



ANNO TERTIO

# VICTORIÆ REGINÆ.

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## Cap. lxxxi.

An Act to amend the Provisions of the Acts relating to the Turnpike Roads leading to and from the City of *Exeter*, and for making a new Branch Road to communicate therewith.

[19th June 1840.]

**W**HEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for repairing, widening, and improving* 7 G. 4. c. 25. the several Roads leading to and from the City of *Exeter*, and for making certain new Lines of Road to communicate with the same; and for keeping in repair *Exe* Bridge and *Countess* Weir Bridge: And whereas another Act was passed in the Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to* 1 & 2 W. 4. amend an Act of His late Majesty King *George* the Fourth, for c. 62. repairing the several Roads leading to and from the City of *Exeter*, and for making certain new Lines of Road to communicate with the same, and for keeping in repair *Exe* Bridge and *Countess* Weir Bridge; and to make and maintain other Roads communicating with the said Roads: And whereas it is expedient that Powers should be granted for the Purpose of making and maintaining a new Branch Line of Road to diverge from the new North Entrance Road near *Pound Lane*, and to terminate at a certain Place called *Northernhay*,  
[Local.] 22 F all



Provisions of  
recited Acts  
extended to  
this Act.

all in the Parish of *Saint David* in the City and County of the City of *Exeter*: And whereas it is also expedient that some of the Powers and Provisions of the said recited Acts should be repealed, altered, extended, and enlarged: But inasmuch as the several Objects aforesaid cannot be effected without the Aid and Authority of Parliament, May it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 this present Parliament assembled, and by the Authority of the same, That the said recited Acts, 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every the Powers and Provisions therein contained, (save and except such of them as are by this Act varied, altered, or repealed,) shall extend, and be construed, deemed, and taken to extend, to this Act, in as full and ample a Manner to all Intents and Purposes as if the same were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.

Power to  
make a  
new Road.

II. And be it further enacted, That it shall be lawful for the Trustees acting in the Execution of the said recited Acts and of this Act to make and maintain a new Branch Line of Road, to commence and diverge from and out of the present new North Entrance Turnpike Road at or near to *Pound Lane*, and to terminate at a Place called *Northernhay*, all in the Parish of *Saint David* in the City and County of the City of *Exeter*, 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 to take and use any Lands, making or tendering Satisfaction to the Owners thereof and any Persons interested therein, for the same, or for 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 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.

Plans to re-  
main with  
the Clerks of  
the Peace.

III. And whereas a Map or Plan describing the said intended new Branch 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 Offices of the Clerks of the Peace for the County of *Devon* and for the County of the City of *Exeter*; be it therefore further enacted, That the said Map or Plan and Book of Reference shall remain in the Custody of the said Clerks of the Peace respectively, to the end that all Persons may at all reasonable Times have Liberty to inspect the same, and to take or have Copies thereof or Extracts therefrom, paying to the Clerk of the Peace in



whose Custody the Map or Plan and Book of Reference so inspected or referred to may be 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 either One of the said Clerks of the Peace for the Time being to be a true Copy thereof, shall be good Evidence in all Courts of Law and elsewhere.

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 Clerks of the Peace as herein-before mentioned: Provided always, that no such Deviation shall extend to a greater Distance than Twenty-five 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 Twenty-five Yards, shall be proposed to be made.

Power to deviate from Line.

V. Provided always, and be it further enacted, That the Powers and Authorities by this Act granted for making the said new Branch Line of 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, and except such as may have been erected, made, or established since the Thirtieth Day of *November* One thousand eight hundred and thirty-nine), without the Consent in Writing of the Owners and Proprietors thereof, or other Persons interested therein, first had and obtained.

Not to take Houses, except those mentioned in Schedule.

VI. Provided also, and be it further enacted, That it shall be lawful for the said Trustees to make the said new Branch Line of 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 Two or more Justices of the Peace for the said County of *Devon*, 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 Clerks of the Peace for the Time being.

Errors in Plan, Book of Reference, or Schedule, not to prevent Execution of Act.

VII. And be it further enacted, That in case any Lands shall be purchased and applied by the said Trustees for the Purposes of this Act, the Freehold and Inheritance of and in the Lands so purchased and applied, 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

In case of Land purchased by Trustees, Freehold to remain in Owner of Lands.

not,



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 and applied 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 so applied, 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 and applied by them.

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

VIII. 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 and used 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.

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

IX. Provided also, and be it further enacted, That if at any Time any of the Lands or Hereditaments purchased and applied 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.

Limiting Time for purchasing Land.

X. 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.

For preventing Drains, &c. being allowed to run into the Roads.

XI. And whereas the Occupiers of adjacent Houses, Buildings, and Lands, sometimes to the great Damage of the Roads under the Care and Management of the said Trustees acting in the Execution of the said recited Acts, suffer Water, Filth, and other offensive Matter to run or flow from the said Houses, Buildings, and Lands into

into or upon the said Roads; be it therefore enacted, That in case any Occupier of any House, Building, Erection, Lands, or Premises adjacent to the Roads included in the said recited Acts or this Act shall not, within Three Days after receiving Notice from the Trustees of the said Roads, their Surveyor or Agent, stop any Water, Filth, Dirt, or offensive Matter or Thing from running or flowing into or upon the said Roads or Footpaths adjoining thereto, he shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings, and that each Day of the Continuance of such Nuisance after the Expiration of the said Three Days shall be deemed and construed to be a separate Offence, and be punishable accordingly.

XII. And whereas in and by the said recited Act of the Second Year of the Reign of His late Majesty King *William* the Fourth it is enacted, "that if at any Time or Times thereafter the cutting down of any Hill, or the further Deviation required for the Purpose of avoiding any Hill, upon any of the several Lines of Road of or belonging to the *Exeter* Turnpike Trust, other than the Alterations and Deviations thereby authorized to be made, should be deemed necessary, the Costs whereof should be more in Amount than the Sum of One hundred Pounds, then and in every such Case it should be lawful for the said Trustees and they were thereby required to increase all and every the Tolls on the Roads in the several and respective Lines of Road upon which any such Expenditure should be ordered to any Sum not exceeding One Half more in Amount than the several Tolls imposed by the Act now in recital and the said recited Act of the Seventh Year of the Reign of His late Majesty King *George* the Fourth, and to erect a separate and distinct Toll House and Gate, and to collect Tolls thereat to the said Amount, on the specific Line within which such Improvement or Alteration should have been made and such Expenditure incurred, and to continue such increased Toll upon such respective Lines of Road until the Money expended in such Improvements respectively should be reimbursed and repaid to the said Trustees by means of such increased Toll:" And whereas it is expedient that the said Provision should be repealed; be it therefore enacted, That the said Enactment shall be and the same is hereby repealed.

Repealing  
1 & 2 W. 4.  
c. 62. s. 17.  
that Tolls  
may be in-  
creased in  
certain Cases.

XIII. And be it further enacted, That nothing herein contained shall be deemed or construed to exempt the Turnpike Roads comprised in the said recited Acts or this Act from the Provisions of any general Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament.

This Act to  
be subject to  
the Provi-  
sions of any  
general Act.

XIV. 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.

XV. And be it further enacted, That this Act shall continue and be in force from and after the passing thereof for and during the Remainder of the Term granted by the said recited Act of the Seventh Year of the Reign of His said Majesty King *George* the Fourth.

Continuance  
of Act.

## The SCHEDULE to which this Act refers.

Parish.	No. on Plan.	Description.	Owner.	Lessee.	Occupier.
St. David	3	Orchard and Garden.	{ Feoffees of the Parish of St. Petrock, Exeter. }	James Townsend	James Townsend.

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