



I V I C T O R I A .

Sess. 1837-8.

A N A C T

For amending an Act of King George the Third, for draining Lands in SOUTH HOLLAND, and for repairing and maintaining the Road from Spalding High Bridge to Brother House, all in the County of Lincoln.

[*Royal Assent, 4 July, 1838.*]

Preamble recites 12 Geo. 3, Cap. 103.

WHEREAS an Act was passed in the Twelfth Year of the Reign of his late Majesty King George the Third, intituled, "*An Act for the better Preservation of the Great Bank of the River Welland, from Spalding High Bridge through Cowbit, Peakill, Crowland, and Peakirk, and for making and keeping in Repair a Road thereon, and from thence to the Village of Glenton, in the Counties of Lincoln, and Northampton;*"

33 Geo. 3, Cap. 109.

And whereas another Act was passed in the Thirty-third Year of the Reign of his said late Majesty, intituled, "*An Act for draining, preserving, and improving certain Lands lying in the several Parishes of Spalding (including the Hamlets of Cowbit and Peakill), Weston, Moulton, Whaplode, Holbeach, Fleet, Gedney, Sutton Saint Mary, and Sutton Saint Nicholas otherwise Lutton, all in South Holland, in the County of Lincoln*:"

35 Geo. 3, Cap. 166.

And whereas another Act was passed in the Thirty-fifth Year of the Reign of his said late Majesty, intituled, "*An Act to enable the Commissioners and Trustees for executing an Act passed in the Thirty-third Year of the Reign of His present Majesty, intituled, 'An Act for draining, preserving, and improving certain Lands lying in the several Parishes of Spalding (including the Hamlets of Cowbit and Peakill), Weston, Moulton, Whaplode, Holbeach, Fleet, Gedney, Sutton Saint Mary, and Sutton Saint Nicholas otherwise Lutton, all in South Holland, in the County of Lincoln,' to support and repair a certain Bank extending from Spalding High Bridge to Brother House, in the said County, and to amend and repair the Road thereupon, and for compounding with the Creditors under an Act passed in the Twelfth Year of His present Majesty's Reign, for making and keeping in Repair the said Road*;"

57 Geo. 3, Cap. 69.

And whereas another Act was passed in the Fifty-seventh Year of the Reign of His said late Majesty, intituled, "*An Act for amending and rendering more effectual an Act of His present Majesty, for draining Lands in South Holland, and for continuing and amending another Act of His present Majesty, for maintaining and repairing a certain Bank and the Road thereon, from Spalding High Bridge to Brother House, all in the County of Lincoln*;

Road on the Great Bank made Turnpike.

And whereas by the said Act of the Twelfth Year of the Reign of King George the Third certain Persons were appointed Trustees for carrying the Act into Execution during the Term and Continuance thereof, and the Undertakers of the *Deeping Fen* Drainage, then liable to the Repair of so much of the Great Bank therein mentioned as extends from *Spalding High Bridge to Brother House*, and other Parties therein mentioned, who were liable to the Repair of other Parts of the Great Bank of the River *Welland* therein described, were discharged from further liability therein during the said Term, in consideration of certain Payments to the said Trustees, and the said Trustees were thereby empowered to erect Turnpike Gates, and take Tolls thereat, on the said Bank and Road thereon, and directed to apply the Monies arising by the Act in repairing and widening the Road, and in raising, widening, and strengthening the Bank, and carrying the Act into execution, with powers to borrow Money to be applied for the same purposes, for the term of Twenty-one Years, and thence to the end of the then next Session of Parliament:

Works of drainage authorized to be made.

And whereas by the said Act of the Thirty-third Year of the Reign of King George the Third Commissioners were appointed for making Works of Drainage, for draining, preserving, and improving the Low Lands, lying within certain Parishes in *South Holland*, in the said County of *Lincoln*, with powers to borrow Money upon the Credit of the Act, and various other Powers for effecting such purposes; and power to take, comprise, and include within such Drainage, Lands within the said several Parishes, but not included in the specified Limits of the Act, on the Petition of the Owners of such Lands; and certain Persons were by the same Act appointed Trustees for the said Drainage, and all Works relating to the said Drainage were thereby vested in them as Trustees for the purposes of the Act, with Power

after the execution of the Commissioners Award to lay Taxes and other Powers :

The Great Bank and Road thereon vested in Trustees of the Drainage Act; the Bank to be maintained for protection of drainage works, and the Road thereon as a Turnpike-road.

And whereas by the said Act of the Thirty-fifth Year of the Reign of King George the Third, after reciting the Act for draining *Deeping Fen*, by which the Undertakers of the drainage of the Fen were liable to maintain so much of the Great Bank aforesaid as extends from *Spalding High Bridge* to *Brother House*; and also reciting the said Act of the Twelfth Year of the Reign of King George the Third, and stating that the same had expired; and also reciting the said Act of the Thirty-third Year of the Reign of King George the Third, and an Agreement made between the said Undertakers and the Proprietors of Lands within the *South Holland* Drainage for exonerating the Undertakers from the Repairs of the said part of the said Bank, on the Payment by them of a certain Sum of Money to the Commissioners or Trustees for executing the said Act of the Thirty-third Year of the Reign of King George the Third, and vesting such said part of the said Bank in the said Commissioners or Trustees, it was enacted, that upon such Payment the Undertakers should be divested of all Right and Interest in the said Bank and Road, extending from *Spalding High Bridge* to *Brother House*, being the Barrier-bank for defending the Country called *South Holland* from the Waters of the River *Welland*; and that the same Bank and Road, and the Tollhouse and Tollgate thereon, and all other Tollgates to be thereafter erected, should be vested in the Trustees appointed by or under the said last-mentioned Act, with Powers, first to the Commissioners appointed by the Act, and, after Execution of their Award, then to the said Trustees, to take the Tolls thereby granted; and with Powers to enlarge and strengthen the Bank sufficiently to protect and secure the Lands in *South Holland* from Inundation by means of the Waters of the said River, and to improve and repair the Road

thereon, and to apply the Drainage Funds and the said Tolls as a mixed Fund for both Purposes, with other Provisions for the Maintenance of the Road and Bank; and providing that, so far as relates to making and keeping in Repair the said Road, the said Act should only be in force for Twenty-one Years, and thence to the end of the then next Session of Parliament;

All the Works of Drainage, and also the Barrier Bank and Turnpike Road vested in New Trustees;

And whereas by the said Act of the Fifty-seventh Year of the Reign of King George the Third all the Powers and Authorities of the Commissioners and Trustees under the former Acts were extinguished, and other Trustees were appointed instead of the Trustees authorized to act by the former Acts; and all the Works of Drainage lying within the limits of the Act of the Thirty-third Year of the Reign of King George the Third, or which had been taken into the Drainage on Petition, and other Works of Drainage and Lands cut, covered, or taken, or used under the same Act; and also the Barrier Bank and Turnpike Road from *Spalding High Bridge* to *Brother House*, and Works belonging thereto, were vested in the new Trustees, and Committee Men were directed to be appointed out of the Body of Trustees; and all the Powers and Authorities of the former Acts (so far as the same were not altered, varied, or repealed) were vested in such Committee Men; and all Taxes and Assessments authorized by the former Act, and all Arrears thereof, were made payable to such Committee Men, with Powers to lay new Taxes or Assessments, and to apply the same for the general purposes of the former Acts, and of the said Act of the Fifty-seventh Year of the Reign of King George the Third.

And the term enlarged for maintaining the Turnpike Road.

And whereas by the said recited Act of the Fifty-seventh Year of the Reign of King George the Third all such of the Powers and Provisions of the said recited Act of the Thirty-fifth Year of the Reign of King George the Third, as relate

to the Road leading from *Spalding High Bridge* to *Brother House*, then in force, and not varied, altered or repealed, are continued in full force and effect, and extended to the Tolls granted by the same Act of the Fifty-seventh Year of the Reign of King *George* the Third, for and during the Term of Twenty-one Years, and thence to the end of the then next Session of Parliament; and the Tolls thereby granted were directed to be applied by the aforesaid Committee Men, in the same manner as the Tolls granted by the Act of the Thirty-fifth Year of the Reign of King *George* the Third were thereby made applicable:

Expediency of further enlarging the Term;

And whereas the Term granted by the said Act of the Fifty-seventh Year of the Reign of King *George* the Third for executing the Powers and Provisions therein contained and authorized to be executed for maintaining the said Road on the said Bank, and for taking the Tolls thereby granted, is near expiring; and it is expedient for the purpose of maintaining and repairing the said Road, that the said Powers and Provisions and the said Tolls should be continued for a further Term:

And amending Powers of Act.

And whereas it is also expedient that some other of the Powers and Provisions contained in the same Act should be amended: 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,

Existing Powers and Tolls repealed.

I. That upon the day of the commencement of this Act and every the Powers, Authorities, Provisions, Directions, and Privileges contained in the said recited Act, passed in the Fifty-seventh Year of the Reign of King *George* the

Third, for maintaining, repairing and improving the said Road from *Spalding High Bridge* to *Brother House*, and for taking, collecting, receiving, levying and recovering thereon the Tolls thereby authorized to be collected, and all Exemptions, Penalties, Forfeitures, Payments, Remedies, Articles, Matters and Things whatsoever, thereby given, imposed, authorized or made, relative to the said Road, and also all and every the Powers, Authorities, Provisions, Directions, Exemptions, Penalties, Forfeitures, Payments, Remedies, Articles, Matters and Things given or authorized by or contained in any former Act, and by the said recited Act extended to the said Road, shall be and the same are hereby declared to be repealed.

The Road to be repaired and maintained by Trustees as a Turnpike Road.

II. And be it further enacted, That this Act, so far as relates to the said Road, shall be put in Execution for and during the Term hereinafter mentioned, for the purpose of repairing, improving, and maintaining the said Road on the said Bank, from *Spalding High Bridge* to *Brother House*, in the County of *Lincoln*, and the said Road is hereby declared to be a Turnpike Road, and the same is hereby put, and declared to be, under the care and management of the Trustees hereinafter appointed.

Debts under former Acts to be paid.

III. And be it further enacted, That all and every Persons and Person, owing any Sum or Sums of Money in respect of the said Road at the time of the commencement of this Act, shall be liable to the payment thereof to the Trustees for executing this Act, and that all Monies due and owing to any Persons or Person in respect of the said Road at the time of the commencement of this Act shall be payable to such Persons and Person by the Trustees for executing this Act, notwithstanding the repeal of the Powers and Provisions aforesaid, out of the Tolls to be received by virtue of this Act.

Appointment of Trustees.

IV. And be it further enacted, That the Committee Men for the Time being, appointed or to be appointed pursuant to the directions and for the Time being acting in Execution of the said recited Act of the Fifty-seventh Year of the Reign of King *George* the Third, shall be and they are hereby appointed the Trustees for repairing, improving and maintaining the said Road on the said Bank, from *Spalding High Bridge* to *Brother House* aforesaid, and for carrying the purposes of this Act into Execution, for the repair, improvement and maintenance of the said Road; and that all and every the Powers and Provisions contained in any Law or Statute relating to Turnpike Roads in *England*, and given to any Trustees or Commissioners of any Turnpike Road in *England*, shall be extended to the said Road on the said Bank, and shall and may be executed and enforced by the Trustees hereby appointed for the repair, improvement and maintenance of the said Road.

Respecting Meetings of Trustees.

V. And be it further enacted, That it shall and may be lawful for the said Trustees to act in the Execution of the Powers and Provisions by this Act granted for the repair, improvement, and maintenance of the said Road at any of their Meetings to be held for the purposes of the said recited Act of the Fifty-seventh Year of the Reign of King *George* the Third, or this Act, relating to the Works of Drainage, and also at any Meeting convened according to the Powers and Provisions of any Law or Statute relating to Turnpike Roads in *England* as they may find expedient or think proper; and all Acts and Proceedings of the said Trustees at any such Meeting relating to the repair, improvement and maintenance of the said Road and to the Execution of this Act relative thereto, in which the major part of the Trustees present shall concur, shall be as valid and effectual as if all the said Trustees had concurred or agreed therein.

Respecting Tollgates.

VI. And be it further enacted, That the several Tollgates or Turnpikes, and Toll-houses erected and now standing and being in, upon or across or on the sides of the said Road, shall remain and be continued until removed by any order or orders of the said Trustees; and it shall be lawful for the said Trustees to order and cause to be erected, set up and built upon, in or across the said Road, or on the sides of such Road, or any part thereof, when, where and as they shall judge necessary, any Gate or Gates, Turnpike or Turnpikes, Side Gate or Side Gates, Side Bar or Side Bars, Chain or Chains, Weighing-machine or Weighing-machines, and also any Toll-house or Toll-houses, with Out-houses and Conveniences suitable thereto, at or near such Gates, Turnpikes, Side Gates, Bars, Chains and Weighing-machines, and also from Time to Time to order and cause to be taken down and removed, or altered or discontinued, the same present Toll-gates or Turnpikes and Toll-houses, or any of them, and any future Gates, Turnpikes, Side Gates, Bars, Chains, Weighing-machines or Toll-houses, or any or either of them, as they the said Trustees shall think proper.

Power to take Tolls.

VII. And be it further enacted, That it shall and may be lawful for the said Trustees, or any Person or Persons appointed or continued, or to be appointed Collector or Collectors of the Tolls, to demand and take the Tolls hereinafter mentioned at each and every of the Toll-gates or Turnpikes, or Toll-houses or Side Bars or Chains, which are or shall be standing and being, or continued or erected by virtue of this Act, in, upon or across, or on the sides of the said Road, or any part thereof, and on every day (such day to be computed from Twelve of the clock at night to Twelve of the clock in the next succeeding night,) that is to say,

Tolls.

For every Horse, Mule, Ass, or other Beast of Burthen,

laden or unladen, and not drawing, the Sum of Two-pence :

For every Horse, Mule, Ox, Bullock, or other Beast of Draught, drawing any Waggon or Cart, the Fellies of the Wheels of which are of the Breadth of Six Inches or more, the Sum of Four-pence :

For every Horse, Mule, Ass, Ox, Bullock, or other Beast of Draught, drawing any Waggon or Cart, the Fellies of the Wheels of which are of less Breadth than Six Inches, the Sum of Sixpence :

For every Horse, Mule, Ass, or other Beast of Draught, drawing any Coach, Chariot, Calash, Chaise, or other such Carriage, the Sum of Four-pence Halfpenny :

For every Drove of Oxen, Cows, Burlings, or Neat Cattle, the Sum of One Shilling and Three-pence *per* Score :

For Half a Score, the Sum of Seven-pence Halfpenny :

For a Quarter of a Score, the Sum of Four-pence :

For Four only of such Oxen, Cows, Burlings, or Neat Cattle, or for Four above a Score, Half Score, or Quarter Score, the Sum of Three-pence :

For Three only of such Oxen, Cows, Burlings, or Neat Cattle, or for Three above a Score, Half Score, or Quarter Score, the Sum of Two-pence Halfpenny :

For Two only of such Oxen, Cows, Burlings, or Neat Cattle, or for Two above a Score, Half Score, or Quarter Score, the Sum of Two-pence :

For One only of such Oxen, Cows, Burlings, or Neat Cattle, or for One above a Score, Half Score, or Quarter Score, the Sum of One Penny :

For every Drove of Calves, Hogs, Sheep, or Lambs, the Sum of Six-pence *per* Score :

For Half a Score, the Sum of Three-pence :

For a Quarter of a Score, the Sum of One Penny Halfpenny :

For Four or Three only of such Calves, Hogs, Sheep, or Lambs, or for Four or Three above a Score, Half Score, or Quarter Score, the Sum of One Penny :

For Two or One only of such Calves, Hogs, Sheep, or Lambs, or for Two or One above a Score, Half Score, or Quarter Score, the Sum of One Halfpenny.

For every Dog or other canine Animal, drawing any Cart, Carriage, Truck, Barrow, or other Thing, the Sum of Two-pence.

Which said Tolls or Sums of Money shall be demanded and taken as aforesaid, before any Horse, Mule, Ass, or other Beast or Cattle, or Dog or other canine Animal, drawing as aforesaid, shall be entitled or permitted to pass through any Tollgate or Turnpike, or Side Bar, or Side Gate or Chain erected or to be erected as aforesaid.

Allowing certain Exemptions.

VIII. Provided always, and be it further enacted, That it shall not be lawful for the Trustees or Committee Men acting in Execution of the said recited Act or this Act, or any Collector of the Tolls by the said recited Act or this Act, authorized to be demanded, taken or collected on the said Road, to demand or take the said Tolls or any of them of or from any the Tenants or Occupiers of Lands in the Hamlets of *Cowbit* and *Peakill* or either of them, for or in respect of any Horse, Beast or other Cattle, Waggon, Cart or other Carriage employed in carrying or conveying, or going to fetch, carry, or convey, or returning from carrying or

conveying, having been employed only in carrying or conveying any Hay, Grass, Seed, Corn, Flax, Hemp, Sanfoin, Fodder, Turnips, Potatoes, or Straw, or Corn in the Straw only, not sold or disposed of, but passing to be laid up in the Houses, Outhouses, Barns or Yards, or on the Lands of the Owners thereof; nor for any Horse, Beast, Cattle or Carriage employed in carrying or conveying, or going to carry or convey, or returning empty from carrying or conveying, having been employed only in carrying or conveying any Servants or Labourers to be employed in Harvest-work or Husbandry, or any Plough, Harrow, or other implement of Husbandry, or Matters or Things used therein, or any Gate or Fencing belonging to any such Owners or Occupiers, or any Dung, Mould, Manure or Compost for manuring or improving Lands or Gardens; nor for any Horse used for the express Purpose of carrying or drawing any Occupier or Occupiers of Lands, Stock or Cattle to the Farms, Lands and Grounds in his, her or their respective occupations, his, her or their Servants in Husbandry, Shepherds or Labourers so to be employed; nor for any Horse, Beast or other Cattle going to or returning from Ploughing or Harrowing, or to or from Water or Pasture or other work in Husbandry, or going to be or returning from being Shod or Farried; nor for any Horse, Beast or Cattle, or for any Waggon, Wain, Cart or other Carriage used or employed for the purpose only of carrying or conveying, or going empty to fetch, carry or convey, or returning empty from carrying or conveying, having been employed only in carrying or conveying, on the same Day, any Gravel, Sand, Stones, or other Materials for making and repairing the Roads or any Public Bridge within the said Hamlets respectively; nor for any Horse, Cattle, Beast or Carriage going no more than One hundred Yards upon the said Road; and if any Person or Persons shall claim and take the benefit of any such Exemption, not being entitled to the same, every such Person shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds, to be recovered, levied and applied in manner directed respecting Penalties in similar Cases by the General Act relating to Turnpike Roads in England.

Tolls to be paid but once a Day at same Gate.

IX. Provided always, and be it further enacted, That if any Person shall have paid the Toll hereby authorized to be taken for the passing of any Horse, Beast or Cattle through any such Toll Gate, Turnpike, or Side Gate, such Horse, Beast or Cattle shall, upon a Ticket denoting such Payment on that Day being produced, be permitted to pass Toll free through the same Toll Gate, Turnpike or Side Gate, and also through such other Gate or Gates (if any) as the Ticket for such Payment shall free at any Time or Times during the same Day, (to be computed as aforesaid); any Thing in this Act contained to the contrary thereof in anywise notwithstanding.

Limiting the Number of Payments on the whole line of Road.

X. Provided also, and be it further enacted, That nothing herein contained shall extend or be construed to extend to empower the said Trustees, or any Collector or Collectors of the Tolls, to demand or take for or in respect of the same Horse, Beast or Cattle, for passing or repassing at any Time or Times in any one day (to be computed as aforesaid) through all or any of the Toll Gates, Turnpikes or Side Gates along the whole line of the said Road, more than One full Toll.

Stage Coaches to pay every Time of passing.

XI. Provided also, and be it further enacted, That the Tolls hereby made payable for and in respect of Horses or Beasts drawing any Stage Coach, Diligence, Van, Caravan, Stage Waggon or other Stage Carriage or Cart, conveying Passengers or Goods for Pay or Reward, shall be payable and paid every Time of passing or repassing along the said Road: Provided nevertheless, That no further or additional Toll shall be payable in respect of any Horses or Beasts drawing any Stage Coach, Diligence, Van, Caravan, Stage

Waggon, Carriage or Cart on account only of the Horses or Beasts drawing the same having been changed between any Gates freeing each other by Tickets.

Post Chaises, &c., to be subject again to Toll on every new Hiring.

XII. Provided also, and be it further enacted, That the Tolls hereby made payable for and in respect of Horses or Beasts let out to Hire and drawing any Post Chaise, Hackney Coach, One-horse Chaise, Gig or other Carriage, shall be payable and paid every Time of passing along the said Road whenever any new Hiring thereof shall take place.

Application of Tolls.

XIII. And be it further enacted, That the said Tolls or Sums of Money to be collected on the said Road, and all Monies to arise by virtue of this Act on account of the said Road, shall be vested in the said Trustees, and shall be by them applied in paying the necessary Expences of erecting and repairing Toll Houses, Turnpikes, Toll Gates, and Fences, and in Payment of the Expences attending the Collection of Tolls and other current Expences, and in repairing, maintaining and improving the said Road, or in case any Money shall be borrowed on the Credit of such Tolls, then the same shall be applied (after Payment of such necessary and current Expences aforesaid) in paying the Interest of the Monies so to be borrowed, and afterwards in the repair, improvement and maintenance of the said Road, and in repayment of any Monies which shall be so borrowed.

Act not to affect the Powers of the Drainage Trustees respecting the Barrier Bank.

XIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to repeal, annul, alter, prejudice or affect the Powers or Provisions of the said recited Acts or either of them, or of this Act, relating to the repair or maintenance, or improve-

ment of the said Barrier Bank, or the Rights and Interests of the Trustees and Committee Men respectively, under the said recited Act of the Fifty-seventh Year of the Reign of King George the Third therein, or the Powers or Provisions relating to the application of any Monies for the support, repair, maintenance or improvement of the said Bank as a Barrier or protecting Bank for the District of *South Holland* aforesaid, authorized by the said recited Acts or this Act.

Power for Committee Men to borrow a further Sum of Money above the Sum of Three thousand Pounds authorized to be borrowed by the Act 57 Geo. III.

XV. And whereas by the said recited Act of the Fifty-seventh Year of the Reign of King George the Third the Committee Men for the Time being, acting in the Execution thereof, were authorized to borrow and take up at Interest upon the Credit of the Taxes or Assessments made or to be made by virtue of the same Act, or of the annual Tax or rate of One Shilling per Acre, such Sum or Sums of Money as they should in their judgement deem necessary or requisite for the Purposes of the Acts therein recited, or of the same Act, not exceeding in the whole the Sum of Three thousand Pounds; And whereas the said Sum of Three thousand Pounds was borrowed soon after the passing of the said last-mentioned Act, and the same still remains due and owing; And whereas, in order and for the purpose of providing for the Costs and Expences of any Works already executed, and of any new or auxiliary Works that may become necessary, or of any essential Alteration or Improvement of the subsisting Works, or for any unforeseen or extraordinary Emergency to the Costs whereof the annual Revenue may be inadequate, it is expedient that the Power and Authority of borrowing Money should be enlarged:

Be it therefore further enacted, That it shall be lawful for the said Committee Men, acting in Execution of the said Act of the Fifty-seventh Year of the Reign of King George the Third, and they are hereby authorized and empowered, with the Consent of the Trustees for the time being of the same Act