ANNO DECIMO NONO & VICESIMO

VICTORIÆ REGINÆ.

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Cap. lxxii.

An Act to repeal the Acts relating to the *Brough and Eamont Bridge* Turnpike Road, and to make other Provisions in lieu thereof. [7th *July* 1856.]

WHEREAS an Act was passed in the Twenty-sixth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for repairing and widening the Roads* 26 G. 2. c. 67. *from the East End of* Brough under Stainmore *in the County of* Westmoreland, *by the End of* Appleby Bridge *to* Eamont Bridge *in the said County*, whereby certain Tolls, Powers, and Authorities were given and granted to the Trustees therein named for amending, widening, and keeping in repair the said Roads, which Act was to have Continuance for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament: And whereas another Act was passed in the Nineteenth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act* 19 G. 3. c. 97. *for continuing the Term and altering and enlarging the Powers of an Act made in the Twenty-sixth Year of His late Majesty for repairing and widening the Roads from the East End of* Brough under Stainmore *in the County of* Westmoreland, *by the End of* Appleby

Bridge *to* Eamont Bridge *in the said County*: And whereas also another Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for continuing for Twenty-one Years, and from thence to the End of the then next Session of Parliament, the Term, and enlarging the Powers of Two Acts made in the Twenty-sixth Year of the Reign of His late Majesty King* George *the Second, and the Nineteenth Year of the Reign of His present Majesty, for repairing and widening the Roads from the East End of* Brough under Stainmore *in the County of* Westmoreland, *by the End of* Appleby Bridge *to* Eamont Bridge *in the said County*: And whereas also another Act was passed in the Fifty-seventh Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for enlarging the Term and Powers of several Acts passed for repairing and widening the Roads from the East End of* Brough under Stainmoor *in the County of* Westmoreland, *by the End of* Appleby Bridge *to* Eamont Bridge *in the said County*: And whereas the Powers granted by the last-recited Act, and continued from Time to Time by virtue of divers Acts of Parliament for continuing certain Turnpike Acts for limited Periods, will expire on the First Day of *November* One thousand eight hundred and fifty-six, unless the same be in the meantime further continued: And whereas considerable Sums of Money have been advanced upon the Credit of the Tolls authorized to be taken by the said Acts, which Money still remains owing: And whereas it is expedient that the said recited Acts should be repealed, and that further and more effectual Powers should be granted in lieu thereof; but the Purposes aforesaid cannot be effected without the 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, as follows; (that is to say,)

41 G. 3. c. lxxxii.

57 G. 3 c. xviii.

Recited Acts repealed, and this Act to be put in force.

I. That upon the First Day of *November* next after the passing of this Act, the said recited Acts of the Twenty-sixth Year of the Reign of King *George* the Second, and of the Nineteenth, Forty-first, and Fifty-seventh Years of the Reign of King *George* the Third, shall be repealed, and that this Act shall thereafter be put into execution during the Term and for the Purposes herein-after mentioned.

Short Title.

II. That in citing this Act for any Purpose whatsoever, it shall be sufficient to use the Expression "The *Brough and Eamont Bridge* Turnpike Act, 1856."

Interpretation of Terms.

III. That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something

something in the Subject or Context repugnant to such Construction; (that is to say,)

The Word "Person" shall be understood to include "Corporation:"

The Expression "the Trustees" or "the said Trustees" shall mean the Trustees for the Time being acting in the Execution of this Act:

The Expression "the Road" or "the said Road" shall mean the Road to which this Act specially applies:

The Expression "Toll Gate" or "Toll Gates" shall include Turnpikes, Bars, Chains, and Side Gates.

Moneys and Property vested in Trustees.

IV. That all Rents, Arrears of Tolls, and other Moneys due to, and all Moneys, Property, and all Choses in Action vested in the Trustees under the Acts hereby repealed, shall be vested in the Trustees for executing this Act; and such last-mentioned Trustees may sue for and recover the same, and act in respect thereof as fully and effectually as if the same had been vested in them under such Acts, and they shall be liable to all the Debts and Engagements to which the Trustees acting under such Acts were liable, except such Debts or Liabilities as by this Act may be reduced, altered, or extinguished.

Appointment of Trustees.

V. That all Her Majesty's Justices of the Peace for the Time being respectively acting for the County of *Westmoreland*, and the Mayor and Recorder of *Appleby* for the Time being, together with *John Jameson*, *Robert Addison*, *Robert Addison* of *Crossrigg Hall*, *James Atkinson*, *John Atkinson*, *Richard Atkinson*, *Matthew Beetham*, *Thomas Bellas* (Clerk), *Thomas Bellas* junior, *Joseph Bland*, *Ralph Bird*, *Joseph Bird*, *Thomas Bland*, *Thomas Bland* of *Knock*, *Robert Blenkarn*, *Orton Bradley*, *William Brougham*, *Richard Burn*, *William Crackanthorpe*, *John Crosby*, *John Crosby* junior, *Samuel Crosby*, *James Crosby*, *Matthew Chamley*, *Francis John Courtenay*, (Clerk), *John Dent*, *Joseph Benson Dixon*, *Russel Eliott*, *Thomas Gowling*, *Thomas Harrison*, *Edward Williams Hasell*, *John Hill*, *Thomas Heelis*, *Edward Heelis* (Clerk), *John Heelis*, *Thomas Hodgson Hobson*, *William Hopes*, *Jonathan Horn*, *George Hutchinson*, *Thomas Hutton*, *William Jackson* (Clerk), *Joseph Jameson*, *William Jameson*, *Lancelot Jefferson* (Clerk), *William Rice Markham* (Clerk), *Thomas Mason*, *Joseph Milner* (Clerk), Sir *George Musgrave* Baronet, *John Nicholson*, *Thomas Nicholson*, *William Stephenson Preston* (Clerk), *Matthew Robinson*, *John Ellwood Robinson*, *John Richardson* (Clerk), *John Blenkarn Sedgwick*, *Richard Tinkler*, *William Alexander Tinkler*, *Matthew Thompson*, *James Thornborrow Ward*, *William Wilkinson*, *Robert Wilkinson*, *William Wilson*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be Trustees for putting this Act into execution.

VI. That

Power to appoint additional Trustees.

VI. That it shall be lawful for the Trustees from Time to Time, at any Meeting under this Act, to elect any Number of Persons duly qualified to act as Trustees of Turnpike Roads in *England*, not exceeding Three in the whole, to be Trustees for the Purposes of this Act, in addition to the Trustees hereby nominated; and such Trustees so elected shall have the same Powers and Authorities for executing this Act as if they had been hereby appointed.

Meetings of Trustees.

VII. That the Trustees shall hold their First Meeting at the Moot Hall, or at some other convenient Place in the Town of *Appleby* in the County of *Westmoreland*, on the Third *Saturday* next after the Commencement of this Act, or as soon thereafter as conveniently may be, and shall then and from Time to Time thereafter adjourn to and meet at such Time and at such Places in the Neighbourhood of the said Road as they shall think proper.

Road to which this Act is applicable.

VIII. That this Act shall be put in execution for the Purpose of managing and maintaining the present Turnpike Road leading from the East End of *Brough under Stainmore* in the County of *Westmorland*, by the End of *Appleby Bridge* in the same County, to *Eamont Bridge* in the same County.

Present Tolls continued for a Term.

IX. That notwithstanding the Repeal of the said recited Acts, the several Tolls by such Acts, or either of them, granted, and which may be payable at the Time of such Repeal, shall continue to be paid at the Toll Gates to be continued or erected on or on the Sides of the Road until Twelve of the Clock at Night on the Thirty-first Day of *December* next after the Commencement of this Act.

Power to take new Tolls.

X. That upon and after Twelve of the Clock at Night on the Thirty-first Day of *December* next after the Commencement of this Act it shall be lawful for the Trustees to demand and take, at the several and respective Toll Gates which now are or hereafter shall be upon or on the Sides of the said Road, such Tolls as the Trustees at any of their Meetings shall direct, not exceeding the Sums following; (that is to say,)

For every Horse or other Beast of Draught drawing any Coach, Chariot, Landau, Berlin, Chaise, Hearse, Calash, Chair, Gig, or other such like Carriage, the Sum of One Shilling:

For every Horse or other Beast of Draught drawing any Waggon, Wain, Cart, or other such like Carriage, the Sum of Tenpence:

For every Horse, Mule, or Ass, laden or unladen, and not drawing, the Sum of Fourpence:

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

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

Which said Tolls shall be taken before any Horse, Mule, Ass, Beast, or other Cattle or Carriage whatsoever shall be permitted to pass through any Toll Gate which shall be by virtue of this Act upon or across the said Road or on the Sides thereof.

As to the Fraction of a Halfpenny in Tolls.

XI. That in all Cases in which there shall be a fractional Part of a Halfpenny in the Amount of the Tolls by this Act authorized to be collected, the Sum of One Halfpenny shall be payable in lieu of such fractional Part.

Limitation of Tolls.

XII. That One full Toll shall be taken and demanded on passing along the whole Line of the said Road, but so that no more than One Fourth Part of such Toll shall be taken and demanded on each Day on passing through each of the said Toll Gates.

Tolls to be paid once a Day.

XIII. That from and after Twelve of the Clock at Night of the Thirty-first Day of *December* next after the Commencement of this Act, no Person who shall have paid Toll passing through any of the said Toll Gates now erected and continued, or hereafter to be erected upon or on the Side of the said Road, shall be subject or liable to any Toll for returning, passing, or repassing through the same Toll Gate the same Day before Twelve of the Clock at Night with the same Coach, Chariot, Chaise, or other Carriage, Waggon, Wain, Cart, Horse, Mule, Ass, Beast of Draught or Burden, or any other Cattle whatsoever, for which Toll shall have been paid on that Day, but shall be permitted to pass through such Toll Gate with such Coach, Chariot, Chaise, or other Carriage, Waggon, Wain, Cart, Horse, Mule, Ass, Beast of Draught or Burden, or any other Cattle whatsoever, Toll-free.

Carriage returning with other Horses to pay fresh Toll.

XIV. That no Coach, Chariot, Carriage, Waggon, Wain, Cart, or other Carriage whatsoever, for which Toll shall have been paid at any of the said Toll Gates, returning the same Day through the said Toll Gates, drawn by any other or different Horse or Horses, or other Beast or Beasts of Draught or Burden, nor any Coach or other Carriage that shall be kept or used by or for any Person or Persons as a public Stage Coach or Stage Carriage, returning the same Day through any of the said Toll Gates, shall be permitted to return Toll-free through the same Toll Gates the same Day, anything herein-before contained to the contrary thereof in anywise notwithstanding.

Special Exemptions from Toll.

XV. That no Toll shall be demanded or taken for any Horse, Beast, or other Cattle drawing, carrying, or conveying, or going for or returning after having been only employed in drawing, carrying, or conveying,

conveying, on the same Day, any Dung, Mould, Marle, Soil, Lime, Limestone, Soaper's Waste, Manure, or Compost to be used only for manuring any Lands or Gardens.

No Gate to be erected within Two Miles of Appleby.

XVI. That nothing in this Act contained shall extend or be construed to extend to enable the said Trustees to erect or set up, or cause to be erected or set up, any Toll Gate or Toll Gates at any Place or Places within the Distance of Two Miles of the Bridge over the River *Eden* at *Appleby*.

No Gate to be erected to obstruct the Road from Kirkby Kendal to Penrith.

XVII. That no Gate or Gates, Turnpike or Turnpikes, shall be erected on any Part of the said Roads so as to interfere with or obstruct the High Road leading from *Kirkby Kendal* in the County of *Westmorland* to *Penrith* in the County of *Cumberland*.

As to Amount of Principal Debt.

XVIII. And whereas the Debt charged upon the Tolls arising under the said Acts hereby repealed now amounts to the Sum of Four thousand three hundred and eighty-three Pounds: Be it enacted, That the said Sum of Four thousand three hundred and eighty-three Pounds shall be and be deemed to be the whole Principal Sum due on the Credit of the Tolls arising on the Road.

Application of Moneys.

XIX. That all Moneys which shall come to the Hands of the Trustees by virtue of this Act shall be applied as follows; (that is to say,)

Firstly, In paying and discharging the Expenses of obtaining and passing this Act, or incident thereto:

Secondly, In defraying the necessary Expenses of Management of the Road, including Salaries of Officers, altering and repairing Toll Gates and Toll Houses, and legal Expenses not exceeding in any One Year the Sum of Eighty Pounds, exclusive of Salaries of Toll Collectors, and prosecuting and defending Actions or Indictments at Law or Suits in Equity:

Thirdly, In paying Interest on the said Debt of Four thousand three hundred and eighty-three Pounds at the Rate of Three Pounds *per Centum per Annum*:

Fourthly, In paying the Expenses of maintaining, repairing, and improving the said Road, not exceeding in any One Year the Sum of Two hundred Pounds:

Fifthly, In reducing, paying off, and discharging, in the Manner herein-after provided, the said Sum of Four thousand three hundred and eighty-three Pounds, or such Part thereof as shall for the Time being be due and owing:

Lastly, In further maintaining, repairing, and improving the said Road.

Mortgagees not to take possession.

XX. That whenever and so long as the Interest upon all existing Mortgages and Charges upon the Tolls of the said Road shall be duly

duly paid, at the Rates authorized by this Act, within Three Calendar Months next after the same shall become due, no Holder of any Mortgage or Security shall be entitled to enter into Possession of the Toll Gates, Toll Houses, or Buildings upon the said Road or the Sides thereof, or into the Receipt of the Tolls arising thereon, or of the Rent payable upon any Letting of such Tolls; and every Mortgagee entering into Possession of such Toll Gates, Toll Houses, or Buildings, or into the Receipt of such Tolls or Rent, shall pay the Interest from Time to Time becoming due, at the Rates by this Act authorized, upon all the then existing Mortgages and Securities, and may also reimburse himself any Costs to which he may be entitled; and every such Mortgagee so being in Possession or Receipt as aforesaid shall, within Twenty-one Days next after each of the half-yearly Days whereon the Interest on such existing Mortgages shall be payable, render to the Clerk to the said Trustees for the Time being a full and true Account of the Receipts and Expenditure while so in Possession or Receipt as aforesaid, with proper Vouchers for the same; and if it shall appear by any such Account that the Interest due at the Rate by this Act authorized on such Mortgages respectively up to the last of such half-yearly Days, and all such such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the said Trustees, pay over to their Treasurer the Balance (if any) remaining in his Hands, and deliver up Possession of the said Toll Gates, Toll Houses, and Buildings, and the Receipt of the said Tolls, and of any such Rent as aforesaid, to the said Trustees, or any Person appointed by them to receive the same, anything in this Act, or in any Statute or Law in force relating to Turnpike Roads in *England*, to the contrary notwithstanding.

but for Arrears of Interest.

XXI. When and so often as the Sum applicable to the Discharge of the Principal Moneys for the Time being due on the Credit of the said Tolls shall amount to the Sum of One hundred Pounds, the Trustees shall, at any General Annual or other Meeting, apply such Sum in the Payment of a proportionate Part of the said Principal Sum of Four thousand three hundred and eighty-three Pounds to the Persons entitled thereto, and shall, Twenty-eight Days at least before such General Annual or other Meeting, cause Notice to be given of such Meeting, and of the Object or Purpose thereof, so far as the same shall relate to the Application of such Sum, in some Newspaper published in the County of *Westmorland*, and by Circular addressed to each Creditor at his last known Place of Abode, and forwarded to him by Post; and at such Meeting the Trustees shall apply such Sum or a Portion thereof (as the Case may require) in or towards the Discharge of Moneys owing on the Security of the said Tolls to the Creditor who shall, by Proposal in Writing transmitted to the Clerk of the Trustees before such Meeting, have offered to accept the lowest Composition

Mode of paying off the Debts.

Composition in respect of such Moneys, and after Payment to such Creditor as aforesaid shall apply the Surplus, if any, of such Sum or a Portion thereof (as the Case may require) in or towards the Payment and Discharge of other Moneys owing on the Security of the said Tolls to the Creditor who, by Proposal as aforesaid, shall have offered to accept the next lowest Composition in respect of the Principal Moneys due to him, and so in like Manner until the Sum applicable to such Payments shall be exhausted; and if and whenever Two or more Creditors by such Proposals as aforesaid shall have offered to accept an equal Rate of Composition, it shall be lawful for the Trustees to determine by Lot the Preference between or amongst such Creditors, or to pay such Composition rateably between or amongst such Creditors, as the Trustees shall think fit; and if there be no such Proposal as aforesaid, or if there be any Surplus of the Sum applicable to such Payments, after applying the same so far as may be necessary in or towards the Discharge of the Moneys to which such Proposals as aforesaid relate, the Trustees may apply the Sum applicable to such Payments or the Surplus thereof (as the Case may be) rateably amongst the Creditors on the said Tolls, or may pay the same to such of them as may be determined by Lot, as the Trustees shall think fit.

No Interest to accrue until Expenses of Act are paid.

XXII. Provided always, That no Interest shall accrue due in respect of the said Principal Sum of Four thousand three hundred and eighty-three Pounds, or any Part thereof, until the Trustees shall have received Sums sufficient to discharge and shall have paid the Expenses of obtaining and passing this Act or incident thereto.

No more Money to be borrowed.

XXIII. That no more Money shall be borrowed by the Trustees on the Credit of the Tolls arising on the said Road.

Road not to be exempt from Provisions of General Acts.

XXIV. That nothing herein contained shall be deemed to exempt the said Road 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.

Commencement and Term of Act.

XXV. That this Act shall commence and take effect on the First Day of *November* next after the passing thereof, and shall continue in force for the Term of Twenty-one Years, and from thence to the End of the Session of Parliament which shall then next follow.

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