



ANNO QUADRAGESIMO QUARTO

GEORGH III. REGIS.

Cap. 60.

An Act for continuing the Term, and altering and enlarging the Powers, of Two Acts, passed in the First and Twenty-second Years of His present Majesty, for repairing the Road from *Appleby*, to *Kirkby Kendal*, and from *Highgate* to *Market Brough*, all in the County of *Westmorland*.

[29th June 1804.]

WHEREAS an Act was passed in the First Year of the Reign of His present Majesty, intituled, *An Act for repairing and widening the Road from the Borough of Appleby, in the County of Westmorland, through the Township of Orton, to Kirby Kendal, and from Orton to the Turnpike Road near Shap, and from Highgate, near Tebay, in a Part of the Highway between Appleby and Kirby Kendal, through the Town of Kirby Stephen to the Town of Market Brough, in the said County*: And whereas an Act was passed in the Twenty-second Year of the Reign of His present Majesty, for enlarging the Term and Powers of the said recited Act: And whereas the Trustees appointed to put the said Acts in Execution have proceeded in the Execution thereof; for which Purpose they have borrowed several considerable Sums of Money on the Credit of the Tolls thereby granted which are still due and owing, and cannot be paid off, nor can the said Roads be effectually amended, improved, and kept in Repair,
[Loc. & Per.] 11 I unless

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Acts of 1 &
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unless the Term of the said Acts be further continued, and the Powers and Provisions thereof in some Respects amended, altered, and enlarged, and the Tolls by the said Acts granted increased: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King'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, That the said recited Acts passed in the First and Twenty-second Years of the Reign of His present Majesty, and all and every the Clauses, Powers, Authorities, Provisions, Penalties, Forfeitures, Rules, Remedies, Directions, Payments, Provisions, Articles, Matters, and Things whatsoever, therein respectively contained, (except such as relate to Exemption from Stamp Duties, and also except such Parts thereof as are hereby varied, altered, or repealed), shall be and continue in full Force and Effect, and be executed, for and during the Term herein-after mentioned, in as full, ample, and beneficial a Manner, to all Intents and Purposes, as if the same were repeated and re-enacted in the Body of this Act; but subject nevertheless to the Amendments, Additions, and Alterations herein contained, and which shall commence and take effect immediately upon the passing of this Act; and this Act, and the additional Term hereby granted, shall be and is hereby declared to be subject and liable to the Payment of all Monies now due and owing upon the Credit or on Account of the said former Acts, or any or either of them, or which shall or may hereafter be borrowed and become due on the Credit of the said Acts and this Act, and all Interest due and to become due for the same respectively.

Additional
Toll to be
taken.

II. And be it further enacted, That, from and after the passing of this Act, it shall be lawful for the said Trustees, or any Seven or more of them, or such Person or Persons as they, or any Seven or more of them, shall authorize and appoint, to ask, demand, collect, receive, and take, (in addition to the Tolls authorized by the said Acts, or either of them, to be taken,) the Tolls and Duties following, before any Horse or other Cattle, or any Carriage laden with Coals, shall be permitted to pass through any Gate or Turnpike Gates or Turnpikes already erected, or hereafter to be erected, upon the said Road; that is to say,

For every Horse or other Cattle, or Carriage laden with Coals, passing through any such Gate, the Sum of One-penny:

Which said additional Toll shall be and the same is hereby vested in the said Trustees; and the same shall be levied and recovered in such and the same Manner, and shall be applied to the same Uses and Purposes, as the Tolls and Duties granted by the said Acts are directed to be levied, recovered, and applied; any Thing contained in the said former Acts, or either of them, (exempting such Horses or other Cattle, or Carriages, from the Payment of Toll or Duty), to the contrary notwithstanding.

General
Exemptions.

III. And be it further enacted, That no Toll shall be demanded or taken for any Waggons, Wains, Carts, Carriages, or Horses, employed in carrying or conveying, or going to carry or convey, or returning from carrying or conveying, having been employed only in carrying or conveying on the same Day, any Stones, Bricks, Timber, Wood, Gravel, or other Materials,

Materials, for repairing of the said Roads or any of the Roads, in the Townships or Parishes in which any Part of such Roads doth lie; or Hay, Straw, or Corn in the Straw only, not sold or disposed of, but passing to be laid up in the Outhouses, or on the Lands of the Owners thereof; or for any Waggon, Wain, Cart, Carriage, or Horse, employed in carrying or conveying, or going empty to carry or convey, or returning from carrying or conveying, having been only employed in carrying or conveying any Ploughs, Harrows, or Implements of Husbandry, or any Mould, Dung, Sullage, Compost, or Manures, employed in Husbandry for manuring or improving Lands, or for any other Thing employed in the Management of any Farm or Lands; or for any Horses or Cattle going to or returning from Pasture or Watering Places, or going to be or returning from being shod; or from any Person going to or returning from his or her proper Parochial Church, Chapel, or other Place of Religious Worship tolerated by Law, on a *Sunday*, or on any other Day on which Divine Service is ordered by Authority to be celebrated, or attending the Funeral of any Person that shall die and be buried in any of the said Parishes; or from any Clergyman going to or returning from visiting any sick Person, or upon other his Parochial or Ministerial Duty on a *Sunday*, or on any other Day on which Divine Service is ordered by Authority to be celebrated; or for any Horses, Cattle, or Carriages, of whatever Description, employed or to be employed in conveying the Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying, fetching, or guarding such Mails or Expresses, or in returning back from conveying the same; or for any Horses, Carts, or Waggon, attending any Soldiers upon their March or on Duty, or drawing any Carriage attending them with their Arms or Baggage; or for any Horses, Carts, or Waggon, employed in the Conveyance of Vagrants sent by legal Passes; or for any Horse, Cattle, or Beast drawing any Coach, Landau, Berlin, Chariot, Calash, Chair, or Passenger on Horseback, going to or returning from any Election of a Knight or Knights of the Shire to serve in Parliament for the County of *Westmorland*, on the Day or Days of such Election, or on the Day before or Day after such Election shall begin or be concluded; and if any Person or Persons shall, in any fraudulent or collusive Manner whatsoever, claim and take the Benefit of any of the Exemptions by this Act granted, not being entitled to the same, every such Person shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings, One Moiety whereof shall go to the Informer, and the other Moiety shall be applied to the Purposes of the said Acts and this Act.

IV. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchased, taken, or used, by virtue of the Powers of the said recited Acts or this Act, for the Purposes thereof, which shall belong to any Corporation, Feme Covert, Infant, Lunatick, or Person or Persons under any other Disability or Incapacity as in the said first recited Act particularly mentioned, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account there *ex parte* the Trustees for executing the said Acts and this Act, to the Intent that such

Application of
Compensation where
amounting
to 200 l.

such Money shall be applied under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrances, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments, standing settled therewith to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, or Hereditaments, which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the mean Time and until such Purchase shall be made, the said Money shall, by Order of the said Court, upon Application thereto, be invested by the said Accountant General, in his Name, in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities; and in the mean Time and until the said Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and Annual Produce of the said Consolidated or Reduced Bank Annuities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments, so hereby directed to be purchased, in case such Purchase or Settlement were made.

Application
where the
Compensation
is less than
200*l.* and
shall exceed
20*l.*

V. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchased, taken, or used, for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank, in the Name and with the Privy of the said Accountant General, to be placed to his Account as aforesaid, in order to be applied in Manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by any Five or more of the said Trustees, (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties) in order that such Principal Money, and the Dividends arising thereon, may be applied in any Manner herein-before directed, so far as the Case be applicable,

plicable, without obtaining, or being required to obtain, the Direction or Approbation of the Court of Chancery.

VI. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used for the Purposes of the said Acts and this Act, in such Manner as the said Trustees, or any Five or more of them, shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

Application where the Money is less than 20 l.

VII. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or Hereditaments, to be purchased by virtue of the said recited Acts or of this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises; or in case such Person or Persons, to whom such Sum or Sums of Money shall be so awarded as aforesaid, cannot be found; or if the Person or Persons entitled to such Lands, Tenements, or Hereditaments, be not known or discovered, then and in every such Case it shall be lawful for the said Trustees, or any Five or more of them, to order the Sum or Sums of Money so awarded as aforesaid, to be paid into the Bank of *England*, in the Name and with the Privy of the Accountant General of the Court of Chancery, to be placed to his Account to the Credit of the Parties interested in the Lands, Tenements, or Hereditaments [*describing them*], subject to the Order, Controul, and Disposition of the said Court of Chancery, which said Court, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Motion or Petition, shall be and is hereby empowered in a summary way of Proceeding, or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Publick Funds, or to order Distribution thereof in Payment of the Dividends thereof, according to the respective Estate or Estates, Title or Interest, of the Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England*, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

In case of not making out Titles, or if Persons cannot be found, Purchase Money to be paid into the Bank, subject to the Order of the Court of Chancery.

VIII. Provided always, and be it enacted, That where any Question shall arise, touching the Title of any Person to any Money to be paid into the Bank of *England*, in the Name and with the Privy of the Accountant General of the Court of Chancery, in pursuance of this Act, for the Purchase of any Lands, Tenements, or Hereditaments, or of any Estate, Right, or Interest in any Lands, Tenements, or Hereditaments, to be purchased in pursuance of the said recited Acts or of this Act, or to any Bank Annuities to be purchased with any such Money, or the Dividends

Where any Question shall arise touching the Title to Money to be paid, the Person who shall be in Possession of the Lands, &c at the Time of

such Purchase, shall be deemed entitled.

or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Hereditaments, at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, and that such other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Hereditaments, or to some Estate or Interest therein.

Court of Chancery to direct the Payment of Expences.

IX. Provided also, and be it enacted, That where, by reason of any Disability or Incapacity of the Person or Persons, or Corporation, entitled to any Lands, Tenements, or Hereditaments, to be purchased under the Authority of the said recited Acts or of this Act, the Purchase Money for the same shall be required to be paid into the Court of Chancery, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the like Uses, in pursuance of this Act, it shall be lawful for the said Court of Chancery to order the Expences of all Purchases from Time to Time to be made in pursuance of the said recited Acts or of this Act, or so much of such Expences as the said Court shall deem reasonable, to be paid by the said Trustees out of the Monies to be received by virtue of the said recited Acts or of this Act, who shall, from Time to Time, pay such Sums of Money for such Purposes as the said Court shall direct.

Expences of the Act.

X. And be it further enacted, That all Charges and Expences incident to or attending the obtaining and passing of this Act, shall be paid out of any Money already collected and received by virtue of the said recited Acts or either of them, or out of the first Monies to be collected or received by virtue of the said recited Acts and this Act, in Preference to all other Payments whatsoever.

Publick Act.

XI. And be it further enacted, That this Act shall be adjudged, deemed, and taken to be a Publick Act, and as such be judicially taken Notice of by all Judges, Justices, and other Persons whomsoever, without specially reading the same.

Continuance of the Acts.

XII. And be it further enacted, That the Term granted and continued by the said recited Acts shall, from and after the passing of this Act, cease and determine; and that the said Acts (subject to the Alterations and Additions in this Act contained) and this Act shall from thenceforth continue and be in force, and be executed for and during the Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.