



ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

C A P. CXII. (112)

An Act to continue the Term and enlarge the Powers of Two Acts for repairing the Road from *Lauder* in the Shire of *Berwick*, to and through *Kelso* in the Shire of *Roxburgh* to the *March Burn*.

[18th June 1808.]

WHEREAS by an Act passed in the Sixth Year of the Reign of 6 Geo. 3. His present Majesty, intituled "An Act for repairing the c. 73.
 " Road from the Burgh of *Lauder*, in the Shire of *Berwick*,
 " to and through *Kelso*, in the Shire of *Roxburgh*, to the *March Burn*," certain Tolls or Duties were granted and made payable for repairing, widening, and keeping in Repair the said Road from *Lauder* to and through *Kelso* to the *March Burn*; and by another Act passed in the Twenty-seventh Year of the Reign of His present Majesty, intituled 27 G. 3. c. 79.
 " An Act to enlarge the Term and Powers of an Act made in the Sixth
 " Year of the Reign of His present Majesty, for repairing the Road from
 " the Burgh of *Lauder*, in the Shire of *Berwick*, to and through *Kelso*,
 " in the Shire of *Roxburgh*, to the *March Burn*," the Term and Powers granted by the former Act were altered and continued: And whereas the Trustees nominated and appointed in and by virtue of the said Acts have proceeded in the Execution thereof; but the said Road cannot be effectually amended and kept in Repair, nor the Sum of Three thousand nine hundred Pounds, mentioned in the said recited Act of the Twenty-seventh Year of the Reign of His present Majesty to have been borrowed on the personal Credit of the Trustees nominated and appointed by the said recited Act of the Sixth
 [Loc. & Per.] 24 R Year

Former Acts
further con-
tinued

Year of the Reign of His present Majesty repaid, unless the Term of the said Acts be enlarged, and further and other Powers granted, 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 Act of the Sixth Year of the Reign of His present Majesty, and all and every the Clauses, Exemptions, Powers, Authorities, Articles, Rules, Penalties, and Forfeitures therein contained, (except such as were altered or varied by the said recited Act of the Twenty-seventh Year of the Reign of His present Majesty, or by this present Act); and also that the said Act of the Twenty-seventh Year of the Reign of His present Majesty, and all and every the Clauses, Exemptions, Powers, Authorities, Articles, Rules, Penalties, and Forfeitures therein contained (except in so far as they are altered or varied by this present Act;) shall be continued in full Force and Effect during the Term hereby granted, and this Act, and the Term hereby granted, shall be and are hereby declared subject and liable to the Payment of all Monies now due and owing, or which shall or may hereafter be borrowed and become due on the Credit of the said recited Acts and this present Act, or any of them, and all Interest due and to become due for the same respectively.

Trustees.

II. And be it further enacted, That in the place of the Trustees nominated and appointed by the said Acts, or in pursuance of the Powers thereby given, the Honourable *Gilbert Elliot* the Younger of *Minto*, Sir *Alexander Don* of *Newton* Baronet, Sir *James Pringle* of *Stitchel* Baronet, Sir *Henry Hay Makdougall* of *Makerston* Baronet, Sir *John Buchanan Riddell* of *Riddell* Baronet, Sir *George Douglas* of *Springwood Park* Baronet, Sir *Archibald Collingwood Dickson* of *Sydenham* Baronet, *George Baillie* of *Jerviswood*, *Hugh Scott* of *Harden*, *James Haig* of *Bemersyde*, *George Waldie* of *Hendersyde*, *Andrew Wauchope* of *Niddrie*, *Mark Pringle* of *Clifton*, *John Rutherford* of *Edgerstone*, *Thomas Tullob* of *Elliestoun*, *Walter Ker* of *Littledean*, *Alexander Carre* of *Cavers*, *William Oliver* Younger of *Dinlabyre*, Sheriff-Depute of the County of *Roxburgh*, *Edmund Antrobus* of *Rutherford*, *Robert Davidson* of *Pinnacle Hill*, *Robert Walker* of *Wooden*, *Adam Boyd* of *Cherrytrees*, *Robert Ker* of *Chatto*, Doctor *Charles Ker* of *Gateshaw*, *William Elliot* of *Wells*, *James Ramsay Cuthbert* of *Ednam*, *David Binning Monro* of *Softlaw*, *Andrew Wilson* of *Mainhouse*, *Edward Marjoribanks* of *Lees*, *John Marjoribanks* of *Eccles*, *James Dickson* of *Antonsbill*, *James Home* of *Carrollside*, Doctor *James Home* of *Coldenknows*, *Adam Fairholm* of *Chapel*, *Henry Erskine* of *Sheilsfield*, *Alexander Don* the Younger of *Newton*, *John Pringle* the Younger of *Stitchel*, *John James Douglas* the Younger of *Springwood-Park*, *Andrew Wauchope* the Younger of *Niddrie*, *John Waldie* the Younger of *Henderside*, being qualified in the Manner directed by the said recited Acts, the Eldest Baillie of the Royal Burgh of *Lauder* for the Time being, and the Factor upon the Estate of *Roxburgh* for the Time being, shall be, and they are hereby appointed Trustees for putting in Execution the said recited Acts, and this present Act.

Quorum.

III. And be it enacted, That the said Trustees, or any Three or more of them shall and may execute, direct, and perform all the Powers, Authorities,

Authorities, Rules, Regulations, Articles, Directions, Matters and Things whatsoever, by this and the said recited Acts, given, directed and prescribed, any Thing in either of the said recited Acts contained to the contrary thereof in any wise notwithstanding.

IV. And be it enacted, That the said Trustees, or any Three or more of them, shall meet at *Kelso*, upon the Third *Monday* next after the passing of this Act; or as soon thereafter as conveniently may be, and shall at such Meeting proceed to the Execution of this and the said recited Acts, and may then, and from Time to Time afterwards, adjourn to meet at such Times and at such Places, as the said Trustees shall think proper to appoint, without prejudice to their meeting at any other Time, if there be Occasion, upon Notice from the Clerk of the last Meeting affixed upon each respective Turnpike Gate, and advertised, at least once, in some One Newspaper published at *Kelso*, if any be, and in some One Newspaper published at *Edinburgh*, Ten Days at least before the Day fixed for such Meeting. Meetings of Trustees.

V. And be it enacted, That from and after the passing of this Act the Tolls and Duties by the said recited Acts granted and made payable, shall cease and determine, and in lieu thereof, the said Trustees, or any Three or more of them, or any Person authorized by them in Manner as by the said recited Acts directed may and shall at each Gate or Turnpike erected or to be erected, by virtue of the said recited Acts or of this Act, in, upon, across, or on the Side of any Part or Parts of the said Road, demand, levy, and take the Tolls and Duties following, before any Horse, Mare, Gelding, Mule, Ass, Cattle great or small, Coach, Landau, Chariot, Berlin, Chaise, Hearse, Calash, Chair, Litter, Waggon, Wain, Cart, Sledge, or other Carriage whatsoever, shall be permitted to pass through the same; that is to say, For every Coach, Chariot, Landau, Berlin, Chaise, Hearse, Calash, or Chair, drawn by Six or more Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Three Shillings Sterling; and drawn by Four or Five Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Two Shillings Sterling; and drawn by Two Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of One Shilling Sterling; for every Calash, Chaise, or Chair, drawn by One Horse, Mare, Gelding, Mule, or other Beast of Draught, the Sum of Sixpence Sterling; for every Waggon, Wain, Cart, or other such Carriage, drawn by Six or more Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Three Shillings Sterling; and drawn by Five Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Two Shillings and Sixpence Sterling; and drawn by Four Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Two Shillings Sterling; and drawn by Three Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Ninepence Sterling; and drawn by Two Horses, Mares, Geldings, Mules, or other Beasts of Draught, the Sum of Sixpence Sterling; and drawn by one Horse, Mare, Gelding, Mule, or other Beast of Draught, the Sum of Three-pence Sterling; for every Horse, Mare, Gelding, Mule, or Ass, whereon any Person shall ride, the Sum of Three-pence Sterling; for every other Horse, Mare, Gelding, Mule, or Ass, laden, or unladen, and not drawing, the Sum of Two-pence Sterling; for every Drove of Former Tolls to cease. Tolls.

of Oxen, or neat Cattle, the Sum of One Shilling and Eight-pence Sterling per Score, and so in proportion for any greater or less Number; for every Drove of Calves, Hogs, Sheep, or Lambs, the Sum of Five-pence per Score, and so in proportion for any greater or less Number.

Former Ex-
emptions
from Tolls
repealed.

VI. And be it enacted, That from and after the passing of this Act the Exemptions from Tolls or Duties allowed by the said recited Acts shall cease and determine.

Exemptions
from Tolls.

VII. Provided always, and be it further enacted and declared, That no Toll whatsoever shall be demanded or taken, for any Carriage, Horses, or Cattle, loaded with any Materials for making or repairing the said Road, or any other public Roads; or for building, or repairing Bridges, Toll-Houses, or Turnpike-Gates, or Toll-Bars, on the said Road, or any other public Roads, or going empty to carry or convey, or returning empty after carrying the same, nor for any Horses or Cattle going to Water or Pasture, in or upon the Farm or Farms in which any Turnpike-Gate or Toll-Bar may stand, nor for any Horses or Cattle belonging to Persons resident in the Town of *Kelso* going to or returning from the Common belonging to the said Town, or any of the Town Fields occupied by them, and on which there shall be no Farm-steading at the Time; nor from any Person or Persons going to or returning from Church, Chapel, or other Place of Religious Worship tolerated by Law, and situated within the Parish where such Persons reside, upon a *Sunday*, or other Day on which Divine Worship is ordered by Authority to be celebrated, nor from Persons attending the Funeral of any Person who shall be buried in any of the Parishes lying in whole, or in part, within the said County; nor from any Clergyman going to, or returning from visiting any sick Person, or going or returning from other his Ministerial or Parochial Duty on a *Sunday*, or on any other Day on which Divine Service is ordered by Authority to be celebrated; nor for any Horse or Carriage going to or from any Smith's Shop to be shod or farried, passing though any Gate within One Statute Mile of such Shop; nor for Carts or Carriages carrying, or going empty to carry or convey, or returning empty after carrying or conveying any Corn, Hay, Straw, Manure, or Implements of Husbandry to or from the said Common or Town Fields, or to or from any Field through any Turnpike-Gate or Toll-Bar, situated on any Farm to which the said Corn, Hay, Straw, Manure, or Implements belong; nor for Corn of any Kind sent to or returning from Mills or Kilns, manufactured for the sole Use of Persons residing within One Statute Mile from the Turnpike-Gate or Toll-Bar; nor for Seed Corn, or other Seeds or Plants carried from the said Town of *Kelso* to be sown or planted upon the said Common or Town Fields; nor for any Horses or Carriages of whatever Description employed, or to be employed in carrying 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; nor for the Horses or Carriages of Officers or Soldiers, upon their March, or upon Duty; nor for any Horses, Cattle, or Carriages, employed in carrying or conveying the Arms or Baggage of any such Officers

Officers or Soldiers, or in carrying any Sick, Wounded, or disabled Officers or Soldiers, or in returning from carrying and conveying the same; nor for any Horse, Mare, or Gelding, furnished by, or for any Person belonging to any Corps of Yeomanry or Volunteer Cavalry, and rode by them in going to, or returning from the Place appointed for, and on the Days of Exercise; provided always, that such Persons shall be dressed in the Uniform of their respective Corps, and have their Arms, Furniture, and Accoutrements, according to the Regulations provided for such Corps respectively; nor for Carts, Carriages, or Waggon travelling with and conveying Vagrants or Criminals, sent with legal Passes, or returning from conveying the same; and if any Person shall claim or take the Benefit of any of the said Exemptions, not being legally entitled to the same, every such Person shall forfeit and pay any Sum not exceeding Five Pounds Sterling, such Penalty to be sued for, levied and recovered in the same Manner as is directed by the said recited Acts for the Recovery of Penalties.

VIII. And be it further enacted, That if any Money shall be agreed, or awarded to be paid for any Lands, Tenements, or Heritages, purchased, taken, or used, by virtue of the Powers of the said Acts and this Act, for the Purposes thereof, which are held under Entail, or are subject to Life-rents, Annuities, or other Incumbrances, or shall belong to any Corporation, married Woman, Infant, Lunatic, or Person or Persons under Disability or Incapacity; such Money shall, in case the same shall amount to the Sum of Two Hundred Pounds, under the Direction, and by the Authority of the Court of Session, be with all convenient Speed paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Intent that 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 Heritages, in the Purchase or Redemption of the Land Tax, or Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Heritages, or affecting other Lands, Tenements, or Heritages standing settled therewith, to the same or 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 Heritages, 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, and Heritages 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 Interest, or annual Produce of such Money 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, and Heritages so hereby directed to be purchased, in case such Purchase or Settlement were made.

Re-investing
Purchase
Money, if
amounting to
Two hundred
Pounds.

[*Loc. & Per.*]

24 S

IX. Pro-

If less than
Two Hun-
dred Pounds,
and exceed-
ing Twenty
Pounds.

IX. Provided always, and be it further enacted, That if any Money so agreed, or awarded to be paid for any Lands, Tenements, or Heritages, purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any 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 Heritages so purchased, taken, or used, or of his, her, or their Tutors or Curators, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, under the like Direction and Authority, be paid into either of the Banks, and be placed to his or their 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 Two 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 Interest arising thereon, may be applied in any Manner before directed, as far as the Case may be applicable.

Under Twen-
ty Pounds.

X. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid, as last 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 Heritages so purchased, taken, or used for the Purposes of the said Acts and this Act, in such Manner as the said Trustees, or any Three or more of them, shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Tutors or Curators, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not
making out
Titles.

XI. 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 Lands, Tenements, or Heritages, to be purchased by virtue of the said Acts and this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises, to the Satisfaction of the said Trustees, 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 Heritages be not known or discovered, then and in every such Case it shall and may be lawful for the said Trustees to order the said Sum or Sums of Money, so awarded as aforesaid, to be paid into the Bank of *Scotland* or Royal Bank of *Scotland* to the Credit of the Parties interested in the said Lands, Tenements, or Heritages, (describing them), subject to the Order, Controul, and Disposition of the Court of Session; 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 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 Distribution thereof, or Payment of the Dividends thereof, according to the re-
spective

pective 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 and Cashiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, 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 aforeaid.

XII. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the said Banks in pursuance of the said Acts and this Act, for the Purchase of any Lands, Tenements or Heritages, or of any Estate, Right or Interest in any Lands, Tenements or Heritages to be purchased in pursuance thereof, the Person or Persons, who shall have been in possession of such Lands, Tenements or Heritages, 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 Heritages according to such Possession, until the contrary shall be shewn, to the Satisfaction of the said Court of Session; and such Money, and the Interest thereof, 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 some other Person or Persons was or were lawfully entitled to such Lands, Tenements or Heritages, or to some Estate or Interest therein.

XIII. Provided always, and be it further enacted, That where, by reason of any Disability or Incapacity of the Person or Persons, or Corporation entitled to any Lands, Tenements or Heritages to be purchased under the Authority of the said Acts and this Act, the Purchase Money for the same shall be required to be paid into the said Bank, and to be applied in the Purchase of other Lands, Tenements, or Heritages, to be settled to the like Uses, in pursuance of the said Acts and this Act, it shall be lawful for the said Court, to order the Expences of all Purchases, from Time to Time, to be made in pursuance of the said Acts and this Act, or so much of such Expences as the said Court shall deem reasonable, together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Trustees, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

XIV. And be it enacted, That the Charges and Expences of passing this Act shall be paid out of any Money that now is or that may be in the Hands of the Collector or Collectors of the Duties raised by virtue of the said recited Acts, or out of the first and readiest Money collected by virtue of this Act.

XV. And be it further enacted, That this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such

such by all Judges, Justices and others, without being specially pleaded.

Endurance of
this Act.

XVI. And be it further enacted, That this Act shall commence and take place from and after the passing thereof, and shall continue in force, and be executed for and during the Residue now to come and unexpired, of the Term granted by the said recited Acts, and from and immediately after the Expiration thereof, for and during the Space of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

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