ANNO DECIMO SEPTIMO & DECIMO OCTAVO

VICTORIÆ REGINÆ.

****

Cap. cxlv.

An Act for more effectually repairing the Road from the *Toll House Beck* in the Township of *Ireby* in the County of *Lancaster* to *Kirkby Lonsdale* and *Kirkby Kendal* in the County of *Westmorland*, and through *Kirkby Lonsdale* to *Milnthorpe* in the said County.

[10th *July* 1854.]

WHEREAS an Act was passed in the Fifty-ninth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for more effectually repairing the Road from the* 59 G. 3.
Toll House Beck *in the Township of* Ireby *in the County of* Lan- c. xviii.
caster *to* Kirkby Lonsdale *and* Kirkby Kendal *in the County of* Westmorland, *and through* Kirkby Lonsdale *to* Milnthorpe *in the said County:* 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 *October* One thousand eight hundred and fifty-four: And whereas considerable Sums of Money have been advanced upon the Credit of the Tolls authorized to be taken by the said Act,

and there is now due and owing on the Credit of the said Tolls the Principal Sum of Four thousand six hundred and sixty-nine Pounds and Threepence, and there is no Arrear of Interest thereon: And whereas an Arrangement has been entered into between the Parties interested in the said Sum of Four thousand six hundred and sixty-nine Pounds and Threepence and the Trustees of the said Roads, for the Reduction of the Rate of Interest on such Sum to Two Pounds Fifteen Shillings *per Centum per Annum*, in consideration of the Scale of Tolls and the Application of the same herein-after provided, whereby it is anticipated that the said Debt or Sum of Four thousand six hundred and sixty-nine Pounds and Threepence will be paid off or extinguished within the Term of this Act: And whereas it is expedient that the said recited Act should be repealed, and that further and more effectual Powers should be granted in lieu thereof; but the Purposes aforesaid cannot be effected without the Authority of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Recited Act repealed.

I. That upon the Commencement of this Act the said recited Act of the Fifty-ninth Year of the Reign of His Majesty King *George* the Third shall be and the same is hereby repealed, and that instead thereof this Act shall from thenceforth commence and be put in execution for the Purposes and during the Term hereafter mentioned.

Short Title.

II. 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 *Kirkby Lonsdale, Kendal, and Milnthorpe* Turnpike Road Act, 1854."

Interpretation of Terms.

III. That in the Construction of this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless such Meanings be repugnant to or inconsistent with the Context; (that is to say,)

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

The Expression "the Trustees" shall mean the Trustees for the Time being for executing this Act:

The Expression "the Road," or "the said Road," shall mean the Road to which this Act relates:

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

IV. That

Monies and Property to vest in the new Trustees.

IV. 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, and such 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.

Appointment of Trustees.

V. That all Her Majesty's Justices of the Peace for the Time being respectively acting for the County of *Westmorland*, together with *Richard Atkinson* senior, *Robert Abbot*, *Richard Atkinson* junior, *John Boustead*, *John Briggs*, *John Bradley*, the Reverend *David Barclay Bevan*, *William Gillison Bell* junior, *Robert Burrow*, *William Batty*, *Warwick Boustead*, the Reverend *William Carus*, *William Cartmel*, *John Thomas Coates*, the Reverend *Richard Denny*, *Thomas Eastham*, *Ralph Bloomfield Fisher*, *Thomas Fawcett*, *William Gibson*, the Reverend *Thomas Garnett*, *Robert Skyring Garnett*, *Robert Lamplugh Gregg*, *William Romaine Gregg*, *Humphrey Archer Gregg*, *Joseph Gibson* junior, *Thomas Harrison*, *William Middleton Moore*, *John Hebblethwaite Moore*, *John Morland*, *Francis Pearson*, *John Preston*, *John Bagot Pearson*, *Francis Fenwick Pearson*, *Richard Howson Procter*, the Reverend *Gilbert Procter*, *Edmund Tatham Procter*, *John Procter*, *Robert Procter*, *John Richard Picard*, *Richard Stuart Picard*, *Henry Rauthmel*, *Reginald Remington*, *Richard Roper* junior, *John Rawlinson*, *Edward Rawlinson*, *Joseph Swainson*, *William Talbot* senior, *William Talbot* junior, *Anthony Battersby Tomlinson*, *Thomas Tomlinson*, *William Tomlinson*, *Richard Tatham*, the Reverend *William Carus Wilson*, *William Wilson*, *Carus Wilson*, the Reverend *Charles Carus Wilson*, the Reverend *John Marsden Wright*, *George Wright*, *John Wright*, *Edward Wright*, the Reverend *Edward Shepherd Carus Wilson*, *John Flasby Yeats*, the Reverend *William Fisher Audland*, *William Ellison*, *William Ellison* junior, Reverend *Robert Wilson Evans*, Reverend *William Hulton*, *Edward Hulton*, Reverend *Robert More Wood*, *Walter Charles Strickland*, *William Henry Wakefield*, *John Yeates Yeates*, Reverend *Nicholas Padwick*, the Reverend *Charles Henry Wilson*, *Frederick John Wilson*, *John Kitching*, *Richard Braithwaite*, *Edward Braithwaite*, *James Cropper*, *John Ireland*, *Roger Moser*, *Thomas Cartmel*, *John Atkinson*, *John Guy Burrow*, *John Holgate*, *William Irving*, and *John Marr* shall be and are hereby appointed Trustees for putting this Act into execution.

Power to appoint additional Trustees.

VI. 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

qualified to act as Trustees of Turnpike Roads in *England*, not exceeding Five 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. That the said Trustees shall hold their First Meeting at the *Royal* Hotel in *Kirkby Lonsdale*, or at some other convenient Place in the Neighbourhood of the said Road, on the Day of the Commencement of this Act, 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.

Power to appoint Committees.

VIII. 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 Road, 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.

Road to which this Act is applicable.

IX. That this Act shall be put in execution for and during the Term herein-after mentioned for the Purpose of maintaining, improving, and keeping in repair the Turnpike Road from the *Toll House Beck* which divides the Counties of *York* and *Lancaster* in the Township of *Ireby* in the said County of *Lancaster* to the Market Place in the Town of *Kirkby Lonsdale* in the County of *Westmorland*, and from thence by *Keastwick* to *Kirkby Kendal* in the said County, and from the said Market Place up the new Road to *Milnthorpe*, also in the said County of *Westmorland*.

Present Tolls continued for a Term.

X. 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 Road until the First Day of *October* One thousand eight hundred and fifty-four.

Power to take Tolls.

XI. That upon and after the said First Day of *October* One thousand eight hundred and fifty-four it shall be lawful for the said Trustees to demand and take, or cause to be demanded and taken, at the several and respective Toll Gates or Toll Bars which shall by virtue of this Act be upon or on the Sides of the said Road, such Tolls as the said Trustees at any of their Meetings shall direct, not exceeding the Sums following; (that is to say,)

For

For every Horse or other Beast drawing any Coach (except a Stage Coach), Chariot, Landau, Landaulet, Barouche, Chaise, Phaeton, Curricle, Car, Chair, Gig, Hearse, Shandry, Pleasure Cart, or other Carriage constructed with Springs, the Sum of Sixpence:

For every Horse or other Beast drawing any Stage Coach or other Stage Carriage for the Conveyance of Passengers for Hire, the Sum of Fourpence:

For every Horse or other Beast of Draught drawing any Waggon, Wain, Cart, or other such like Carriage, if drawn by Two or more Horses or other Beasts of Draught, the Sum of Sixpence; and if drawn by One Horse or other Beast of Draught, the Sum of Fourpence:

For every Horse or other Beast (except Asses), laden or unladen, and not drawing, the Sum of Twopence:

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 Tenpence *per* Score, and so in proportion for any greater or less Number:

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

For every Dog drawing any Truck or any other Carriage with Two or more Wheels, the Sum of One Penny:

For every Carriage or Truck moved or propelled by Steam or by any other Power than Horses or Beasts, the Sum of One Shilling for each Wheel thereof.

As to the Fraction of a Halfpenny in Tolls.

XII. 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.

Persons having paid Tolls to return free.

XIII. That all Horses and Cattle (except Horses or Cattle drawing any Stage Coach, Omnibus, or other such 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 the said Road 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.

Postchaises, &c. to pay on fresh Hiring.

XIV. 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 Postchaise or other Carriage travelling for Hire, as often as any new Hiring shall take place, in the same Manner as if no previous Payment of Toll had been made in respect of such Horses, Animals, or Cattle on the same Day.

Regulations as to Stage Coaches.

XV. That all Horses and Cattle drawing any Stage Coach, Omnibus, or other such Carriage conveying Passengers and 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 the same or 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 the same or 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.

Tolls on Horses, &c. drawing different Waggons, &c.

XVI. That the Tolls by this Act made payable in respect of all Horses or other Beasts drawing any Waggon, Wain, Cart, Van, Caravan, or other such like Carriage shall be paid for every Time during the same Day that any such Horse or other Beast shall pass through any Toll Gate on the Roads drawing any laden Waggon, Wain, Cart, Van, Caravan, or such like Carriage, other than that which such Horse or other Beast shall have been employed in drawing at any former Time during the same Day when Tolls shall have been paid in respect of such Horse or other Beast.

Number of Tolls payable on the same Day.

XVII. That no more than Two full Tolls shall be demanded and taken (except in the Cases herein-before mentioned) for passing on the same Day throughout the whole Line of the said Road between the *Toll House Beck* and *Kendal*, nor more than Two full Tolls between the *Toll House Beck* and *Milnthorpe*, nor more than One full Toll between *Kirkby Lonsdale* and *Kendal*, nor more than One full Toll between *Kirkby Lonsdale* and *Milnthorpe*.

As to Tolls and Toll Gates of Road between High-

XVIII. And whereas the Part of the Road to which this Act applies which is situate between a certain Place called *Highgate Settlings* and *Kirkby Kendal* is also comprised in the Trust of the *Heron Syke* and *Eamont Bridge* Turnpike Road Trustees, and a Toll

a Toll Gate was many Years ago erected thereon by those Trustees, and an Agreement has for many Years subsisted between them and the Trustees of the *Kirkby Lonsdale, Kendal, and Milnthorpe* Turnpike Road, by which the last-mentioned Trustees have been precluded from erecting a Toll Gate on such Part of the said Road, or of taking Tolls thereon, in consideration of receiving an annual Sum of Money from the Trustees of the said *Heron Syke* and *Eamont Bridge* Turnpike Roads: Be it therefore enacted, That so long as the Trustees of the *Heron Syke* and *Eamont Bridge* Turnpike Roads shall, out of their Tolls, pay annually to the Trustees acting in the Execution of this Act the Sum of Thirty Pounds, it shall not be lawful for the last-mentioned Trustees to erect any Toll Gate or to take any Tolls upon any Part of the said Road between *Highgate Settlings* and *Kirkby Kendal* aforesaid. gateSettlings and Kirkby Kendal.

XIX. That the several Toll Gates, Bars, and Toll Houses now standing or being upon the said Road 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 Road 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. Respecting Toll Gates.

XX. 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,) Application of Monies.

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 Road:

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 paying the Expenses of maintaining and keeping the said Road in repair, and in putting this Act into execution with reference thereto:

Fifthly, 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 in manner herein-after provided.

XXI. That

As to Mode of discharging Debt.

XXI. That when and so often as the Sum applicable to the Discharge of the Principal Monies for the Time being owing 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 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 *Westmorland*, or if there shall be no Newspaper published therein, then in some Newspaper 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 of 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.

Mortgagees not to take possession but for Arrears of Interest.

XXII. That whenever and so long as the Interest of any Mortgage upon the Tolls of the Road shall be duly paid at the Rate in this Act mentioned within Three Calendar Months next after the same shall become due, the Holder of such Mortgage shall not be

be entitled to enter into possession of the Toll Gates, Toll Houses, or Buildings upon the Road, 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 Rate in this Act mentioned, upon all the Principal Sums for the Time being owing on the Credit of the said Tolls, 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 yearly Days whereon the Interest on such Principal Sums shall be payable, render to the Clerk to the 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 in this Act mentioned on such Principal Sums up to the last of such yearly Days, and all such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the Trustees, pay over to their Treasurer the Balance (if any) remaining in his Hands, and deliver Possession of the Toll Gates, Toll Houses, and Buildings, and the Receipt of the said Tolls and of any such Rent as aforesaid, to the 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.

No Money to be taken or laid out in Towns.

XXIII. That no Money shall be laid out on the said Road 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 Tolls.

XXIV. 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, beyond the Sum of Four hundred Pounds.

Road not exempted from Provisions of future General Act.

XXV. 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.

The Kirkby Lonsdale, Kendal, and Milnthorpe Turnpike Road Act, 1854.

Term of Act.

XXVI. That this Act shall commence on the First Day of *September* 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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