ANNO QUINTO

GULIELMI IV. REGIS.

****

Cap. xxviii.

An Act for making Turnpike certain Highways between the Towns of *Nantwich* and *Congleton* in the County Palatine of *Chester*.

[12th *June* 1835.]

WHEREAS the present Highway leading from the End of *Beam Street* in the Town of *Nantwich* to the Town of *Middlewich*, and also the present Highway leading from the End of *Beam Heath* in *Nantwich* aforesaid, through *Church Minshull*, into the said first-mentioned Road in the Township of *Minshull Vernon*, and also the Highway called *Sutton Hollows*, leading out of the said first-mentioned Highway to *Middlewich* aforesaid, and also the Highway commencing at the End of the Town of *Middlewich* aforesaid, and leading from thence to the Town of *Congleton*, all in the County Palatine of *Chester*, are much out of repair and in need of Improvement, and it would be of great Advantage to the Inhabitants of the Towns of *Nantwich*, *Middlewich*, and *Congleton* aforesaid, and of the several Parishes, Townships, or Places through which the said Highways pass, and to the Public in general, if the same were repaired and improved and converted into Turnpike Roads: And whereas the beneficial Purposes herein-before mentioned 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 King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in Parliament assem-

Object and Powers of this Act defined.

bled, and by the Authority of the same, That this Act shall be put in execution for and during the Term herein-after mentioned for the Purpose of making Turnpike, and improving, repairing, and maintaining in repair, the present Highway, commencing at or near the End of a certain Street called *Beam Street*, in the Town of *Nantwich* in the Township and Parish of *Nantwich*, thence passing through or into the several Townships of *Nantwich* and *Alvaston* in the said Parish of *Nantwich*, the Township and Parish of *Wistaston*, the Townships of *Woolstanwood* and *Leighton*, in the said Parish of *Nantwich*, the Townships of *Minshull Vernon*, *Wymboldsley*, and *Occlestone* in the Parish of *Middlewich*, the Township of *Stanthorne* in the Parish of *Davenham*, and the Townships of *Newton* and *Middlewich* in the said Parish of *Middlewich*, and ending at the Town of *Middlewich;* and also the Highway commencing at the End of *Beam Heath* in the Township and Parish of *Nantwich* aforesaid, and leading from thence through or into the said Township and Parish of *Nantwich*, the Townships of *Worleston* and *Aston-juxta-Mondrum* in the Parish of *Acton*, the Township and Parish of *Church Minshull*, and the Township of *Minshull Vernon* in the Parish of *Middlewich*, where it again joins the said first-mentioned Highway; and also the Highway or Road called *Sutton Hollows*, commencing at a Lane End in the Township of *Occlestone* aforesaid, and leading from thence through or into the several Townships of *Occlestone*, *Sutton*, and *Newton* in the Parish of *Middlewich* aforesaid, and terminating at or near a certain Street called *Lewin Street*, in the Town of *Middlewich;* and also for the Purpose of making Turnpike, and of improving, repairing, and maintaining in repair, the Highway commencing at the End of the Town of *Middlewich* aforesaid, and from thence passing through or into the several Townships of *Kinderton-cum-Hulme* and *Sproston* in the said Parish of *Middlewich*, the Townships of *Cotton* and *Church Hulme* otherwise called *Holmes Chapel*, in the Parish of *Sandbach*, the Township of *Brereton* otherwise *Brereton-cum-Smethwick* in the Parish of *Brereton*, and the Townships of *Davenport*, *Somerford-cum-Radnor*, and *Congleton* in the Parish of *Astbury;* and terminating at the Side of the *Wilmslow* and *Lawton* Turnpike Road in the said Township of *Congleton* and Parish of *Astbury;* all the said several Townships, Parishes, or Places being within the County Palatine of *Chester;* and which Roads shall henceforth be called "The *Nantwich* and *Congleton* Roads."

Trustees.

II. And be it further enacted, That all His Majesty's Justices of the Peace for the said County Palatine of *Chester*, together with Sir *Edmund Antrobus* Baronet, *Gibbs Crawfurd Antrobus*, *Lawrence Armitstead*, *John Armitstead* Clerk, *George Ackers*, *Arthur Harvey Aston*, *John Bateman*, *James Bateman*, *Thomas Braband*, *Henry Brooke*, *Thomas Brooke* Clerk, *William Theophilus Buchanan*, *William Bull*, the Honourable *Wellington Cotton*, the Honourable *Hungerford Crewe*, *George Cappur*, *Ralph Cappur*, *Thomas Chaddock*, *William Chaddock*, *William Cotton* Clerk, *William Court*, *William Court* the younger, *Willoughby Crewe* Clerk, *John Darcey* Clerk, *William Eccles*, *Thomas Faulkner*, *James France France*, *John Galley*, *Thomas Garside*, *Richard Henry Gretton* Clerk, *James Walthall Hammond*, *John Hoskin Harper*, *Philip Hall*, *Thomas Hall*, *Wilmot Horton*, *Thomas Hodges* Clerk, *Charles Bishope Hodges* Clerk, *Richard Jackson*, *John Johnson*, *Joseph Johnson*, *Edward Jeremiah Lloyd*, *Edward Lloyd*, *William Lowndes*, *Charles Mare*, *William Massey*, *Robert Mayer* Clerk, *Christopher Moorhouse*, *Thomas Naylor*, *James Pattison*, *Charles Pedley*, *Domville Halstead Poole*,

Poole, George Reade, William Smith Reade, John Fielder Reade, John Richardson, Charles Peter Shakerley, Geoffrey Joseph Shakerley, George Sidebotham, Joseph Sidebotham, Clement Swetenham, Clement Swetenham the younger, *Thomas John Wybault Swettenham, Thomas Tipping, John Richard Delap Tollemache, James Tomkinson* Clerk, *Henry Tomkinson* Clerk, *Henry James Tomkinson, Crondson Tunstall, Thomas Vaudrey, Daniel Vaudrey, Charles Wickstead, Randle Wilbraham, Randle Wilbraham* the younger, *Edward Wilson* Clerk, *Isaac Wood* Clerk, and their Successors, being duly qualified according to the Provisions and Directions of the several Acts for regulating Turnpike Roads in *England*, shall be and they are hereby declared to be Trustees for carrying this Act into execution.

Power to appoint additional Trustees.

III. And be it further enacted, That it shall be lawful for the said Trustees at any of their Meetings to elect and appoint any Number of Persons, not exceeding Three in the whole, to be Trustees for the Purposes of this Act in addition to the Trustees herein named; and such additional Trustees so elected, and being duly qualified, shall have the like Powers and Authorities for executing this Act as if they had been herein named.

First Meeting of the Trustees.

IV. And be it further enacted, That the Trustees for executing this Act shall hold their First Meeting at the *King's Arms* Inn in the Township of *Middlewich* aforesaid, or at some other convenient Place in the Neighbourhood of the said Roads, on the Fourth *Monday* next after the passing of this Act, or so soon afterwards as conveniently may be, between the Hours of Ten of the Clock in the Forenoon and Two of the Clock in the Afternoon; and the said Trustees shall then, and from Time to Time afterwards, adjourn to and meet at such Times and Places near to or in the Neighbourhood of the said Roads as the Majority of them present at such respective Meetings shall think proper and appoint.

Plan and Book of Reference to remain with the Clerk of the Peace.

V. And whereas a Plan describing the Lines of the said Highways, together with a Book of Reference thereto, has been deposited at the Office of the Clerk of the Peace for the said County Palatine of *Chester*; be it therefore further enacted, That the said 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 Copies or Extracts thereof respectively, 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 Trustees, in making Turnpike and improving such Highways, shall not deviate from the Line of the said Highways as described in the said Plan without the Consent in Writing of the Party upon, in, over, or through whose Lands such Deviation shall be proposed to be made.

No Deviation to be made from present Line of Road.

Power to erect Toll Gates, &c

VI. And be it further enacted, That it shall be lawful for the said Trustees to erect or build upon the said Roads, or upon any Part thereof, or upon the Sides thereof respectively, when and where and as they shall think proper, any Toll Houses, Toll Gates, or Toll Bars, and Weighing Machines, with suitable Outhouses and other Conveniences thereto, and to take in and inclose such suitable Garden Plots for such Toll Houses (not exceeding One Eighth Part of a Statute Acre to each Toll House) as

as they respectively shall think proper, and from Time to Time to alter or to take down, and to re-erect or re-construct, or to discontinue and remove the same or any of them, as they the said Trustees shall think fit.

Tolls.

VII. And be it further enacted, That the following Tolls shall be taken by virtue of this Act upon the said Road from *Nantwich* to *Middlewich*, the said Road through *Church Minshull*, and the said Road called *Sutton Hollows;* (that is to say,)

For every Horse, Ass, Mule, or other Beast drawing any Coach, Stage Coach, Chaise, Chariot, Landau, Sociable, Curricle, Calash, Hearse, Chaise, Phaeton, Whiskey, Gig, or Chair, or other such like Carriage, the Sum of Sixpence:

For every Horse, Ass, Mule, or other Beast drawing any Waggon, Wain, Dray, Cart, Caravan, Tumbril, Drag, Bone Mill, Thrashing Machine, or other such like Carriage, having the Sole or Bottom of the Fellies of the Wheels thereof of the Breadth of Six Inches or upwards, the Sum of Three-pence; and in case the Fellies of the Wheels thereof shall be of less Breadth than Six Inches and not of less Breadth than Four Inches and a Half, the Sum of Four-pence Halfpenny; and in case the Fellies of the Wheels thereof shall be of less Breadth than Four Inches and a Half, the Sum of Sixpence:

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

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

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

For every Carriage moved or propelled by Steam or Machinery, or by any other Power than Animal Power, the Sum of One Shilling for every Wheel thereof:

And upon the said Road from *Middlewich* to *Congleton* aforesaid the following Tolls shall be taken; that is to say,

For every Horse, Ass, Mule, or other Beast drawing any Coach, Stage Coach, Chaise, Chariot, Landau, Sociable, Curricle, Calash, Hearse, Chaise, Phaeton, Whiskey, Gig, or Chair, or other such like Carriage, the Sum of Three-pence:

For every Horse, Ass, Mule, or other Beast drawing any Waggon, Wain, Dray, Cart, Caravan, Tumbril, Drag, Bone Mill, Thrashing Machine, or other such like Carriage, having the Sole or Bottom of the Fellies of the Wheels thereof of the Breadth of Six Inches or upwards, the Sum of One Penny Halfpenny; and in case the Fellies of the Wheels thereof shall be of less Breadth than Six Inches and not of less Breadth than Four Inches and a Half, the Sum of Two-pence Halfpenny; and in case the Fellies of the Wheels thereof shall be of less Breadth than Four Inches and a Half, the Sum of Three-pence:

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

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

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

For

For every Carriage moved or propelled by Steam or Machinery, or by any other Power than Animal Power, the Sum of One Shilling for every Wheel thereof.

Fractional Part of a Halfpenny in Tolls.

VIII. And be it further enacted, That in all Cases where there shall be a fractional Part of a Halfpenny in the Amount of any of the Tolls by this Act authorized to be taken, the Sum of One Halfpenny shall be demanded and taken in lieu of such fractional Part.

Limiting the Number of Tolls for passing and repassing through all the Gates on the Road.

IX. Provided always, and be it further enacted, That no more than One full Toll shall be taken for or in respect of the same Horse, Beast, Cattle, or Carriage for passing and repassing once in the course of the same Day through all or any of the Toll Gates or Toll Bars upon all or any of the said Roads between *Nantwich* and *Middlewich*, nor more than Two full Tolls between *Middlewich* and *Congleton* aforesaid, except as herein-after mentioned.

Tolls to be paid on repassing in certain Cases.

X. Provided nevertheless, and be it further enacted, That if any Horse, Beast, or Cattle, for which Toll shall have been paid for passing through any of the said Toll Gates or Toll Bars, shall return drawing another or a different Cart or other such like Carriage, such Horse, Beast, or Cattle shall not be permitted to repass through such Toll Gate or Toll Bar without Toll being again paid for such Horse, Beast, or Cattle, if in so repassing such Horse, Beast, or Cattle shall travel upon such Roads for the Distance of Two Miles or more.

Horses drawing Stage Carriages, &c. to be subject to Toll on each Time of passing.

XI. Provided also, and be it further enacted, That the Tolls by this Act granted shall be paid for and in respect of Horses, Beasts, or Cattle drawing Stage Carriages, of whatever Description, conveying Passengers or Goods for Hire or Reward, for each Time of the passing and for each Time of the repassing of such Carriage: Provided nevertheless, that no further or additional Toll shall be payable in respect of such Carriage on account only of the Horses, Beasts, or Cattle drawing the same having been changed.

Horses, &c. let out to Hire to be subject to Toll on every new Hiring.

XII. Provided also, and be it further enacted, That the Tolls by this Act granted shall be paid for and in respect of Horses, Beasts, or Cattle let out for Hire, whether for riding, or for drawing Post Chaises or other Carriages, and passing upon the said Roads, upon each Occasion of a new and distinct Hiring of such Horses, Beasts, or Cattle.

No Money to be laid out on any Road on which there is not a Toll Gate at the Time standing.

XIII. And be it further enacted, That no Money arising by virtue of this Act shall be laid out upon or towards the Repair of any of the several Roads comprised in this Act upon which there shall not be some Toll Gate or Toll Bar at the Time standing, nor shall any more of the Money arising by virtue of this Act be laid out upon any Road, or in the Payment of any Principal Money subscribed for or borrowed on the Credit of the Tolls arising or payable thereon, or of the Interest thereof, than shall be actually raised or received upon or in respect of such Road.

Trustees and Clerk competent Wit-

XIV. And be it further enacted, That no Trustee or Clerk acting under the Authority of this Act shall be deemed incompetent to give Evidence, or

nesses in Actions.

or shall be disqualified from giving Evidence, in any Action or Suit, by reason of his being Plaintiff or Defendant in such Action or Suit.

Application of Tolls, &c.

XV. And be it further enacted, That all Monies already subscribed or advanced for the Purposes of the several aforesaid Roads, or which shall be received under or by virtue of this Act, shall be applied in the Manner following; (that is to say,) in the first place, and in preference to all other Payments whatever, in paying and discharging all Costs, Charges, and Expences which shall have been incurred in preparing, applying for, and obtaining this Act, or otherwise incident thereto, with lawful Interest for any Money which may have been or which shall be advanced for the Payment thereof, from the Time the same shall have been advanced to the Time of the same being repaid; in the next place, in paying and discharging the Interest of the Monies already subscribed or which may at any Time be subscribed for the Purposes of this Act, or which may be borrowed on the Credit of the Tolls by this Act authorized to be taken; in the next place, in defraying the Expences of making Turnpike, and of improving, repairing, and maintaining in repair, the said Highways, and of otherwise carrying this Act into execution; and lastly, in reducing and discharging any Principal Monies which have been subscribed or may be borrowed on the Credit of the Tolls by this Act granted.

No Priority of Mortgages.

XVI. And be it further enacted, That no Preference shall be given to any Person or to the Assignee of any Person who shall have advanced or who shall hereafter advance any Money upon the Credit of the Tolls by this Act granted, in respect of any of the Roads comprised in this Act, over any of the other Persons who may have advanced or may hereafter advance any Money in respect of such Roads, by reason of the Priority of the Date of the Mortgage or Assignment or other Security for the same, but all such Persons respectively shall (in proportion to the Sums in such Mortgages or Assignments mentioned) be Creditors under this Act in respect of the Road upon which such Sums shall be charged in equal Degree one with another, and without any Preference.

When the Road by Sutton Hollows shall have been completed, Trustees to abandon Part of Road between Nantwich and Middlewich.

XVII. Provided always, and be it further enacted, That when and so soon as the said Highway by *Sutton Hollows* to *Middlewich* shall have been improved and made Turnpike, it shall be lawful for the said Trustees to abandon and give up so much of the present Line of Road leading from *Nantwich* to *Middlewich* aforesaid as lies between the Point where the said Road leading by *Sutton Hollows* diverges from the main Road and the Town of *Middlewich* aforesaid; and that when and so soon as the said 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.

No Money to be expended in repairing Streets.

XVIII. And be it further enacted, That no Money received by virtue of this Act shall be laid out in paving, repairing, or cleansing any Street, Road, or Highway within any Town through which either of the said Roads may pass.

The Freehold and Inheritance of Lands to re

XIX. 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 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 Conveyance made in pursuance thereof, be vested in the said Trustees, but that the Freehold and Inheritance of and in the Lands so purchased shall, notwithstanding such Purchase and Conveyance, 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 either of them, be entitled to a perpetual Right of Way in, over, or upon the Lands so purchased by them.

main and be vested in the Persons of whom they are purchased.

XX. Provided always, and be it further enacted, That if at any Time any Land purchased by the said Trustees for the Purposes of the Roads mentioned in this Act, or any of them, shall not be wanted for the same, then and in such Case the Right of Way in, over, or upon the said Lands vested in the said Trustees shall cease, determine, and be extinguished, and the Freehold and Inheritance of the said Land shall be and remain in the Person or Persons then entitled to the same, freed and discharged of and from such Right of Way.

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

XXI. Provided also, and be it further enacted, That the said Trustees shall have such and the same Power and Authority of cutting and digging the Lands and Hereditaments 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 of the said Lands and Hereditaments.

Trustees to have the same Power of cutting and digging as if they had purchased the Lands.

XXII. And be it further enacted, That where in this Act any Word shall be used importing the Singular Number only, such Word shall be understood to include several Matters as well as one Matter, and several Persons as well as one Person; and any Word importing the Masculine Gender only shall be understood to include Females as well as Males; and the Word "Person" and also the Word "Corporation" shall respectively be understood to include a Body or Bodies Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole, as well as an Individual or Individuals; and the Word "Lands" shall be understood to include Tenements and Hereditaments; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Construction of certain Terms used in the Act.

XXIII. And be it further enacted, That this Act shall commence and take effect from the Third *Monday* next after the passing thereof, and shall continue in force for the Term of Thirty-one Years, and from thence to the End of the Session of Parliament which shall then next follow.

Term of Act.

XXIV. And be it further enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

Public Act.

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