ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

****

Cap. cxlvii.

An Act for more effectually repairing certain Roads called "The *Tupton and Ashover* Road" and "The *Birkin Lane* Road," in the County of *Derby*. [17th *July* 1862.]

WHEREAS an Act was passed in the Eleventh Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for more effectually repairing and improving the Road* 11 G. 4. & 1 W. 4. c. xci.
from Temple Normanton *to* Buntingfield Nook *in the County of* Derby, *and the Road from* Tupton Nether Green *to* Stubbing Edge Lane *and* Knot Cross *in the said County:* And whereas the Term granted by the recited Act will shortly expire, unless the same be further continued: And whereas the several Sums specified in the Schedule to this Act annexed, amounting to Three thousand two hundred and seventy Pounds, are now secured by Mortgages of the Tolls by the recited Act granted or continued: And whereas it is expedient that the recited Act should be repealed, and that further and more effectual Powers should be granted instead thereof, for the Maintenance and Repair of the Roads, and for discharging the existing Debt of the Trust; but these 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, as follows; (that is to say,)

Short Title.

1. This Act may be cited for all Purposes as "*Tupton and Ashover* Road and *Birkin Lane* Road Act, 1862."

Recited Act repealed, and this Act to be put in force.

2. Upon the Commencement of this Act, the recited Act of the Eleventh Year of the Reign of His Majesty King *George* the Fourth is hereby repealed, and this Act shall thereafter be put into execution during the Term and for the Purposes herein-after mentioned.

Interpretation of Terms.

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

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

The Expression "the Roads" means the Roads to which this Act relates:

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

Monies and Property vested in Trustees.

4. All Rents, Arrears of Tolls, and other Monies due to and all Monies, Property, and all Choses in Action vested in the Trustees under the Act by this Act repealed shall, 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 fully and effectually as if the same had been vested in them under the Act by this Act repealed, and they shall be liable to all the Debts and Engagements to which the Trustees for executing the recited Act were liable at the Time of the Repeal thereof, except such as are extinguished by this Act, and so much of the same as are varied or reduced.

Trustees.

5. All Her Majesty's Justices of the Peace for the Time being acting for the County of *Derby*, together with *Frederick Arkwright*, *Alfred Barnes*, *Edmund Barnes*, *John Bright* (Doctor of Physic), *John Brown*, *John Chambers*, *John Wilkinson Clay*, *William Clay*, *William Drabble*, *Henry John Goodwin* Clerk, *John Garton*, *Edward Garton*, *John Bassett Gregory*, *Godfrey Heathcote*, *George Cressy Hall*, *Matthew Thomas Hopkinson*, *Immanuel Halton* Clerk, *John Berridge Jebb*, *Bernard Maynard Lucas*, *Richard Beecher Leacroft*, *Frederick Richard Leacroft*, *James Milnes*, *William Milnes* the younger, *Nicholas Bourne Milnes* Clerk, *Herbert Milnes*, *Joseph Nodder* Clerk, *Thomas Haden Oakes*, *Charles Oakes*, *Frederick William Smith Packman*, *John Prince*, *William Rooth*, *Herbert Rogers*, *James Robinson*, *Thomas Radford*, *Vaughan*

Vaughan Radford, *Francis William Sharpe* Clerk, *Thomas Mortimer Siddall*, *Joseph Taylor*, *Thomas Wilson*, *Hugh Wood* Clerk, and *Henry Walthall Walthall*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be and they are hereby appointed Trustees for carrying this Act into execution.

Power to appoint additional Trustees.

6. The Trustees may at any Meeting 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 executing this Act, in addition to the Trustees hereby appointed, 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.

7. The Trustees shall hold their First Meeting in *Ashover* in the County of *Derby*, or at some other convenient Place on or near the Roads, on the Second *Wednesday* next after the Commencement of this Act, or as soon after as conveniently may be, and proceed to the Execution of this Act; and the Trustees may from Time to Time adjourn themselves to meet at such Time and at such Place in the Neighbourhood of the Roads as they shall think proper.

Roads to which Act extends.

8. This Act shall be put in execution for and during the Term herein-after mentioned for the Purpose of amending, widening, improving, and keeping in repair the present Turnpike Road commencing at or near *Tupton Nether Green* by *Britton Wood* to the *Mansfield and Kelstidge* Turnpike Road at or near the Bottom of *Stubbing Edge Lane* in the Parish of *Ashover* (in this Act called the *Tupton and Ashover* Road), also the Road from the *Mansfield and Chesterfield* Turnpike Road near the Nine Mile Stone from *Mansfield*, through *Temple Normanton*, *Tupton Nether Green*, and *Birkin Lane*, to *Buntingfield Nook* in the Parish of *Ashover* in the County of *Derby* (in this Act called the *Birkin Lane* Road).

Tolls to be taken.

9. The Trustees, in pursuance of any subsisting Lease, may continue to collect and receive the Tolls as taken upon the Roads previous to the Commencement of this Act until the First Day of *January* One thousand eight hundred and sixty-three, and on and after such First Day of *January* the Trustees may demand and take or cause to be demanded and taken, at the several and respective Toll Gates which shall be upon or at the Side of the Roads, such several and respective Tolls as the Trustees shall from Time to Time direct, not exceeding the Sums following; (that is to say,)

For every Horse, Mule, or other Beast drawing any Coach, Barouche, Berlin, Landau, Chariot, Chaise, Curricle, Caravan, Chair, Gig, or other such like Carriage, Hearse, or Litter, Fourpence Halfpenny:

For

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Tumbril, or other such like Carriage, having at the Time of using thereof Wheels of the Breadth of Six Inches at the Sole or Bottom of the Fellies thereof, Fourpence Halfpenny:

For every Horse, Mule, or other Beast drawing any Waggon, Wain, Cart, Tumbril, or other such like Carriage having at the Time of using thereof Wheels of less Breadth than Six Inches at the Sole or Bottom of the Fellies thereof, Sixpence:

For every Horse, Mule, or other Beast, laden or unladen, and not drawing, One Penny Halfpenny:

For every Drove of Oxen, Cows, or Neat Cattle (Calves excepted), Tenpence *per* Score, and so in proportion for any greater or less Number:

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

For every Horse or other Beast drawing any Carriage with Wheels of the Breadth of Six Inches or upwards, loaded with a Millstone or Millstones, Block or Blocks of Stone, Piece or Pieces of Timber, and drawn by Five Horses or other Beasts, Sixpence; and if drawn by more than Five Horses or other Beasts, One Shilling for each Horse or Beast:

For every Horse or other Beast drawing any Carriage with Wheels of less Breadth than Six Inches, loaded as last aforesaid, and drawn by Five Horses or other Beasts, Ninepence; and if drawn by more than Five Horses or other Beasts, One Shilling and Threepence for each Horse or Beast:

Which Tolls shall be paid before any Horse, Beast, Cattle, or Carriage whatsoever in respect of which a Toll is payable shall pass through any Toll Gate which shall be upon or at the Side of the Roads.

As to the fractional Part of a Halfpenny.

10. 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 the Number of Tolls to be taken at the same Gate on the same Day.

11. Every Horse, Beast, and Carriage in respect whereof the Tolls by this Act authorized to be taken shall have been paid at any Toll Gate upon or on the Side of the Roads shall on the same Day be permitted to repass and pass Toll-free, as follows; (that is to say,) upon the Production of a Ticket denoting One Payment of the Tolls such Horse, Beast, and Carriage may repass once at the Toll Gate at which such Payment was made, and may pass and repass once through all other Toll Gates that may be freed by such Payment; upon the Production of Two Tickets denoting that Payment of the Tolls has been made in respect of the same Horse, Beast, and Carriage twice, such Horse, Beast, and Carriage may repass and pass through the Toll

Toll Gate at which such Tolls have been paid, and through all other Toll Gates that may be freed by such Payment (except in the Cases herein-after mentioned).

Limiting the Number of Tolls to be taken on the same Day.

12. The Number of full Tolls which the Trustees may take upon the Roads in the same Day are as follows; (that is to say,) upon the *Tupton and Ashover* Road, One full Toll and One Half of a full Toll; upon the *Birkin Lane* Road, One full Toll and One Half of a full Toll (except in the Cases herein-after mentioned).

Stage Coaches, &c. to pay every Time of passing.

13. The Tolls by this Act made payable for or in respect of Horses or Beasts drawing any Stage Coach, Stage Waggon, Stage Cart, Van, Caravan, or other Carriage conveying Passengers or Goods for Hire or Reward, shall be payable and paid every Time of passing or repassing along the Roads: Provided always, that no further or additional Toll shall be payable in respect of Horses or Beasts drawing any such Stage Coach, Stage Waggon, Stage Cart, Van, Caravan, or other Carriage on account only of the Horses or Beasts drawing the same having been changed.

Postchaises on every new Hiring.

14. The Tolls by this Act made payable for or in respect of Horses or other Beasts let out to Hire, and drawing any Postchaise or other Carriage let out on Hire, shall be payable and paid every Time of passing or repassing along the Roads whenever any new Hiring thereof shall take place.

Tolls on Horses drawing different Carriages.

15. The Tolls by this Act made payable in respect of Horses or Beasts drawing any Carriage or Vehicle whatsoever shall be paid for every Time during the same Day that any such Horse or Beast shall pass through any Toll Gate on the Roads drawing any laden Carriage or Vehicle other than that which such Horse or 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 Beast.

Trustees may accept an Offer for an extended Period for Lease of Tolls.

16. If before the Expiration of any Lease or Agreement to take to farm the Tolls by this Act granted or any of them the Trustees shall receive an Offer for a Lease or Agreement to take to farm such Tolls for a further Period, not exceeding Three Years, at a Rent or yearly Payment exceeding the Rent or yearly Payment then paid for such Tolls, and if the Trustees shall be of opinion and resolve that in their Judgment it will be more beneficial to the Trust that such Offer should be accepted than that the Tolls should be put up to Auction in the Manner provided by Section Fifty-five of the General Turnpike Act, Third *George* the Fourth, Chapter One hundred and twenty-six, the Trustees may accept such Offer, and carry the same into

effect, anything contained in such Fifty-fifth Section to the contrary notwithstanding.

2 & 3 W. 4. c. xxxii.

17. And whereas an Act was passed in the Second Year of the Reign of His Majesty King *William* the Fourth, intituled *An Act for more effectually repairing and improving the Road leading from the* Alfreton *Turnpike Road near* Mansfield, *through* Tibshelf *and* Morton, *to the* Nottingham *Turnpike Road near* Tansley, *and other Roads connected therewith, in the Counties of* Nottingham *and* Derby (in this Act called the *Mansfield* Road): And whereas Horses and Carriages travelling on the *Tupton and Ashover* Road to and from *Kelstedge* and *Knot Cross* pass and repass upon and along a Portion of the *Mansfield* Road commencing at *Stubbing Edge Lane* and terminating at *Kelstedge*, and in consideration of the Trustees of the *Mansfield* Road not demanding or receiving any Toll upon such Portion of the *Mansfield* Road the Trustees for executing this Act are willing and desirous, out of the Tolls to be received upon the *Tupton and Ashover* Road, to pay to the Trustees of the *Mansfield* Road a Sum of Money, by the Year or otherwise, in lieu of the Toll they are authorized and entitled to receive for or in respect of Horses and Carriages passing upon such Portion of the *Mansfield* Road:

Composition may be paid to Trustees of Alfreton Road.

Therefore the Trustees for executing this Act may contract and agree with the Trustees of the *Mansfield* Road for the Payment of a Sum of Money, by the Year otherwise, by and out of the Tolls to be collected and received upon the *Tupton and Ashover* Road; and in default of Payment of any such Sum as shall be contracted and agreed to be paid, within Twenty-one Days after the same shall become due, the same may be recovered from the Trustees for executing this Act, or their Treasurer for the Time being, in any Court of competent Jurisdiction, by the Treasurer to the Trustees of the *Mansfield* Road.

Extinguishment of Arrears of Interest.

18. And whereas upon the Principal Money now owing on the Credit of the Tolls authorized to be taken on the Roads there is a considerable Arrear of Interest: Be it enacted, That the whole of such Arrear of Interest shall up to the Thirty-first Day of *December* One thousand eight hundred and sixty-one be and the same is hereby extinguished.

Application of Monies on Tupton and Ashover Road.

19. All Monies which shall come to the hands of the Trustees, by virtue of this Act, in respect of the *Tupton and Ashover* Road, shall be applied as follows; (that is to say,)

First, in paying and discharging Three Fourth Parts of the Expenses of obtaining and passing this Act or incident thereto:

Secondly, in defraying the necessary Expenses of Management, including Salaries of Officers, incidental Expenses, and Repairs of Toll Houses and Toll Gates, but not including Wages of Toll Collectors,

Collectors, or the Expenses of prosecuting or defending Suits or Actions at Law or Indictments, not exceeding Fifteen Pounds *per Annum*:

Thirdly, in paying any Money agreed to be paid to the Trustees of the *Mansfield* Road:

Fourthly, in paying the Expenses of repairing and maintaining the Road to the Extent following; (that is to say,) until the Principal Sums of Money mentioned in the Schedule to this Act as due on the Credit of the Tolls to be taken on the *Tupton and Ashover* Road are paid off and discharged, Twenty-five Pounds *per Annum*; and when those Principal Sums are paid off, Fifty Pounds *per Annum*:

Fifthly, in reducing, paying off, and discharging, without Interest, in manner herein-after mentioned, the Principal Sums as due on the Credit of the Tolls to be taken on the *Tupton and Ashover* Road:

Sixthly, in reducing, paying off, and discharging, without Interest, in manner herein-after mentioned, the Principal Sums mentioned in the Schedule to this Act as due on the Credit of the Tolls to be taken on the *Birkin Lane* Road.

Application of Monies on Birkin Lane Road.

20. All Monies which shall come to the Hands of the Trustees by virtue of this Act in respect of the *Birkin Lane* Road shall be applied as follows; (that is to say,)

First, in paying and discharging One Fourth Part of the Expenses of obtaining and passing this Act or incident thereto:

Secondly, in defraying the necessary Expenses of Management, including Salaries of Officers, incidental Expenses, and Repairs of Toll Houses and Toll Gates, but not including Wages of Toll Collectors, or the Expenses of prosecuting or defending Suits or Actions at Law, or Indictments, not exceeding Fifteen Pounds *per Annum*:

Thirdly, in reducing, paying off, and discharging, without Interest, in manner herein-after mentioned, the Principal Sums mentioned in the Schedule to this Act as due on the Credit of the Tolls to be taken on the *Birkin Lane* Road.

As to the Mode of discharging Debt.

21. When and so often as the Sum applicable to the Discharge of any Principal Money for the Time being owing on the Credit of the Tolls shall amount to the Sum of Fifty Pounds, the Trustees shall, at some General Annual or other Meeting, apply such Sum in the Payment of a proportionate Part of such Principal Money 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 the Purpose thereof, so far as the same shall relate to the Application of such Sum, in some Newspaper published in the County of *Derby*, or by Letter addressed to each Mortgagee, and at such

Meeting

Meeting the Trustees shall apply such Sum or a Portion thereof (as the Case may require) in or towards the Discharge of Money owing on the Credit of the 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 Money, 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 of other Money owing on the Credit of the Tolls to the Creditor who by Proposal as aforesaid shall have offered to accept the next lowest Composition in respect of the Principal Money owing 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, the Trustees may determine by Lot the Preference between or amongst such Creditors, or 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 Money 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 Tolls, or may pay the same to such of them as may be determined by Lot, or otherwise as the Trustees shall think fit.

No Money to be laid out or taken in any Town.

22. No Money shall be laid out on any Portion of the Road comprised within the Limits of any Local Act of Parliament passed for the Improvement of any Town, nor shall any Toll be collected therein.

Roads not exempt from Provisions of General Acts.

23. Nothing in this Act contained shall be deemed to exempt the 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.

24. This Act shall commence on the Third *Monday* after the passing thereof, and shall (except as after provided) 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.

Provision as to the Discontinuance of Tolls, and Disposition of Property of the Trust.

25. Provided always, When and so soon as the whole of the Principal Sums mentioned in the Schedule to this Act shall have been paid off, the Trustees shall not collect nor (except as herein-after is provided) lay out any Money on the Roads; and the Trustees shall, within a Period of Six Months after the Principal Sums shall have been paid off, cause to be pulled down the Toll Houses of the Trustees, and shall sell and dispose of the Materials of the same and other Property belonging to or vested in

in them as such Trustees, and shall apply the net Proceeds arising from such Sale or Disposition in repairing and improving the Roads; and from and after the Payment of such Principal Sums the Roads shall cease to be Turnpike, and shall be repaired as public Highways are repairable by Law: Provided also, that if any of such Toll Houses shall be situate on Land adjoining to the Roads, so that the same do not encroach upon the general Width of the Roads between the Fences at the Place in question, the Trustees may, if they shall think fit, offer to sell the same to the Person owning the Frontage of the Land immediately adjoining such Toll House; and if such Person refuse to purchase the same the Trustees shall then cause the same to be pulled down and disposed of as before provided.

The SCHEDULE referred to in the foregoing Act.

Debts due on the Credit of the Tolls to be taken on the Tupton and Ashover Road.

Name.	Amount.		
	£	s.	d.
William Milnes - - - - - -	325	0	0
John Wright - - - - -	150	0	0
Trustees of Sir Henry Hunloke - - - -	450	0	0
Executors of John Gratton, deceased - - -	275	0	0
Mrs. Packman - - - - -	50	0	0
Mrs. Hague - - - - -	150	0	0
	1,400	0	0

Debts due on the Credit of the Tolls to be taken on the Birkin Lane Road.

Name.	Amount.		
	£	s.	d.
Trustees of Sir Henry Hunloke - - -	800	0	0
Executors of Peter Potter - - - -	250	0	0
Executors of John Bower - - - -	150	0	0
John Wright - - - - - -	100	0	0
Mrs. Halton - - - - -	100	0	0
Executors of Mr. Lord - - - - -	100	0	0
Samuel Ward - - - - -	55	0	0
Executors of John Gratton - - - -	315	0	0
	1,870	0	0

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