ANNO DECIMO TERTIO & DECIMO QUARTO

VICTORIÆ REGINÆ.

****

Cap. lxiv.

An Act to amend an Act passed in the Fifty-fifth Year of the Reign of King *George* the Third, intituled *An Act for more effectually repairing the Road leading from* Heronsyke *to* Kirkby in Kendal, *and from thence through* Shap *to* Eamont Bridge, *in the County of* Westmoreland, *and for making a new Road from the said Road at a Place called* Far Cross Bank *near* Kirkby in Kendal, *to communicate with the intended Canal from* Lancaster *to* Kirkby in Kendal, *and to join the said Road at or near a Place called the* Lound *near* Kirkby in Kendal *aforesaid;* and to continue the Term by the same Act granted.

[15th *July* 1850.]

WHEREAS an Act was passed in the Fifty-fifth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for more effectually repairing the Road leading from* Heronsyke *to* Kirkby in Kendal, *and from thence through* Shap *to* 55 G. 3. c. 7.

Eamont Bridge, *in the County of* Westmoreland, *and for making a new Road from the said Road at a Place called* Far Cross Bank *near* Kirkby in Kendal, *to communicate with the intended Canal from* Lancaster *to* Kirkby in Kendal, *and to join the said Road at or near a Place called the* Lound *near* Kirkby in Kendal *aforesaid:* And whereas the Term granted by the said 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: And whereas considerable Sums of Money have been advanced upon the Credit of the Tolls authorized to be taken by the said Act, which Money still remains owing, together with certain Interest thereon; and such Money cannot be paid off, or the Interest thereof discharged, unless further Powers are granted, and the Term of the said Act further continued: And whereas it is expedient that the said recited Act should be repealed, and that further and more effectual Powers should be granted in lieu thereof; but the Purposes aforesaid cannot be effected without the Authority of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,

Recited Act repealed, and this Act to take effect.

That upon the Thirty-first Day of *October* next after the passing of this Act the said recited Act of the Fifty-fifth Year of the Reign of His Majesty King *George* the Third (except so much thereof as relates to the new Road thereby authorized to be made) shall be repealed, and that this Act shall thereafter be put into execution during the Term and for the Purposes hereafter mentioned.

Short Title.

II. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, and in all Proceedings whatsoever, it shall be sufficient to use the Expression "The *Heronsyke and Eamont Bridge* Turnpike Road Act, 1850."

Monies and Property to vest in the new Trustees.

III. And be it enacted, That all Monies due to and all Property and all Choses in Action vested in the Trustees under the said recited Act shall immediately on the Commencement of this Act 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 effectually as if the same had been vested in them under the said recited Act, and they shall be liable to all the Debts and Engagements to which the Trustees under the said recited Act were liable at the Repeal thereof.

Mortgagees in possession to account.

IV. And be it enacted, That on or before the Thirtieth Day of *November* next after the passing of this Act the Mortgagees in possession

session of the Toll Gates, Bars, Chains, Toll Houses, and Buildings upon the said Roads shall render an exact Account in Writing to *Roger Moser* Gentleman, or other the Clerk for the Time being to the Trustees of the said Roads, at his Dwelling House, or to such other Person as the Trustees of the said Roads for the Time being shall direct, of all Monies received by such Mortgagees, or by any other Person for their Benefit or by their Authority, at such Toll Gates, Bars, Chains, and Toll Houses, or otherwise, and of all Monies expended by them in keeping or repairing the said Roads, Toll Gates, Bars, Chains, and Toll Houses, and of the Manner in which they shall have disposed of the Residue of the Monies so received, and shall produce all the Vouchers and Receipts in their Possession or Power relating to such Accounts, and shall on or before the Thirtieth Day of *November* next after the passing of this Act pay over to such Person as the Trustees by this Act appointed shall direct to receive the same the Monies (if any) which shall appear to be due from the said Mortgagees on the Balance of such Accounts.

Appointment of Trustees.

V. And be it enacted, That all Her Majesty's Justices of the Peace for the Time being respectively acting for the County of *Westmoreland*, together with *Bryan Waller Atkinson*, *Joseph Atkinson*, *Thomas Dobson Bleaymire*, *James Bousfield*, *William Brougham*, *Thompson Bindloss*, *George Braithwaite*, *Isaac Braithwaite*, *Robert Braithwaite*, *Richard Branthwaite*, *Edward Branthwaite*, *Robert Benson*, *Robert Green Bradley*, *John Braithwaite*, *Obadiah Burrow*, the Reverend *Joseph Watkins Barnes*, *William Dillworth Crewdson*, *William Dillworth Crewdson* the younger, *George Braithwaite Crewdson*, *John Crosby*, *James Cropper*, the Reverend *Robert Wilson Evans*, the Reverend *Fletcher Fleming*, *John Gandy*, *Gerrard Gandy*, *George Gibson*, *John Gibson*, *Thomas Gough*, *William Hutton*, the Reverend *William Hutton*, *John Heelis*, *Thomas Harrison*, *Daniel Harrison*, *John Hudson*, *Lawrence Harrison*, *John Holme*, *John Harrison* (of *Hundow*), *John Harrison* (of *Summerlands*), *John Ireland*, *Jacob Giles*, *James Ireland*, *John Kitching*, *John Morland*, *Samuel Marshall*, *Roger Moser*, *John Mason*, *Francis Pearson* (*Kendal*), *Thomas Reveley*, *Reginald Remington*, the Reverend *John Rowlandson*, *Joseph Swainson*, *William Sharp*, *John Sleddall*, *Thomas Salkeld*, *Henry Shepherd*, *Walter Charles Strickland*, *William Talbot*, the Reverend *John Tatham*, the Honourable *George Upton*, the Reverend *Richard Watson*, *Richard Luther Watson*, *Samuel Whinerey*, *Christopher Wilson*, *William Wilson* (*Oxenholme*), *James Christopher Wilson*, *John Jowitt Wilson*, *William Wilson* (*Shearman*), *Richard Wilson*, *Edward William Wakefield*, *William Henry Wakefield*, the Reverend *Charles Henry Wilson*, *Frederick John Wilson*, the Reverend *George Frederick Weston*, *William Waithman*, *Robert William Waithman*, *George Webster*, the Reverend *George Wilson*, and

and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be Trustees for putting this Act into execution.

Power to appoint additional Trustees.

VI. And be it enacted, That it shall be lawful for the said 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.

First Meeting of Trustees.

VII. And be it enacted, That the said Trustees shall hold their First Meeting at the *White Hall Buildings* in *Kendal* aforesaid, or at some other convenient Place in the Neighbourhood of the said Roads, on the Sixth Day of *November* One thousand eight hundred and fifty, 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 Roads as they shall think proper.

Power to appoint Committees.

VIII. And be it enacted, That the said Trustees may appoint Committees out of their own Number to take the Care and Management of any particular Part of the said Roads, or to execute any of the Purposes of this Act, according to such Instructions and Regulations as shall be laid down by the said Trustees at any General Meeting; and the said Committees and their Surveyors may proceed and act according to such Appointment, but shall always be accountable according to the Instructions and Regulations so to be made.

Roads to which this Act is applicable.

IX. And be it enacted, That this Act shall be put into execution for the Purpose of more effectually improving, maintaining, and keeping in repair the present Turnpike Road leading from *Heronsyke*, which divides the Counties of *Westmoreland* and *Lancaster*, to the Town of *Kirkby in Kendal*, and from the said Town of *Kirkby in Kendal*, through the Town of *Shap*, to *Eamont Bridge* in the County of *Westmoreland*.

Present Tolls continued for a Term.

X. And be it enacted, That, notwithstanding the Repeal of the said recited Act, the several Tolls thereby granted and made payable shall continue to be paid at the Toll Gates or Toll Bars to be continued or erected on or on the Sides of the said Roads, until the Twenty-first Day of *November* One thousand eight hundred and fifty.

Power to take Tolls.

XI. And be it enacted, That upon and after the said Twenty-first Day of *November* One thousand eight hundred and fifty it shall be lawful for the said Trustees to demand and take at the several

and

and respective Toll Gates or Toll Bars which shall by virtue of this Act be upon or on the Sides of the said Roads such Tolls as the said Trustees at any of their Meetings shall direct, not exceeding the Sums following; (that is to say,)

For every Horse, Mule, or other Beast drawing any Coach, Chariot, Landau, Landaulet, Barouche, Chaise, Phaeton, Curricle, Car, Chair, Gig, Hearse, or other such Carriage, the Sum of Sixpence:

For every Carriage fixed or fastened in any Manner to any other Carriage, Waggon, Wain, Dray, or Cart, the Sum of One Shilling:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Caravan, or other such Carriage, if drawn by One Horse, Mule, or other Beast, the Sum of Four-pence; and for every Ass drawing any such Carriage, the Sum of Two-pence:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Caravan, or other such Carriage, if drawn by more than One Horse, Mule, or other Beast, if the Tires of the Wheels are of a Breadth of not less than Six Inches, the Sum of Four-pence; if such Tires are of a Breadth of not less than Four and a Half Inches, the Sum of Five-pence; and if such Tires are of a Breadth of less than Four and a Half Inches, the Sum of Sixpence:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Caravan, or other such Carriage, if laden with Coals, Cannel, or Cinders only, there shall be demanded and taken One Half of the Tolls respectively above mentioned:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Caravan, or other such Carriage, having paid Toll for being laden with Coals, Cannel, or Cinders, and returning the same Day through the same Toll Gate or Side Gate with any other Loading not exempt from Payment of Toll, One Half of the Toll hereby made payable for and in respect of every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Caravan, or other such Carriage not laden with Coals, Cannel, or Cinders:

For every Horse or Mule, laden or unladen, and not drawing, the Sum of Two-pence; and for every Ass, laden or unladen, and not drawing, the Sum of One Penny:

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

For every Drove of Calves, Sheep, Lambs, or Swine, the Sum of Five-pence *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 or Bar which shall be by virtue of this Act upon or across the said Roads or on the Sides thereof.

As to the Fraction of a Halfpenny in Tolls.

XII. And be it enacted, 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.

Exemption in favour of Low Mills.

XIII. Provided always, and be it enacted, That no more than One Half of the Tolls by this Act granted shall be demanded in respect of any Horse or other Beast belonging to any Owner or Occupier of the *Low* Mills near *Kirkby in Kendal*, solely employed in drawing, carrying, or conveying any Goods or Merchandize to or from the Town of *Kendal* and the said Mills for the Purpose of Manufactory, or in drawing, carrying, or conveying any raw Materials to the said Mills to be made up or manufactured there, or to be used in the Process of Manufactory.

No more than Five Tolls to be payable on the same Day.

XIV. And be it enacted, That no more than Five Tolls shall be taken for passing and repassing in the same Day (to be computed from Twelve of the Clock at Night to Twelve of the Clock on the next succeeding Night) with the same Horses, Beasts, Cattle, or other Animal or Thing liable to Toll or Duty, through all the Toll Gates and Bars erected or to be erected or continued on the said Roads.

No Gate to be erected between Clifton Church and Eamont Bridge.

XV. Provided always, and be it enacted, That no Toll Gate, Side Gate, or Toll House shall be erected or built across or on the Side of any Part of the said Road between the Parish Church of *Clifton* and *Eamont Bridge* aforesaid.

Persons having paid Tolls to return free the same Day.

XVI. And be it enacted, That all Horses and Cattle (except Horses or Cattle drawing any Stage Coach, Waggon, or other Stage Carriage, as herein-after mentioned,) in respect whereof the Toll hereby authorized to be taken shall have been paid at any Toll Gate or Bar on any of the said Roads or on the Sides thereof shall, upon a Ticket denoting such Payment being produced, be permitted, in returning, passing and repassing, through the same Toll Gate or Toll Bar, and in going and returning, passing and repassing, through such other Toll Gate or Bar (if any) as the Ticket for such Payment shall free, to pass Toll-free the same Day.

Post Chaises, &c. to pay on every fresh Hiring.

XVII. Provided always, and be it enacted, That the Tolls hereby made payable shall be paid for all Horses or other Animals let for Hire, whether laden or unladen, and for all Horses or Cattle drawing any Post Chaise or other Carriage travelling for Hire, as often as any new Hiring shall take place, in the same Manner as if no previous Payment

Payment of Toll had been made in respect of such Horses, Animals, or Cattle on the same Day.

Regulations as to Stage Coaches.

XVIII. And be it enacted, That all Horses and Cattle drawing any Stage Coach, Waggon, or other Stage Carriage conveying Passengers or Goods for Hire or Reward, in respect whereof the Toll hereby authorized to be taken shall have been paid at any Toll Gate or Bar, shall, upon a Ticket denoting such Payment being produced, be permitted to pass once Toll-free on the same Day through any other Gate or Bar which such Ticket would free in the Case of Horses or Cattle drawing any other Carriage; and no further or additional Toll shall be payable in respect of any Stage Coach or other such Carriage as aforesaid at any such other Toll Gate or Bar, the Payment at which shall be freed by such Ticket as aforesaid, on account only of their conveying other Passengers, or of the Horses or Cattle drawing the same having been changed.

Respecting Toll Gates.

XIX. And be it enacted, That the several Toll Gates, Bars, and Toll Houses now standing or being upon the said Roads or on the Sides thereof shall be continued until removed by any Order of the said Trustees; and it shall be lawful for the said Trustees to order and cause to be set up, in or across the said Roads or on the Sides thereof, any Toll Gate or Bar, and to remove the present or any future Toll Gate or Bar, as they shall think proper.

Mortgagees to deliver up Possession of Gates.

XX. And be it enacted, That, on or before the said Thirtieth Day of *November* next after the passing of this Act, the Mortgagees in possession of any of the Toll Gates, Bars, Chains, Toll Houses, or Buildings upon the said Roads or on the Sides thereof shall deliver up the same to the said Trustees; and the said Trustees, their Collectors and Servants, shall enter into possession of the said Toll Gates, Bars, Chains, Toll Houses, and Buildings, and shall thenceforth receive the Tolls which can be collected thereat; and if any Collector, Receiver, or other Person shall refuse or neglect to deliver up Possession as aforesaid of any of the said Toll Gates, Bars, Chains, Toll Houses, or Buildings, then such Receiver, Collector, or other Person may be removed therefrom in manner provided by any Law or Statute then in force relating to Turnpike Roads in *England*.

Mortgagees to take possession for Payment of Interest only.

XXI. And be it enacted, That whenever and so long as the Interest upon all existing Mortgages made under the Powers of the said recited Act shall be duly paid at the Rate herein-after mentioned within One Calendar Month next after the same shall become due, no Holder of any Mortgage of the Tolls collected upon the said Roads shall be entitled to enter into possession of the Toll Gates, Bars, Chains, Toll Houses, or Buildings upon the said Roads, or into the Receipt of the Tolls arising thereon, or of the Rent payable upon any

any Letting of such Tolls; and every Mortgagee entering into possession of such Toll Gates, Bars, Chains, 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 Rate herein-after mentioned upon all the said existing Mortgages, without any Priority or Preference, 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 his 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 herein-after mentioned on such Mortgages up to the last of such half-yearly Days, and all 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, Bars, Chains, 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.

Application of Monies.

XXII. And be it enacted, That all Monies which shall come to the Hands of the said 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 erecting, altering, and repairing Toll Gates, Toll Bars, and Toll Houses, and the necessary Expenses of Management of the said Roads:

Thirdly, in paying Interest at the Rate of Two Pounds Fifteen Shillings *per Centum per Annum* upon the Principal Sums for the Time being owing in respect of Money borrowed on the Credit of the Tolls authorized to be taken by the said repealed Act:

Fourthly, in reducing, paying off, and discharging the Principal Sums for the Time being owing in respect of Money borrowed on the Credit of the Tolls authorized to be taken by the said repealed Act:

Fifthly, in paying the Expenses of maintaining and keeping the said Roads in repair, and in putting this Act into execution with reference thereto.

As to Mode of discharging Debt.

XXIII. And be it enacted, That when and so often as the Sum applicable to the Discharge of the Principal Monies for the Time being

being owing on the Credit of the said Tolls shall amount to the Sum of Two 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 Monies 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 Purposes thereof, so far as the same relate to the Application of such Sum, in some Newspaper published in the County of *Westmoreland*, or if there shall be no Newspaper published therein, then in some Newspaper published in an adjoining County, 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 Monies 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 in respect of such Monies, 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 Discharge of other Monies 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 Monies 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 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 Monies to which any such Proposals 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 think fit.

Money to be laid out on Roads limited.

XXIV. And be it enacted, That no more Money shall be expended in the Repair of any Road comprised in this Act than shall be collected thereon.

No Money to be taken or laid out on Roads in Towns.

XXV. And be it enacted, That no Money shall be laid out on the said Roads within the Limits of any Act of Parliament passed for the Improvement of any Town, nor shall any be collected therein.

No more Money to be borrowed on the Tolls.

XXVI. And be it enacted, That it shall not be lawful for the said Trustees to borrow any further Sum or Sums of Money on the Credit of the Tolls by this Act authorized to be taken.

Trustees or Clerk not deemed incompetent Witnesses.

XXVII. And be it enacted, That no Trustee or Clerk acting under the Authority of this Act, if not otherwise interested, shall be deemed incompetent to give Evidence, or shall be disqualified from giving Evidence, in any Action, Suit, or other Proceeding brought by or against him in such his Capacity of Trustee or Clerk, by reason of his being Plaintiff or Defendant in such Action, Suit, or other Proceeding.

Roads not exempted from Provisions of future general Acts.

XXVIII. And be it enacted, That nothing herein contained shall be deemed to exempt the said Roads 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.

Term of Act.

XXIX. And be it enacted, That this Act shall commence on the Thirty-first Day of *October* 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.

Interpretation of Terms.

XXX. And be it enacted, That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

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

Words importing the Masculine Gender shall include Females:

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

Public Act.

XXXI. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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