

ANNO DECIMO

GEORGII IV. REGIS.

Cap. xxv.

An Act for more effectually repairing and maintaining the Road from the City of Chester, through Tarvin, to the Township of Delamere, and from Tarvin to Duddon Smithy, all in the County of Chester, with the several Branches thereof.

[13th April 1829.]

HEREAS an Act was passed in the Ninth Year of the Reign of His late Majesty King George the Third, intituled An Act for repealing so much of Two several Acts of Par- 9 G. 3. c. 94. liament made and passed in the Seventeenth and Twenty-eighth Years of the Reign of His late Majesty King George the Second, as relate to the Road from the End of the County of Stafford, in the Post Road towards the City of Chester, through Woore in the County of Salop, to Nantwich in the County of Chester, and from Nantwich to Tarporley, and from thence, through Tarvin in the said County of Chester, to the said City of Chester; and for more effectually repairing, widening, and supporting the same Road; and also for repairing and widening the Road from Northwich in the said County of Chester to the Cross in Tarvin aforesaid: 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 for enlarging the Terms and Powers 28G.3.c. 111. of so much of an Act made in the Ninth Year of the Reign of His present Majesty, intituled 'An Act for repealing so much of Two several Acts [Local.]

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' of Parliament made and passed in the Seventeenth and Twenty-eighth 'Years of the Reign of His late Majesty King George the Second, as ' relate to the Road from the End of the County of Stafford, in the Post ' Road towards the City of Chester, through Woore in the County of ' Salop, to Nantwich in the County of Chester, and from Nantwich to 'Tarporley, and from thence, through Tarvin in the said County of ' Chester, to the said City of Chester; and for more effectually repairing, ' widening, and supporting the same Road; and also for repairing and ' widening the Road from Northwich in the said County of Chester to the Cross in Tarvin aforesaid,' as relates to the Second and Third District of Roads comprised in the said Act of the Ninth Year of the Reign of His present Majesty; and for including the Road from Vicker's Cross to the Turnpike Road leading from Flookersbrook Bridge to Frodsham in the Third District: And whereas another Act was passed in the Forty-ninth Year of the Reign of His said late Majesty 49 G. 3. c. 93. King George the Third, intituled An Act for continuing the Term and enlarging the Powers of Two Acts of His present Majesty, for amending the Road from the End of the County of Stafford to the City of Chester, and from Northwich to Tarvin in the County of Chester, and other Roads in the said Act mentioned, so far as respects the Third District of the said Roads. And whereas the Trustees appointed by the several before-mentioned Acts have proceeded to put the said Acts into execution so far as respects the Third District of the said Roads, and have borrowed considerable Sums of Money upon the Credit of the Tolls arising upon the same District, which still remain due; and the said Roads cannot be effectually amended and kept in repair, nor can the several Sums of Money so borrowed and owing, and the Interest thereof, be paid, unless the Term granted by the said several Acts in respect of the said District be further continued, and the Powers and Provisions altered and enlarged: And whereas it would tend to the Accommodation of the Public at large if Powers were granted to divert a certain Part of the said Road, by making a new Line of Road commencing at a certain Smithy in Kelsall in the said County of Chester, in the Occupation of William Wright, situate on the South Side of the present Road, and extending through the Lands of the said Trustees and of Edward Rushton Esquire, and terminating in a Field in Delamere aforesaid, called the Heater, in the Occupation of George Page, and there rejoining the present Road, and which said Diversion will pass through the Parishes, Townships, or Places of Kelsall and Delamere in the said County of Chester; and also to make a certain other Diversion of the said Road, by making a new Line of Road commencing at a Field called the Wasp, in the Township of Duddon in the said County of Chester, in the Occupation of Alexander Maxwell, and extending to a House in Duddon aforesaid, in the Occupation of Thomas Turner and Samuel Crowfoot, and there joining the present Road, and which said Diversion or Alteration last mentioned will pass through the Parishes, Townships, or Places of Tarvin and Duddon in the said County of Chester; and to abandon or discontinue such Part or Parts of the said Third District of Road as may be rendered unnecessary by the making the said Diversions or either of them: And whereas it is also expedient that Powers should be granted to take down and remove certain Buildings and Gardens for the widening and improving other Parts of the said Road: And whereas it would

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be more convenient that the said Three several herein-before recited Acts of the Ninth, Twenty-eighth, and Forty-ninth Years of the Reign of His late Majesty King George the Third, so far as the same relate to the said Third District of Road, should be repealed, and other and more effectual Powers granted and Provisions made for repairing, widening, and improving the Road within the said District: 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, That upon the Fourth Thursday next after the passing Recited Acts of this Act the said recited Acts of the Ninth, Twenty-eighth, and repealed. Forty-ninth Years of the Reign of His late Majesty King George the Third, so far as the same relate to the Third District of the Roads therein mentioned, shall be and the same are hereby respectively repealed.

II. And be it further enacted, That, instead thereof, this Act shall, This Act to from the said Fourth Thursday next after the passing thereof, commence and take effect and be put in execution for and during the of, Term herein-after mentioned, for the Purpose of more effectually repairing, amending, widening, improving, and keeping in repair the said District of Road heretofore called the Third District, and extending from a House in Boughton in the County of Chester, in the Occupation of Richard Blaise, at the Junction of the Roads leading from the City of Chester to Tarvin in the County of Chester, and to Whitchurch in the County of Salop, and on the Site whereof heretofore stood a certain Barn called Gellion's Barn, to the present Termination thereof at or near the Guide Post on Delamere Forest, and from Duddon Smithy to the Bull's Head in Tarvin, and from the Turnpike Road leading from Flookersbrook Bridge to Frodsham, by a Place called Vicar's Cross, to Rowton Bridge; and for making the aforesaid new Line of Road from the Smithy in Kelsall to a Field called the Heater, in Delamere aforesaid; and also the other new Line of Road from a Field called the Wasp, to a House in Duddon, in the Occupation of Thomas Turner and Samuel Crowfoot; and which said several Roads shall be henceforth called and known by the Name of "The Chester and Tarvin District or Trust."

be executed in lieu there-

III. And be it further enacted, That all His Majesty's Justices of Trustees the Peace for the Time being acting for the County of Chester, nominated, together with the Honourable Richard Grosvenor commonly called Lord Viscount Belgrave, the Honourable Henry Cholmondeley commonly called Lord Henry Cholmondeley, the Honourable Robert Grosvenor, the Honourable Edward Massey, Sir Thomas Mostyn Baronet, Sir Richard Brooke Baronet, Sir Watkin Williams Wynn-Baronet, Sir John Salusbury Piozzi Salusbury Knight, Daniel Ashley, Daniel Ashley junior, William Ainger Doctor in Divinity, George Brooke, Henry Brooke, Roger Barnston, Roger Harry Barnston, Richard Barker, Samuel Brittain, Robert Brittain, William Walker Brittain, Thomas Bagnall, Samuel Nevitt Bennett, Alderman Robert Bowers, Alderman Henry Bowers, Samuel Bennett, Richard Fosbrooke Buckley, Richard Barker, William Buchanan, Sir John Cotgreave Knight,

Knight, Titus Chaloner, Lynch Sydney Cotton, John Clarke Clerk, Hugh Colley, William Currie Doctor of Medicine, William Currie Clerk, Thomas Dixon, James Dixon, Thomas Evans, Thomas Edwards Clerk, John Edwards, Thomas Francis, John Fletcher, John Faulkner, Thomas Fluitt, Thomas Grosvenor, Joseph Grace, George Brydges Granville, Booth Grey, Birkenhead Glegg, Baskervyle Glegg, John Baskervyle Glegg of Withington, Lieutenant Colonel John Baskervyle Glegg, Henry Hesketh, Henry Hesketh the younger, Peter Heron, Hugh Robert Hughes, Peploe William Hamilton, Charles Hamilton, Philip Humberston, Philip Humberston junior, Alderman George Harrison, John Harrison, James Hilton, Sir John Hilton Knight, William Hilton, John Stewart Hughes, Bell Ince, Edward Jones, George Johnson, William Jones of Cholmondeley, John Johnson of Hoole, Henry Kelsall, Alderman John Larden, Thomas Leacroft, Thomas Lowten, John Lightfoot, James Mainwaring Clerk, Charles Mytton Clerk, Thomas Moulson, Alderman Robert Morris, John Finchett Maddock, Thomas Finchett Maddock, William Moss, Richard Massey Clerk, Alderman William Newell, Henry Philipotts Doctor in Divinity, Dean of Chester, Henry Potts, Henry Potts junior, Charles Potts, Giles Haworth Peel Clerk, William Pownall, John Swarbreck Rogers, John Drake Rogers, John Rowe of Hockenhall, Edward Roberts, Edward Rushton, the Reverend Dudley Ryder, James Sedgwick, James Slade, Thomas Sudworth, Joseph Swanwick, Steadman, Thomas Tarleton, Robert Taylor, Richard Tyrwhitt, Joseph Taylor, William Makepeace Thackeray, Robert Topham junior, George Walmsley, John Williamson, Thomas Walker, Francis Wrangham, Thomas Whittle, Edward Ommaney Wrench, Timothy Whitby of Tarvin, Edmund Yates, Jonathan Yates, John Brock Yates, and their Successors, being duly qualified in manner directed by any Act or Acts now in force relating to Turnpike Roads in England, shall be and they are hereby appointed Trustees for carrying into execution this Act.

Power to appoint additional Number of Trustees.

IV. And be it further enacted, That it shall be lawful for the Trustees appointed by this Act, at any Meetings from Time to Time to be held for that Purpose, to elect, nominate, and appoint any Number of fit Persons (not exceeding Three in the whole) to be Trustees for the Purposes of this Act, in addition to the Trustees hereby nominated and appointed.

First Meeting of Trustees. V. And be it further enacted, That the said Trustees shall meet at the Exchange in the City of Chester, or at some convenient House in the City of Chester aforesaid, on the Fourth Thursday after the passing of this Act, or as soon after as conveniently may be, between the Hours of Eleven in the Morning and Three in the Afternoon, and shall then and there proceed to put this Act into execution, and shall and may then and from Time to Time after adjourn to and meet at such Times, and at such Place or Places in the Neighbourhood of the said Road, as they shall think proper.

Power to take Tolls. VI. And be it further enacted, That the respective Tolls following shall (subject to the Provisions, Restrictions, and Exemptions in this Act contained,) be demanded and taken at each and every such Turnpike,

Turnpike, Toll Gate, and Side Gate, Chain or Chains, as is now set up and continued, or shall hereafter be set up, upon, across, and by the Side of the Roads by this Act directed to be made, widened, improved, and kept in repair, by each and every such Person and Persons as the said Trustees shall from Time to Time by virtue of this Act continue or appoint to receive the same, before any Horse, Mule, Ass, Beast, or other Cattle, Coach, Chariot, Chaise, Waggon, Wain, Cart, or other Carriage, shall be permitted to pass through any such Turnpike, Toll Gate, or Side Gate; that is to say,

For every Horse or other Beast drawing any Coach, Stage Coach, Tolls. Landau, Chariot, Curricle, Berlin, Phaeton, Chaise, Calash, Hearse, Gig, Caravan, Chair, or other such like Carriage, with Springs of

any Denomination, any Sum not exceeding Sixpence:

For every Horse or other Beast drawing any Waggon, Wain, Dray, Cart, or other such like Carriage, having the Wheels of the Breadth of Six Inches or more on the Bottom or Soles thereof, any Sum not exceeding Five-pence; and in case the Fellies of the Wheels thereof are of less Breadth than Six Inches, and not less than Four and a Half Inches, any Sum not exceeding Seven-pence Halfpenny; and in case the Fellies of the Wheels thereof are of less Breadth than Four and a Half Inches, any Sum not exceeding Nine-pence:

For every Horse, Mule, or Ass, laden or unladen, and not drawing,

any Sum not exceeding Two-pence:

For every Drove of Oxen, Cows, or Neat Cattle, any Sum not exceeding One Shilling and Three-pence per Score, and so in proportion for any greater or less Number: And

For every Drove of Calves, Sheep, Lambs, or Swine, any Sum not exceeding Ten-pence per Score, and so in proportion for any

greater or less Number:

For every Horse, Mule, or other Beast drawing in any Waggon, Cart, Wain, or other Carriage laden with Timber, or other Trees or

Balk, the Sum of One Shilling, and no more: And

For every Waggon, Wain, Cart, or other such Carriage, having the Nails of the Tire or Tires of the Wheels projecting more than One Quarter of an Inch from the Surface of such Tire or Tires, the Sum of Ten Shillings for each Time of passing through any of the Turnpike Gates on the said Roads; such last-mentioned Toll or Sum to be in lieu of any Penalty or Forfeiture to which the Owner or Driver of any such last-mentioned Waggon, Wain, Cart, or other Carriage would be subject or liable by reason or on account of the Nails of the Tire or Tires of the Wheels thereof projecting more than a Quarter of an Inch above such Tire or Tires:

And an additional Toll not exceeding One Penny for every Horse or other Beast drawing, and an additional Toll not exceeding One Halfpenny upon every Horse, Mule, or Ass, laden or unladen, and not drawing, shall be demanded and paid for watering the said

Roads during such Periods as the said Trustees shall direct.

Which said several Tolls shall commence and be payable at such Time or respective Times as the said Trustees shall at their First or any subsequent Meeting or Meetings think proper and direct; and in the meantime the same and the like Tolls shall be taken and continued [Local.]

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at the several Gates, Bars, and Chains erected and set up in, upon, or across, or on the Sides of the said Roads, or any Part or Parts thereof, as shall be taken at the Time of passing this Act.

Exemptions not allowed to Carriages having the Nails of the Tires projecting more than One Quarter of an Inch.

VII. Provided always, and be it further enacted, That no Exemption from any of the Tolls by this Act granted shall be allowed for or in respect of any Horse or Beast of Draught drawing any Waggon, Cart, or other Carriage laden with any Materials for making or repairing any Highway, or for building or repairing any Bridge, or with any Dung, Soil, Compost, or Manure for improving Lands, or any Ploughs, Harrows, or Implements of Husbandry, or any Hay, Straw, Fodder for Cattle, or Corn in the Straw, Potatoes, or other Agricultural Produce, such Waggon, Cart, or other Carriage having the Nails of the Tire or Tires of the Wheels thereof projecting more than One Quarter of an Inch from the Surface of such Tire or Tires.

Toll only once payable at any Gate.

VIII. And be it further enacted, That in case the Tolls hereby imposed shall have been paid for or in respect of any Horse, Beast, Cattle, or Carriage passing through any of the Turnpikes or Toll Gates erected or to be erected on the said Road, such Horse, Beast, Cattle, or Carriage shall, on a Ticket being produced denoting such Payment, (which Ticket the Collector of such Tolls is hereby required to deliver gratis on the Payment of the Toll,) be permitted to pass and repass Toll-free on the same Day, before Twelve of the Clock at Night, through the same or any other Turnpike or Toll Gate freed by such Payment; provided that no Horse or other Beast of Draught for which Toll shall have been paid at any of the said Turnpikes, Toll Gates, Side Gates, or Chains, drawing another or different Waggon, Wain, Cart, or other such Carriage, or drawing for Payment, Hire, or Reward a fresh or different Lading of the Weight of Two hundred and forty Pounds Avoirdupois in the same Waggon, Wain, Cart, or other such Carriage, shall be permitted to repass through the same Turnpikes, Toll Gates, Side Gates, or Chains, in the same Day, without again paying Toll, if in so repassing such Horse or other Beast of Draught shall go or travel upon the same Road for the Distance of Three Miles.

Stage Coaches, &c. to pay every Time of passing. IX. 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 drawing any Stage Coach or Stage Waggon, Van, Caravan, Cart, or other Stage Carriage, carrying Passengers or Goods for Payment, Hire, or Reward, for every Time of passing or repassing along the said Road.

Post Chaises on every new Hiring. X. 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 for which the Post Horse Duty shall be payable, travelling for Hire, drawing any Post Chaise, or other Carriage, for every Time of passing and repassing along the said Roads on the same Day, as often as a fresh Hiring thereof shall take place.

XI. And

XI. And be it further enacted, That it shall not be lawful to and Limiting the for the said Trustees to take or demand more than Two full Tolls, Number of except as herein-before provided to the contrary, for or in respect of any Horse, Beast, or Cattle passing and repassing on the same Day, to be computed as aforesaid, between the City of Chester and the Termination of the Road in the Township of Delamere, nor more than the Amount of One full Toll between the said City of Chester and Duddon Smithy aforesaid, nor more than One full Toll between the Road leading from Chester to Frodsham, by Vicar's Cross, to Rowton Bridge aforesaid, or between the same City and either Extremity of the said last-mentioned Road.

XII. And be it further enacted, That it shall and may be lawful Power to to and for the said Trustees, for the Purpose of widening and improving the said Roads, to take, use, and lay into the said Road the Houses, Outhouses, Buildings, Gardens, Orchards, Lands, Tenements, Road. or Hereditaments mentioned in the Schedule to this Act annexed, first making Satisfaction to the Owners thereof and Persons interested therein for the same, or for the Damage they may sustain thereby.

take Houses, & c. for widening

XIII. Provided always, and be it further enacted, That if the said Limiting Trustees shall not, within the Space of Five Years after the passing of Period for this Act, agree for, or cause to be valued and purchased, the Lands, Property. Tenements, and Hereditaments mentioned in the Schedule to this Act annexed, then and from thenceforth the Powers to them thereby and hereby granted 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 Lands, Tenements, and Hereditaments; any thing herein contained to the contrary thereof in anywise notwithstanding.

XIV. And be it further enacted, That all Monies which before the Application Day of the Commencement of this Act shall have been raised and of Tolls and produced by virtue of the said recited Acts hereby as aforesaid Money bor-repealed, and which shall be remaining undispected at the December 1989. repealed, and which shall be remaining undisposed of on the Day of the Commencement of this Act, and also all the Monies which shall arise and be produced by and from the Tolls by this Act granted and made payable, together with the Monies which shall be borrowed upon the Credit thereof, and all other Monies which shall arise and be produced by virtue thereof, and not otherwise appropriated or directed to be applied, shall be applied to and for the several Uses, Intents, and Purposes, and in order and manner following; that is to say, in the first place, in the Payment of all Costs, Charges, and Expences which shall have been incurred in applying for, preparing, obtaining, and passing this Act, and otherwise relating thereto respectively, together with lawful Interest for the same; secondly, in respectively paying and discharging all the Interest which shall from Time to Time be owing to any Mortgagee or Mortgagees of any of the Tolls or Duties payable on the Roads by this Act directed to be widened, improved, and kept in repair; thirdly, in defraying the Expences of widening, improving, repairing, and preserving the Roads by this Act directed to be widened, improved, and kept in repair, and

of erecting, altering, and repairing Turnpikes, Toll Gates, and Toll Houses, with suitable Outbuildings, upon, across, and by the Side of the same Roads, and otherwise in executing the Purposes of this Act: and lastly, in reducing, paying off, and discharging the several Principal Sums of Money which shall have been borrowed and secured in pursuance of and for the Purposes of the said recited Acts hereby repealed, and also the several Principal Sums of Money which may be hereafter borrowed and secured by virtue of this Act.

be expended in repairing Streets.

No Money to XV. 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 or any of them, or by virtue of this Act, shall be laid out in repairing, improving, or maintaining any Street, Highway, or Place in any Part of the said City of Chester, any thing herein contained to the contrary notwithstanding.

the Branch Road.

Toll Gates to XVI. And be it further enacted, That the Trustees shall and they be erected on are hereby required to continue or erect upon the said Branch Road from the Chester and Frodsham Road, by Vicar's Cross, to Rowton Bridge, One or more Toll Gate or Toll Gates, Toll Bar or Toll Bars, Turnpike or Turnpikes, and to demand and take thereat the Tolls by this Act granted, subject to the Provisions of this Act: Provided also, 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 Branch Road upon which there shall not be a Toll Gate or Bar continued under the Authority of the Trustees for carrying this Act into execution: Provided also, that no more of the Monies arising by virtue of this Act shall be laid out or expended upon the said Branch Road, or in the Payment of any Principal Money borrowed on the Credit only of the Tolls arising or payable upon such Branch Road, or the Interest thereof, than shall be actually raised or received upon or in respect of such Branch Road; any thing in this Act or the said recited Acts contained to the contrary thereof in anywise . notwithstanding.

No Priority of Mortgagees.

XVII. And be it further enacted, That no Preference shall be given to any Person or Persons who hath or have heretofore advanced any Sum or Sums of Money on the Credit of the Tolls granted by the said recited Acts or any of them, or who shall hereafter advance any Sum or Sums of Money on the Credit of the Tolls granted by this Act, or to his, her, or their Assignee or Assignees, in respect to the Priority of the Mortgage or Assignment or Mortgages or Assignments, or other Security or Securities, for the same, or for advancing such Sum or Sums of Money, but that as well all Persons to whom any such Mortgage or Assignment shall hereafter be made or given, his, her, or their Assignee or Assignees, as also all and every Person or Persons to whom any such Mortgage, or Assignment hath or have heretofore been made or given, shall (in proportion to the Sum or Sums therein mentioned) be Creditors under this Act, and in equal Degree one with another, without any Preference or Priority.

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

XIX. And be it further enacted, That this Act shall commence commence upon the Fourth Thursday after the passing thereof, and shall continue ment and and be in force for and during the Term of Thirty-one Years, and Continuance of this Act. from thence to the End of the then next Session of Parliament.

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SCHEDULE to which this Act refers.

Townships.	Description of Premises.	Owners.	Occupiers.
Kelsail		The Trustees under the Will of the late John Arden,	
- -	Smithy	Esquire. William Dentith, Lease- holder under the Trustees	337:11: ST7 1 3
·		of the late John Arden, Esquire Henry Moulsdale and Tho-	William Wright.
•	Garden	mas Done as Leasehfolders	Henry Moulsdale.
•	Garden	Edward Rushton, Esquire -	Thomas Holland.
	Garden, Road, and	Ditto	John Gunnery.
·	Bakehouse 5 Croft	Ditto	Ditto.
	Part of a Garden{	John Norbury, Leaseholder under the said Samuel Briscoe	Elizabeth Symons.
	Outbuildings	Sir P. G. Egerton, Baronet -	Samuel Rowe.
`	Cottage, Yard, and } Garden }	James Cawley	John Davenport.
Duddon	Garden Part of a Garden Ditto	Ditto Samuel Snelson	Thomas Turner. William Elliott. John Rowland. Samuel Spelson.
Tarvin {	Part of Garden or { Plantation {	Messieurs Swann and Booker, Trustees of the late Thomas Panton	Catherine Davies.
	Outbuildings	Thomas Dutton -	Charles Dutton.
	Outbuildings and Gar- }	John Faulkner	Thomas Leech.
Boughton	Part of a Garden	Edward Jones, Esquire -	Joseph Thorp.

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