



ANNO NONO

GEORGII IV. REGIS.

Cap. ix.

An Act to enable the Trustees of the Road leading from the Town of *Cheltenham* in the County of *Gloucester* towards the City of *Gloucester*, to form a new Branch to communicate with the said Road in the Parish of *Cheltenham*.

[26th March 1828.]

WHEREAS an Act was passed in the Sixth Year of the Reign of His present Majesty, intituled *An Act for more effectually repairing and improving so much of the Road leading from the Town of Cheltenham in the County of Gloucester towards the City of Gloucester as lies within the Cheltenham District, and for opening new Communications with such Road*, whereby certain Persons therein named, and their Successors, to be nominated as therein mentioned, were appointed Trustees for carrying the said Act into Execution: And whereas the present Communication with the said Road from those populous Parts of the Town of *Cheltenham* aforesaid which lie on the South Side thereof contiguous to the old Spas there, is confined to an ancient Lane called *Westall Lane*, which is extremely narrow and dangerous, and at certain Seasons of the Year is impassable, by reason whereof Persons travelling in Carriages from those Parts of *Cheltenham* towards the City of *Gloucester* are compelled to take a circuitous and inconvenient Route of a Mile and upwards, and it would therefore afford great Accommodation, not only to the

[*Local.*]

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Inhabitants

Inhabitants of such Parts of the said Town, but also to the Persons frequenting the said Spas, and the Public in general, if such Communications were widened and rendered more direct, from or near to a Building called the *Montpellier Rotunda*, in the Parish of *Cheltenham*, unto the present Road near to a Cottage called *Haines's Cottage*, in the same Parish; but such Improvement cannot be effected without the Aid and Authority of Parliament: And whereas an Act was passed in the Seventh and Eighth Years of the Reign of His present Majesty, intituled *An Act to amend the Acts for regulating Turnpike Roads in England*: 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 the said recited Acts passed in the Sixth, and Seventh and Eighth Years of the Reign of His present Majesty, and all and every the Powers, Provisoos, Exemptions, Penalties, Forfeitures, Payments, Remedies, Matters, and Things therein contained, (save and except such Parts thereof as are varied, altered, or repealed,) shall be as good, valid, and effectual for carrying this Act into Execution as if the same had respectively been repeated and re-enacted in the Body of this Act.

7 & 8 G. 4.
c. 24.

Extending
Powers of
recited Acts
to this Act.

Trustees to
make new
Branch of
Road.

II. And be it further enacted, That it shall and may be lawful for the Trustees acting under and by virtue of the said first hereinbefore recited Act, and their Surveyor or Surveyors and Workmen, and they are hereby authorized and empowered to make, execute, and complete a new Branch of Road from or near to a certain Building called the *Montpellier Rotunda*, in the said Parish of *Cheltenham*, unto the present Road near to a Cottage in the same Parish called *Haines's Cottage*; and that such new Branch may be of any Width not exceeding Eighty Feet and not less than Sixty Feet, exclusive of the Ditches and Fences on each Side thereof.

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

III. And whereas a Map or Plan describing the Line of such new Branch of Road intended to be made, and the Lands over and through which the same is intended to be carried, together with a Book of Reference containing a List of the Names of the Owners or reputed Owners and Occupiers of such Lands, have been deposited with the Clerk of the Peace for the County of *Gloucester*; be it therefore enacted, That the said Map or Plan and Book of Reference shall remain in the Custody of the Clerk of the Peace for the said County of *Gloucester*, to the end that all Persons may at all seasonable Times have Liberty to inspect and peruse the same, and take Copies and Extracts therefrom, at their Will and Pleasure, paying to such 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 that the said Trustees in making such new Branch of Road shall not deviate from the Line described in the said Map or Plan, without the Consent in Writing of the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, over or through whose Lands or Grounds such Deviation shall be made.

Road not to
deviate from
Plan.

IV. Pro-

IV. Provided always, and be it further enacted, That the Powers and Authorities hereby given to the said Trustees for putting this Act into Execution shall not extend to the taking down of any Dwelling House or other Building, or taking in the Site of any House or other Building, or to the taking of any Garden, Orchard, Yard, Court, Park, Paddock, inclosed Shrubbery, planted Walk, or Avenue to a House, without the Consent in Writing of the Owners and Proprietors thereof respectively, (save and except the several Hereditaments and Premises mentioned and described in the Schedule to this Act annexed); which said last-mentioned Hereditaments, or so much thereof respectively as may be necessary, the said Trustees for putting this Act into Execution may and they are hereby empowered to take down and use in such Manner as they may think proper for the Purposes herein provided.

Trustees not to pull down Houses, &c. except as herein mentioned.

V. Provided always, and be it enacted, That in case the said Trustees shall not make and execute the said new Branch within the Space of Three Years from the passing of this Act, then and in such Case it shall not be lawful for them to make and execute the same without the previous Consent, in Writing, of the Owners of the Lands over and through which such Branch shall be made.

Road to be completed in Three Years.

VI. Provided always, and be it further enacted, That it shall be lawful for the said Trustees to make the said new Branch of Road into, through, across, or over the several Lands, Tenements, or Hereditaments of any Person or Persons who is, are, or may be the Owner or Owners, or Occupier or Occupiers, of Lands, Tenements, or Hereditaments over which the same or any Part thereof is or are mentioned and described in this Act, or in the said Map or Plan, List and Schedule, in this Act mentioned or contained, although such Lands, Tenements, or Hereditaments, or the Name or Names of such Person or Persons, may happen to be erroneously described, omitted, or mis-stated in this Act, or in the said Map or Plan, or List or Schedule, in case it shall appear to any Two or more Justices of the Peace for the said County of *Gloucester*, and be certified in Writing under their Hands, that such Error or Omission proceeded from Mistake or was not wilful; and such Certificate shall be deposited with and remain in the Custody of the Clerk of the Peace for the said County.

Lands marked on Plan may be used, notwithstanding Errors in the Book of Reference.

VII. And be it further enacted, That in case the said intended Line of Road hereby authorized to be made shall not be made and completed fit for the Passage of Horses, Cattle, and Carriages, and the making and completing of such Line of Road in manner aforesaid certified under the Hands and Seals of Two of His Majesty's Justices of the Peace for the County of *Gloucester*, within Three Years after the passing of this Act, then and in such Case it shall not be lawful for the said Trustees to erect or maintain any Gate, or to demand or take any Toll, by virtue of the said recited Act of the Sixth Year of the Reign of His present Majesty, for or in respect of any Horses, Cattle, or Carriages, on any Part of the present Line of Road.

If the new Road is not made in Three Years, no Toll shall be taken on the present Road.

VIII. And

Power to erect Turnpike at Entrance of new Branch, and take Tolls.

Tolls.

VIII. And be it further enacted, That when and so soon as the said new Branch of Road shall be made and completed, the said Trustees shall erect and continue at the West Entrance thereof, near to *Haines's Cottage* aforesaid, in respect of the same Branch, One Turnpike or Toll Gate, and thereat take and demand, or cause to be taken and demanded, the respective Tolls following; (that is to say),

For every Horse, Mule, Ass, Ox, Bullock, or other Beast of Draught drawing any Carriage, any Sum not exceeding Three-pence :

For every Horse, Mule, or Ass not drawing, any Sum not exceeding One Penny :

For every Drove of Oxen, Cows, or Neat Cattle, any Sum not exceeding Sixpence *per* Score; and so in proportion for any greater or less Number :

For every Drove of Calves, Hogs, Sheep, or Lambs, any Sum not exceeding Three-pence *per* Score; and so in proportion for any greater or less Number :

Which said Tolls shall be vested in the said Trustees, and shall be paid, levied, collected, and applied in such and the like Manner as the Tolls authorized to be levied and collected by the said recited Act of the Sixth Year of the Reign of His present Majesty: Provided always, that the Payment of the said Tolls shall not extend or be construed to extend to exempt any Horse, Beast, or other Cattle, for or in respect of which the said Toll shall have been paid, from the Payment of the Tolls imposed by the said recited Act of the Sixth Year of the Reign of His present Majesty.

No other Turnpike on new Branch.

IX. Provided always, and be it further enacted, That no Turnpike, Toll Gate, or Toll Bar, except as aforesaid, shall be erected across any Part of the said new Branch hereby authorized to be made.

Tolls under this Act to be liable to former Debts, &c.

X. And be it further enacted, That all Tolls which shall or may be received and collected by virtue of this Act shall be and are hereby made subject and liable to the Payment of all Monies which have been or may be hereafter borrowed or become due and owing on the Credit of the Tolls of the said recited Act of the Sixth Year of the Reign of His present Majesty authorized to be received and collected, and of all Interest due and to grow due thereon, as fully and effectually, to all Intents and Purposes, as if such Monies had been borrowed or become due and owing on the Credit or Security of the Tolls by this Act granted.

Former Mortgages to have a Preference as well in respect of Principal as Interest.

XI. Provided always nevertheless, and be it further enacted, That all such Monies as are now due and owing on the Credit of the said Tolls, and also all such other Monies as may hereafter be borrowed or raised for the making or completing the several Branches of Road authorized to be made by virtue of the said last-mentioned Act, with the Interest on all such Monies respectively, shall have and be entitled to a Preference and Priority of Charge and Payment to and before any Sum or Sums of Money to be advanced by any Person or Persons on the Credit of the Tolls granted by the said last-mentioned Act or by this Act, for the Purpose of making or completing the new Branch of Road hereby authorized to be made as aforesaid, and for

for erecting a Toll Gate and Toll House thereon, and to and before the Interest on such last-mentioned Sum or Sums.

XII. And be it further enacted, That no Person shall hereafter erect, set up, or use, or cause to be erected, set up, or used, any Lime Kiln or Brick Kiln, or any other Erection, Matter, or Thing, for the Purpose of burning Lime, Bricks, or Clay, nor shall any Person or Persons burn or cause to be burnt any Lime, Bricks, or Clay, within the Distance of One hundred Yards from any Part of the new Branch of Road hereby authorized to be made, under a Penalty not exceeding the Sum of Twenty Shillings for each and every Day such Lime Kiln, Brick Kiln, or other Erection, Matter, or Thing shall continue.

No Lime or
Brick Kiln
to be set up
within 100
Yards from
new Branch.

XIII. And whereas the making of the said new Road will render useless and unnecessary certain Roads and Footways; be it therefore enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and empowered, at any Meeting or Meetings to be held under this Act, by Order under their Hands and Seals, to order and direct that the said useless and unnecessary Roads and Footways, or any of them, shall be stopped up and discontinued at the End of Four Calendar Months from the Date of such Order; and from and after the Expiration of such Four Calendar Months it shall not be lawful for any Person or Persons whomsoever to use the said Roads and Footways, or any of them, so stopped up and discontinued as aforesaid, but the same shall thenceforth cease to be common Highways or Footpaths, or a common Highway or Footpath, to all Intents and Purposes whatsoever: Provided always, that Notice in Writing of such Order having been made as aforesaid shall be affixed on some conspicuous Place by the Side of the Roads and Footways so ordered to be stopped up and discontinued as aforesaid, and also upon the Porch Door of the Church belonging to the Parish or Parishes within which such Roads and Footways shall be situate, immediately before Divine Service, upon Three successive *Sundays* next after the making of such Order, and shall also be once inserted in some Public Newspaper usually circulated in the County of *Gloucester*, for the Purpose of enabling any Person or Persons who may be aggrieved by the said Order to make his, her, or their Appeal against the same as hereinafter provided; nor shall any such Road or Footway be stopped up or discontinued in case any such Person or Persons shall make any such Appeal within Four Calendar Months next after making any such Order, until after the Determination of such Appeal.

For stopping
up unnece-
sary Roads
and Foot-
ways by
Order of
the Trustees.

XIV. And be it further enacted, That it shall be lawful for any Person or Persons who may be aggrieved by the making of any Order hereby authorized for stopping up and discontinuing the said old Roads and Footways, or any of them, to appeal against the same at any General or Quarter Sessions of the Peace for the said County of *Gloucester* which shall be held within the Space of Four Calendar Months next after the making of the said Order, upon giving a Notice in Writing of such Appeal, to be duly signed by such Appellant or Appellants, or leaving the same at the usual Place of Residence of the Clerk to the said Trustees for the Time being, at least Twenty-one clear Days next before such General or Quarter Sessions

Allowing
Appeal
against the
Order.

[*Local.*]

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Sessions

Sessions of the Peace; and the Justices assembled at such General or Quarter Sessions, upon Proof of such Notice of Appeal having been duly given as aforesaid, are hereby authorized and required to hear and determine the said Appeal, and upon the Quashing or Confirmation of the said Order to award and adjudge that the Party against whom such Appeal shall be determined shall pay such Costs as the said Justices shall appoint; and the said Appeal, having been so heard and determined, shall be final and conclusive to all Intents and Purposes whatsoever, and no Order against which any such Appeal shall be made as aforesaid shall be quashed for want of Form only.

If no Appeal, Order conclusive.

XV. Provided also, and be it further enacted, That in case no such Appeal shall be made as aforesaid; the said Order or Orders shall be final and conclusive upon all Persons whomsoever.

Act not to interfere with the Powers of the Cheltenham Paving Commissioners.

XVI. And be it further enacted, That nothing herein contained shall extend or be construed to extend to interfere with the Powers of the Commissioners named and appointed under and by virtue of an Act passed in the Second Year of the Reign of His present Majesty, intituled *An Act for better paving, lighting, cleansing, watching, and improving the Town of Cheltenham in the County of Gloucester, and for regulating the Police thereof, and for removing and preventing Nuisances and Annoyances therein*; any thing herein contained to the contrary notwithstanding.

Public Act.

XVII. 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, without being specially pleaded.

Term of Act.

XVIII. And be it further enacted, That this Act shall commence from the passing of this Act; and continue and be in force during the Continuance of the said herein-before recited Act of the Sixth Year of the Reign of His present Majesty.

The

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The SCHEDULE referred to by this Act.

No. on Plan deposited with Clerk of the Peace.	Description of Premises.	Owners Names.	Occupiers Names.
4	Garden	William Haines	William Haines.
16	Ditto	Pearson Thompson, Esq.	John Stokes.
17	Ditto	Ditto	Ditto.
18	Ditto	Ditto	Ditto.
19	Ditto	Ditto	Ditto.

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