ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

****

Cap. lxxxix.

An Act for maintaining the Turnpike Road leading from *Kirkby Stephen* in the County of *Westmoreland* into the *Sedbergh and Kirkby Kendal* Turnpike Road, and out of and from the same Turnpike Road to *Hawes* in the North Riding of the County of *York*, and a Branch from *Hawes* aforesaid to the Village of *Gayle* in the Township of *Hawes*. [17th *June* 1852.]

WHEREAS an Act was passed in the Session of Parliament held in the Sixth Year of the Reign of King *George* the Fourth, intituled *An Act for making and maintaining a* 6 G. 4. c. 12.
Turnpike Road from Kirkby Stephen *in the County of* Westmoreland *into the* Sedbergh and Kirkby Kendal *Turnpike Road, and out of and from the same Turnpike Road to* Hawes *in the North Riding of the County of* York, *and a new Branch from* Hawes *aforesaid to the Village of* Gayle *in the Township of* Hawes: And whereas the Term granted

by the said Act hath been from Time to Time continued by virtue of divers Acts of Parliament passed for continuing certain Turnpike Acts for limited Periods, and the same will expire on the First Day of *November* One thousand eight hundred and fifty-two, unless Parliament shall in the meantime continue the same: And whereas, in pursuance of the said Act, the Trustees acting by virtue thereof have made and completed the Road thereby authorized to be made: And whereas considerable Sums of Money have been advanced upon the Credit of the Tolls authorized to be taken on the said Roads by virtue of the said recited Act, which Sums still remain owing, together with an Arrear of Interest thereon, and such Monies cannot be paid off, unless the Powers granted by the said Act and the Term of the said Act be further continued, or other substituted Powers are granted for a further Term: And whereas it is expedient that the said recited Act should be repealed, and that further and more effectual Powers should be granted in lieu thereof; but such Purposes cannot be effected without the Authority of Parliament: May it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Recited Act repealed, and this Act to be put in force.

I. That from and after the Commencement of this Act the said recited Act of the Sixth Year of the Reign of King *George* the Fourth shall be repealed, and this Act shall thenceforth be put into execution during the Term and for the Purposes herein-after mentioned.

All Arrears of Tolls and Monies due under recited Act vested in the Trustees under this Act.

II. That all Monies due to, and all Toll Houses and other Property, and all Choses in Action, vested in the Trustees under the Act hereby repealed, shall immediately on the Commencement of this Act be vested in and belong to 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 the Trustees for executing this Act shall be liable to all the Debts and Engagements to which the Trustees under the recited Act were liable at the Repeal thereof, save and except such of the same Debts and Engagements as are by this Act virtually extinguished.

Appointment of Trustees.

III. That all Her Majesty's Justices of the Peace for the Time being acting for the County of *Westmoreland* or for the North Riding of the County of *York* respectively, together with *William Alderson*, *Jonathan Alderson*, *Oswald Allen* (*Gayle*), *Oswald Allen* (*Widdale*), *James*

James Allen (*Scarhead*), *Robert Metcalfe Atkinson*, *William Balderston* (Clerk), *John Benson*, *Thomas Bradley* (*Richmond*), *Orton Bradley* (*Eden Place*), *George Blades*, *John Blades*, *Joseph Chapelhow* (Clerk), *John Chapman* (*Thornton Rust*), *Matthew Chamley*, *Thomas Cleasby*, *Stephen Cleasby*, *John Collinson* (Clerk), *James Cunnion*, *Anthony Davis*, *John Dodd*, *John Frankland*, *Richard Hewetson*, *Robert Hewetson*, *John Hewetson*, *John Rudd Harker*, *James Hird*, *Thomas Hutton*, *Stephen Hutchinson* (Clerk), *Henry Jackson*, *Edward Johnson*, *Henry King* (Clerk), *Thomas Lodge* (Clerk), *Thomas Mason*, *Thomas Mason* the younger, *Anthony Metcalfe* (*Hawes*), *Edward Metcalfe*, *John Metcalfe* (Clerk), *Richard Metcalfe*, *Robert Metcalfe*, *Thomas Metcalfe*, *Anthony Moor*, *Christopher Moor* (*Pry House*), *John Morland*, *John Park*, *Thomas Park*, *Thomas Raickstraw*, *Robert Robinson* (Clerk), *Thomas Robinson*, *Matthew Robinson*, *Thomas Stuart*, *Clement Scarr*, *Isaac Sowerby*, *James Smith*, *Alexander Smith*, *Thomas Smith*, *John Terry* (*Bainbridge*), *Joseph Thompson*, *Joseph Taylor*, *Jacob Tomlin*, *John Tomlinson* (*Aisgarth*), *Matthew Thompson*, *Robert Waistell*, *Francis Whaley*, *Henry Whaley*, *James Whaley*, *Oswald Routh Whaley*, *William Whaley*, *James Willan*, *James Willan* the younger, *Matthew Willan*, *Thomas Yeoman*, 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.

IV. That it shall be lawful for the Trustees 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.

V. That the Trustees shall hold their First Meeting at the *White Hart* Inn in the Town of *Hawes*, or at some other convenient Place within the said Town, upon the Third *Wednesday* next after the Commencement of this Act, and the Second Meeting shall be held at the *King's Arms* Inn in the Town of *Kirkby Stephen*, or at some other convenient Place in the said Town, and all subsequent Meetings or Adjournments of Meetings shall from Time to Time thereafter be holden at such Time and at such Places in the Neighbourhood of the said Roads as the Trustees shall think proper; but all annual Meetings shall be held alternately in the said respective Towns.

Power to appoint Committees.

VI. That the Trustees may appoint Committees out of their own Number to execute any of the Purposes of this Act, according to

to such Instructions and Regulations as shall be laid down by the Trustees at any General Meeting; and the said Committees may proceed and act according to such Appointment, but shall always be accountable according to the Instructions and Regulations so to be laid down.

Roads to which this Act is applicable.

VII. That this Act shall be put into execution for the Purpose of maintaining in repair the Road leading from *Kirkby Stephen* in the County of *Westmoreland* into that Part of the *Sedbergh and Kirkby Kendal* Turnpike Road which leads from the Town of *Sedbergh* in the West Riding of the County of *York* to *Bracken Bar* Gate at or near a certain Place called the *Guide Post* on *Mosdale Moor* in the Parish of *Aisgarth* in the North Riding of the said County, and out of and from the said Turnpike Road at or near a certain Place called "*New Houses*" in the same Parish to the Town of *Hawes* in the said North Riding of the County of *York*, and from thence to the Village of *Gayle* in the Township of *Hawes*.

Present Tolls continued until 31st December 1852.

VIII. 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 Thirty-first Day of *December* One thousand eight hundred and fifty-two.

Upon and after 31st December 1852, certain Tolls to be taken.

IX. That upon and after the said Thirty-first Day of *December* One thousand eight hundred and fifty-two it shall be lawful for the said Trustees to demand and take, at the several and respective Toll Gates or Toll Bars which shall by virtue of this Act be continued or erected upon or on the Sides of the said Roads, such Tolls as the said Trustees shall at any of their Meetings direct, not exceeding the Sums following; (that is to say,)

For every Horse, Mule, or other Beast drawing any Coach, Stage Coach, Diligence, Van, Caravan, Sociable, Berlin, Landau, Chariot, Vis-à-vis, Barouche, Phaeton, Chaise Marine, Chaise, Calash, Car, Curricle, Chair, Gig, Wiskey, Hearse, Litter, or other such like Carriage, the Sum of Sixpence:

For every Horse, Mule, Ass, Ox, or Bullock, drawing any Waggon, Wain, Cart, or other such like Carriage, the Sum of Fourpence:

For every Dog drawing any Cart, Truck, or other Carriage, the Sum of One Penny:

For every Carriage moved or propelled by Steam or Machinery, or by any other Power than Animal Power, the Sum of One Shilling for each Wheel thereof:

For

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

For every Drove of Oxen, Cows, Calves, or Neat Cattle, the Sum of Fivepence *per* Score, and so in proportion for any less Number than a Score, and if such less Number shall not amount to Five, then the Sum of One Halfpenny each:

For every Drove of Sheep, Lambs, or Swine, the Sum of Twopence Halfpenny *per* Score, and so in proportion for any less Number than a Score:

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

As to the Fraction of a Halfpenny in Tolls.

X. 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.

Limiting Number of Tolls to be payable on the Roads.

XI. That no more than Two full 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 in 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 which shall by virtue of this Act be erected or continued on the said Roads, the Distance between each respective Place of Payment being at least Two Miles.

Persons having paid Toll to return Toll-free.

XII. 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 through such other Gate or Bar (if any) as the Ticket for such Payment shall free, to pass Toll-free the same Day, to be computed as aforesaid.

Postchaises to pay every Time of passing with fresh Hiring.

XIII. That the Tolls hereby made payable shall be paid for all Horses or Cattle drawing any Postchaise or other Carriage travelling for Hire, as often as new Hiring shall take place, in the same Manner as if no previous Payment of Toll in respect of such Horses or Cattle had been made on the same Day.

Regulations as to Stage Coaches.

XIV. That the Tolls hereby made payable for or in respect of all Horses and Cattle drawing any Stage Coach, Diligence, Van, Caravan, Stage Waggon, or other Stage Carriage conveying Passengers or Goods for Hire or Reward, shall be payable and paid for every Time of passing or repassing through any of the Turnpikes or Toll Gates which shall by virtue of this Act be upon or on the Sides of the said Roads.

Exemption for Carts, &c. carrying Peat in Mallerstang.

XV. That no Toll shall be payable or be taken at any Toll Gate which shall by virtue of this Act be upon or on the Sides of the said Roads for or in respect of any Horse, Beast, or other Cattle, or Carriage, going empty or unladen for or returning laden with any Peats or Turves to be burnt within the Township of *Mallerstang*; provided that if any Person shall fraudulently or collusively claim or take the Benefit of the Exemption aforesaid, not being entitled thereto, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds; and in all Cases the Proof of the Exemption shall lie upon the Person claiming the same; and such Penalty shall be levied and recovered (together with the necessary Costs and Charges of levying the same) by the same Ways and Means and in the like Manner as Penalties or Forfeitures for fraudulently or collusively claiming or taking the Benefit of any Exemptions from Tolls or other Exemption on any Turnpike Road may by Law be levied or recovered; and One Moiety of such Penalty shall be paid to the Informer, and the other Moiety thereof shall be paid to the Treasurer to the Trustees, and be applied to the Purposes of this Act.

Respecting Toll Gates.

XVI. That the several Toll Gates now standing or being upon the said Turnpike Roads or on the Sides thereof shall be continued until removed by any Order of the Trustees; and it shall be lawful for the Trustees to order and cause to be set up in or across the said Turnpike Roads or on the Sides thereof any Toll Gates, and to remove the present or any future Toll Gates, as they shall think proper; Provided always, that no Toll Gate shall be erected, removed, or set up upon or across the said Roads or on the Sides thereof, except the same shall be ordered to be removed, erected, or set up at a Special Meeting of the Trustees holden for that Purpose in conformity with and after such Notices as are required to be given by the Act of 9 Geo. IV. Cap. 77.

Extinguishing Arrears of Interest.

XVII. And whereas the Mortgage Debt upon the Tolls under the said recited Act now amounts to the Principal Sum of Three thousand three hundred and ninety-five Pounds, and there is a large Arrear of

of Interest due thereon, but on the passing of this Act all such Arrears, and all Interest on the said Debt up to the Thirty-first Day of *December* One thousand eight hundred and fifty-one, shall be considered as satisfied and discharged, and from thenceforth Interest at the Rate of Two Pounds *per Centum per Annum* only shall be payable on the said Principal Sum of Three thousand three hundred and ninety-five Pounds.

Application of Monies.

XVIII. That all Monies which shall be received by 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 paying and discharging the Expenses of erecting, altering, and repairing Toll Gates, and other Expenses of Management of the said Roads (except the Expenses of repairing the said Roads), not exceeding Ten Pounds *per Annum*:

Thirdly, in paying Interest from the Thirty-first Day of *December* One thousand eight hundred and fifty-one, at the Rate of Two Pounds *per Centum per Annum*, upon the said Principal Sum of Three thousand three hundred and ninety-five Pounds now due on the Credit of the Tolls authorized to be taken by the said repealed Act, or upon such Part of the said Principal Sum as shall for the Time being remain unsatisfied:

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 on the said Roads:

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

As to Mode of discharging Debt.

XIX. 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 Fifty 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 *York*, or by Letter addressed to each of the Creditors on the Tolls of the said Road; 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

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 Payment 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 of Toll Houses, &c. but for Arrears of Interest.

XX. That whenever and so long as the Interest, at the Rate herein-before mentioned, upon the said Principal Debt of Three thousand three hundred and ninety-five Pounds, or upon such Part thereof as shall for the Time being remain unsatisfied, shall be duly paid 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 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 Rents, shall pay the Interest from Time to Time becoming due, at the Rate herein-before 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-before

herein-before 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.

Interest not to accrue until Expenses of Act have been paid.

XXI. Provided always, That no Interest shall accrue upon the said Principal Sum of Three thousand three thundred and ninety-five Pounds until the Trustees shall have received a Sum sufficient to discharge the Costs and Expenses attending the applying for, obtaining, and passing this Act, or in any Manner incidental thereto.

No Tolls to be taken or Money laid out in Towns.

XXII. 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, nor within the Towns of *Kirkby Stephen* and *Hawes* or either of them.

No more Money to be borrowed on the Tolls.

XXIII. 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, without the Consent in Writing of One of Her Majesty's Principal Secretaries of State being first obtained.

Roads not exempt from Provisions of any future General Act.

XXIV. That nothing herein contained shall be deemed to exempt the Roads comprised in this Act 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.

Interpretation of Terms.

XXV. 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,

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

The Word "Toll-gate" or "Toll-gates" shall mean any Toll-gate, Turnpike, Bar, or Chain set up and erected or to be set up and erected upon or across or by the Sides of the Roads by virtue of this Act.

XXVI. That

The Kirkby Stephen and Hawes Turnpike Road Act, 1852.

Short Title.

XXVI. 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 Stephen and Hawes* Turnpike Road Act, 1852."

Term of Act.

XXVII. That this Act shall commence and take effect from the Thirty-first Day of *October* One thousand eight hundred and fifty-two, 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.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1852.