishes, Townships, and Places of *Shotwick*, *Burton*, *Neston*, *Eastham*, *Great Saughall*, *Rough Shotwick* or *Woodbank*, *Shotwick*, *Puddington*, *Ledsham*, *Little Sutton*, *Childer*, *Thornton*, and *Eastham*, and to terminate in the present Turnpike Road leading from *Chester* to *Liverpool* at or near the *Hooton* Turnpike Gate on the said last-mentioned Road, in the Township of *Eastham*, all in the said County of *Chester*; and it shall be lawful for the said Trustees to make and maintain the said Road of such Width as they shall think proper, not exceeding Fifty Feet, together with such Footpaths, Causeways, Embankments, Foundations, Piers, Abutments, Bridges, Arches, Culverts, Ditches, Drains, Fences, and other Works on the Line of the said Road as they shall consider expedient, and for the Purposes aforesaid (subject nevertheless to the several Provisions and Restrictions in the said recited Act and this Act, and in the various Acts for regulating Turnpike Roads in *England*, contained,) to take and use any Lands, making or tendering Satisfaction to the Owners thereof and any Persons interested therein for the same, or for the Damage they may sustain by the Execution of the Powers of this Act; and it shall also be lawful for the said Trustees, and for their Surveyors and Workmen, from Time to Time to enter upon any Lands in, over, or through which such Road, and the several Works connected therewith, herein-before mentioned, or any of them, are intended to be made or to pass, and also upon, in, over, or through any

any adjoining Lands, and to stake out the same, in such Manner as the said Trustees shall think expedient, without being deemed Trespassers, and without being subject to any Penalty or Punishment for entering or continuing upon such Lands for any of the Purposes of this Act.

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

III. And whereas a Map or Plan describing the said intended new Line of Road, and the Lands upon, in, over, or through which the same is intended to be 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, has been deposited in the Office of the Clerk of the Peace for the said County of *Chester;* 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 the same, and to take or have Copies thereof or Extracts therefrom, paying to 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; and the said Map or Plan and Book of Reference, or any Copy thereof respectively, or any Part thereof respectively, certified by the said Clerk of the Peace for the Time being to be a true Copy thereof, shall be good Evidence in all Courts of Law and elsewhere.

Trustees empowered to deviate from the Plan to an Extent not exceeding One hundred Yards.

IV. And be it further enacted, That the said Trustees in making the said Road shall have full Power and Authority to deviate from the Line delineated upon the Map or Plan so deposited with the Clerk of the Peace as herein-before mentioned: Provided always, that no such Deviation shall extend to a greater Distance than One hundred Yards from the Line so delineated upon the said Map or Plan, without the Consent in Writing of the Party or Parties through whose Lands any such Deviation beyond the said Distance of One hundred Yards shall be proposed to be made.

Dwelling Houses not to be taken without Consent.

V. Provided always, and be it further enacted, That the Powers and Authorities by this Act granted for making the said new Road shall not authorize the said Trustees to pull down, or to take, use, or injure, any Orchard, Garden, Yard, Park, Paddock, Lawn, Shrubbery, Plantation, planted Walk or Avenue to a House, or any inclosed Ground planted and set apart as a Nursery for Trees, or any Part thereof, (except such as are mentioned in the Schedule to this Act annexed,) without the Consent in Writing of the Owners and Proprietors thereof, or other Persons interested therein, first obtained.

Unintentional Errors not to prevent the Execution of the Act.

VI. Provided also, and be it further enacted, That it shall be lawful for the said Trustees to make the said new Road and other Works aforesaid in the Line and Course and upon, in, over, or through the Lands delineated upon such Map or Plan, although such Line or Course, or such Lands or any of them, or the Situation thereof respectively, or the Names of the Owners, Lessees, or Occupiers thereof respectively, may happen to be omitted, mis-stated, or erroneously described in this Act or in the Schedule hereto, or in the said Map or Plan or in the Book of Reference thereto, provided it shall appear to any

any Two or more Justices of the Peace for the said County of *Chester*, and be certified by Writing under their Hands, that such Omission, Mis-statement, or erroneous Description proceeded from Mistake; and the Certificate of the said Justices shall be deposited with and remain in the Custody of the said Clerk of the Peace for the Time being.

Limiting the Period for purchasing Property.

VII. And be it further enacted, That if the said Trustees shall not, within the Space of Three Years after the Commencement of this Act, agree for or cause to be valued and paid for the Lands which they are by this Act authorized to take, then and from thenceforth the Powers by this Act or by any other Act granted in relation to the taking of Lands for the Purposes of Turnpike Roads shall (so far as relates to the Lands herein-before authorized to be taken for the Purposes of this Act) cease and be utterly void, unless with the Consent of the Owners and Occupiers of such Lands respectively, any thing in this Act or in any such Act as aforesaid contained to the contrary thereof notwithstanding.

The Freehold and Inheritance of Lands to remain and be vested in the Persons from whom they are purchased.

VIII. And be it further enacted, That in case any Lands shall be purchased by the said Trustees for the Purposes of this Act the Freehold and Inheritance of and in the Lands so purchased, in case the same shall be of Freehold Tenure, or in case the same shall be of any other Tenure the Estate and Interest, shall not (notwithstanding any Provisions in any of the Acts in force for regulating Turnpike Roads in *England*) by means of any such Purchase, or any Assurance or Conveyance made in pursuance thereof, be vested in the said Trustees, but that the Freehold and Inheritance of and in the Lands so purchased, in case the same shall be of Freehold Tenure, and in case such Lands shall be of any other Tenure the Estate and Interest in such Lands, 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; and the said Trustees shall by means of such Purchase and Conveyance or Assurance, or any of them, be entitled to a perpetual Right of Way in, over, or upon the Lands so purchased by them.

The Right of Way to cease when Lands are not wanted.

IX. Provided always, and be it further enacted, That if at any Time any Land purchased by the said Trustees under the Authority of this Act for the Purposes of the said new Road shall not be wanted for the same, then and in any such Case the Right of Way in, over, or upon the said Lands 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 Land in case the same shall be of any other Tenure, shall be and remain in the Person or Persons then entitled to the same, freed and discharged of and from such Right of Way.

Trustees to have the same Power of cutting and digging as if

X. Provided also, and be it further enacted, That the said Trustees shall have such and the same Powers and Authority of cutting and digging the Lands taken by them for the Purposes of this Act, and also of erecting any Toll House or other Building, or of building any

Bridge thereon, as fully and effectually to all Intents and Purposes as the said Trustees would have had in case they had purchased the Fee Simple or the whole Estate and Interest of the said Lands.

they had purchased the Fee Simple of the Lands.

XI. And be it further enacted, That after the new Line of Road by this Act authorized shall have been made and completed, and shall have been rendered fit for the Passage of Horses, Cattle, and Carriages, it shall be lawful for the said Trustees and they are hereby required to abandon and give up so much of the Road comprised in the said recited Act as lies between the Boundary of the River *Dee* Company's Marsh Land and the ancient Lands of *Henry Brereton Trelawney* Esquire in the Township of *Great Saughall*, and the Termination of it adjoining the Turnpike Road leading from *Chester* to *Parkgate*, and being wholly in the several Parishes, Townships, Hamlets, or Places of *Great Saughall*, *Shotwick Park* or *Woodbank*, and *Shotwick*, all in the said County of *Chester*; and when and so soon as such last-mentioned Portion of Road shall have been abandoned the said Trustees shall not thereafter be liable to maintain and keep in repair the same or any Part thereof.

When new Road completed, Part of existing Road may be abandoned.

XII. And be it further enacted, That the Monies to be raised upon or in respect of the new Line of Road by this Act authorized to be made shall be applied in the Manner following; (that is to say,) in the first place, in paying and discharging all the Costs and Expences of preparing, applying for, and obtaining this Act or in any way incident thereto, together with Interest on any Money which may have been borrowed for those Purposes; in the next place, in making and in maintaining and keeping in repair from Time to Time the new Line of Road by this Act authorized to be made; in the next place, in paying and discharging all Interest which may from Time to Time become due on the Money which may be advanced for the Purposes of making the said intended Road; and lastly, in paying and discharging the Principal Money which may have been advanced for such last-mentioned Purpose.

Application of Money to be raised upon new Road.

XIII. And be it further enacted, That the said Trustees shall and they are hereby required to take sufficient Security from every Person who shall be appointed Treasurer, and from every Person who shall be appointed to collect or receive or who shall have the Custody or Control of any Money belonging to the said Trustees, for the due Execution of his Office, before he shall enter thereupon.

Treasurer and Collector to give Security.

XIV. And be it further enacted, That the several and respective Persons who have subscribed or who shall hereafter subscribe for or agree to advance any Money for or towards the making or maintaining the said intended new Road shall and they are hereby required to pay the Sum or Sums of Money so subscribed within such Time or Times, and in such Parts and Proportions, and to such Person or Persons as shall be expressed in the Writing which has been or shall be subscribed by them or on their Behalf, or as the said Trustees shall, by any Writing under their Hands, order and direct; and in case any Person or Persons shall neglect or refuse to pay the same or any Part thereof as aforesaid it shall be lawful for the said Trustees to sue

To compel Payment of Subscriptions.

for and recover the same, together with full Costs of Suit, in any of Her Majesty's Courts of Record, by Action of Debt or on the Case, or by Bill, Plaint, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, nor more than One Imparlance, shall be allowed.

Public Act. XV. 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.

Term of Act. XVI. And be it further enacted, That this Act shall continue and be in force, from and after the passing thereof, for and during the Term and Continuance of the said recited Act.

The

The SCHEDULE to which the foregoing Act refers.

No on Plan.	Owners.	Lessees.	Occupiers.	Description.
	PARISH OF SHOTWICK.			
	Township of Great Saughall.			
1 a.	Harry B. Trelawney, Esq.	- - -	Harry B. Trelawney, Esq.	Plantation.
	Township of Rough Shotwick or Woodbank.			
9	Edward French, Esq. -	- - -	Mr John Phillips -	Dwelling House, Stable, Barn, Shippon, Yards, and Orchard.
	Township of Shotwick.			
16	Samuel Nevitt Bennett, Esq.	- - -	Samuel Nevitt Bennett, Esq.	Plantation.
25	Ditto - -	- - -	Ditto - -	Ditto.
27	Ditto - -	- - -	Ditto - -	Ditto.
39	Ditto - -	- - -	Ditto - -	Ditto.
	PARISH OF BURTON.			
	Township of Puddington.			
53	Sir Thomas S. M. Stanley, Bart.	- - -	Mr. Thomas Hancock -	Building (Shippon).
54	Ditto - -	- - -	Ditto - -	Dwelling House, Stable, Barn, Shippon, Yard, and Gardens.
	PARISH OF NESTON.			
	Township of Ledsham.			
60	Sir Thomas S. M. Stanley, Bart.	- - -	Sir Thomas S. M. Stanley, Bart.	Plantation.
	PARISH OF EASTHAM.			
	Township of Little Sutton.			
93	Joseph White, Esq. -	- - -	Joseph White, Esq. -	Plantation.
94	Ditto - -	- - -	Ditto - -	Ditto.
96	Ditto - -	- - -	Ditto - -	Ditto.
98	Ditto - -	- - -	Ditto - -	Ditto.
100	Ditto - -	- - -	Ditto - -	Ditto.
103	Ditto - -	- - -	Ditto - -	Ditto.

LONDON : Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1838.