



ANNO OCTAVO & NONO

VICTORIÆ REGINÆ.

C A P. XXXIII.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways in *Scotland*.

[21st July 1845.]

WHEREAS it is expedient to comprise in One general Act sundry Provisions usually introduced into Acts of Parliament authorizing the Construction of Railways in *Scotland*, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings, as for ensuring greater Uniformity in the Provisions themselves: And whereas a Bill is now pending in Parliament, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature in Scotland*, and which is intended to be called "The Lands Clauses Consolidation (*Scotland*) Act, 1845:" Be it therefore 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, That the Provisions of this Act shall apply to every Railway in *Scotland* which shall by any Act which shall hereafter be passed be authorized

Operation of the Act confined to future Railways.

rized to be constructed, and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorized thereby, so far as the same shall be applicable to such Undertaking, and shall, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, from Part of such Act, and be construed together therewith as forming One Act.

Interpretations in this Act: And with respect to the Construction of this Act, and other Acts to be incorporated therewith, be it enacted as follows :

“ special Act :” II. The Expression “ the special Act ” used in this Act shall be construed to mean any Act which shall be hereafter passed authorizing the Construction of a Railway, and with which this Act shall be so incorporated as aforesaid; and the Word “ prescribed ” used in this Act in reference to any Matter herein stated shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act, and the Sentence in which such Word shall occur shall be construed as if, instead of the Word “ prescribed,” the Expression “ prescribed for that Purpose in the special Act ” had been used; and the Expression “ the Lands ” shall mean the Lands which shall by the special Act be authorized to be taken or used for the Purposes thereof; and the Expression “ the Undertaking ” shall mean the Railway and Works, of whatever Description, by the special Act authorized to be executed.

“ prescribed :”

“ the Lands :”

“ the Undertaking :”

Interpretations in this and the special Act : III. The following Words and Expressions both in this and the special Act shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; (that is to say,)

Number : Words importing the Singular Number only shall include the Plural Number, and Words importing the Plural Number only shall include also the Singular Number :

Gender : Words importing the Masculine Gender only shall include Females :

“ Lands :” The Word “ Lands ” shall include Lands, Houses, Tenements, and Heritages of any Tenure :

“ Lease :” The Word “ Lease ” shall include a Missive or an Agreement for a Lease :

“ Toll :” The Word “ Toll ” shall include any Rate or Charge or other Payment payable under the special Act, for any Passenger, Animal, Carriage, Goods, Merchandize, Articles, Matters, or Things conveyed on the Railway :

“ Month :” The Word “ Month ” shall mean Calendar Month :

“ Lord Ordinary :” The “ Lord Ordinary ” shall mean the Lord Ordinary of the Court of Session in *Scotland* officiating on the Bills in Time of Vacation, or the junior Lord Ordinary if in Time of Session, as the Case may be :

“ Oath :” The Word “ Oath ” shall include Affirmation in the Case of Quakers, or other Declaration or Solemnity lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath :

The Word "County" shall include any Ward or other like Division of a County : "County:"

The Word "Sheriff" shall include the Sheriff Substitute : "Sheriff:"

The Word "Justice" shall mean Justice of the Peace acting for the County, City, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter ; and where such Matter shall arise in respect of Lands being the Property of one and the same Party, situate not wholly in any one County, City, or Place, shall mean a Justice acting for the County, City, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter ; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two or more Justices assembled and acting together : "Justice:"
"Two Justices:"

Where under the Provisions of this or the special Act any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the special Act, or any Act incorporated therewith, would be enabled to sell and convey Lands to the Company : "Owner:"

The Expression "the Bank" shall mean any one of the incorporated or chartered Banks in *Scotland* : "the Bank:"

The Expression "the Company" shall mean the Company or Party which shall be authorized by the special Act to construct the Railway : "the Company:"

The Expression "the Railway" shall mean the Railway and Works by the special Act authorized to be constructed : "the Railway:"

The Expression "the Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations. "Board of Trade."

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Railways Clauses Consolidation (*Scotland*) Act, 1845." Short Title of the Act.

V. And whereas it may be convenient, in some Cases, to incorporate with Acts hereafter to be passed some Portion only of the Provisions of this Act ; be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act, in the Words introductory to the Enactment with respect to such Matter,) shall be incorporated with such Act, and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate. Form in which Portions of this Act may be incorporated in other Acts.

And

Construction of Railway.

And with respect to the Construction of the Railway and the Works connected therewith, be it enacted as follows :

The Construction of the Railway to be subject to the Provisions of this Act and the Lands Clauses Consolidation (Scotland) Act.

VI. In exercising the Power given to the Company by the special Act to construct the Railway, and to take Lands for that Purpose, the Company shall be subject to the Provisions and Restrictions contained in this Act and in the said Lands Clauses Consolidation (*Scotland*) Act ; and the Company shall make to the Owners and Occupiers of and all other Parties interested in any Lands taken or used for the Purposes of the Railway, or injuriously affected by the Construction thereof, full Compensation for the Value of the Lands so taken or used, and for all Damage sustained by such Owners, Occupiers, and other Parties, by reason of the Exercise, as regards such Lands, of the Powers by this or the special Act, or any Act incorporated therewith, vested in the Company ; and, except where otherwise provided by this or the special Act, the Amount of such Compensation shall be ascertained and determined in the Manner provided by the said Lands Clauses Consolidation Act for determining Questions of Compensation with regard to Lands purchased or taken under the Provisions thereof ; and all the Provisions of the said last-mentioned Act shall be applicable to determine the Amount of any such Compensation, and to enforcing the Payment or other Satisfaction thereof.

Errors and Omissions in Plans to be corrected.

VII. If any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the Plans or Books of Reference mentioned in the special Act, or in the Schedule to the special Act, it shall be lawful for the Company, after giving Ten Days Notice to the Owners of the Lands affected by such proposed Correction, to apply to the Sheriff for the Correction thereof ; and if it shall appear to such Sheriff that such Omission, Mis-statement, or erroneous Description arose from Mistake, he shall certify the same accordingly, and shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described ; and such Certificate shall be deposited in the Office of the Principal Sheriff Clerk in every County in which the Lands affected thereby shall be situate, and shall also be deposited with the Schoolmasters of the several Parishes (or, in Royal Burghs, with the Town Clerk,) in which the Lands affected thereby shall be situate ; and such Certificate shall be kept by such Sheriff Clerks, Schoolmasters, and other Persons respectively along with the other Documents to which they relate ; and thereupon such Plan, Book of Reference, or Schedule shall be deemed to be corrected according to such Certificate ; and it shall be lawful for the Company to make the Works in accordance with such Certificate.

Works not to be proceeded with until Plans of all Alterations authorized by

VIII. It shall not be lawful for the Company to proceed in the Execution of the Railway unless they shall have previously to the Commencement of such Work deposited in the Office of the Principal Sheriff Clerk in every County in or through which the Railway is intended to pass a Plan and Section of all such Alterations from the original Plan and Section as shall have been approved of

of by Parliament, on the same Scale and containing the same Particulars as the original Plan and Section of the Railway, and shall also have deposited with the Schoolmasters of the several Parishes (or, in Royal Burghs, with the Town Clerk,) in or through which such Alterations shall have been authorized to be made Copies or Extracts of or from such Plans and Sections as shall relate to such Parishes respectively.

Parliament have been deposited.

IX. The said Sheriff Clerks, Schoolmasters, and Town Clerks shall receive the said Plans and Sections of Alterations, and Copies and Extracts thereof respectively, and shall retain the same, as well as the said original Plans and Sections, and shall permit all Persons interested to inspect any of the Documents aforesaid, and to make Copies and Extracts of and from the same, in the like Manner and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of the original Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

Sheriff Clerks, &c. to receive Plans of Alterations, and allow Inspection.

7 W. 4. & 1 Vict. c. 83.

X. True Copies of the said Plans and Books of Reference, or of any Alteration or Correction thereof, or Extract therefrom, certified by any such Sheriff Clerk in *Scotland*, which Certificate such Sheriff Clerk shall give to all Parties interested, when required, shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Copies to be Evidence.

XI. In making the Railway it shall not be lawful for the Company to deviate from the Levels of the Railway, as referred to the common Datum Line described in the Section approved of by Parliament, and as marked on the same, to any Extent exceeding in any Place Five Feet, or, in passing through a Town, Village, Street, or Land continuously built upon, Two Feet, without the previous Consent in Writing of the Owners and Occupiers of the Land in which such Deviation is intended to be made; or in case any Street or public Highway shall be affected by such Deviation, then the same shall not be made without the Consent of the Trustees or Commissioners having the Control of such Street or public Highway, or, if there be no such Trustees or Commissioners, without the Consent of the Sheriff, or without the Consent of the Trustees or Commissioners for any public Sewers, or the Proprietors of any Canal, Navigation, Gas Works, or Water-works, affected by such Deviation: Provided always, that it shall be lawful for the Company to deviate from the said Levels to a further Extent without such Consent as aforesaid, by lowering solid Embankments or Viaducts, provided that the requisite Height of Headway as prescribed by Act of Parliament be left for Roads, Streets, or Canals passing under the same: Provided also, that Notice of every Application to the Sheriff for the Purpose of considering the Matter shall, Fourteen Days previous to such Application, be given in some Newspaper circulating in the County, and also be affixed upon the

Limiting Deviation from Datum Line described on Sections, &c.

Construction of Railway.

the Door of the Parish Church in which such Deviation or Alteration is intended to be made, or, if there be no Church, some other Place to which Notices are usually affixed.

Previous Notice of such Deviation to be given.

XII. Before it shall be lawful for the Company to make any greater Deviation from the Level than Five Feet, or, in any Town, Village, Street, or Land continuously built upon, Two Feet, after having obtained such Consent as aforesaid, it shall be incumbent on the Company to give Notice of such intended Deviation by public Advertisement, inserted Once at least in Two Newspapers; or Twice at least in One Newspaper, circulating in the District or Neighbourhood where such Deviation is intended to be made, Three Weeks at least before commencing to make such Deviation; and it shall be lawful for the Owner of any Lands prejudicially affected thereby, at any Time before the Commencement of the making of such Deviation, to apply to the Board of Trade, after giving Ten Days Notice to the Company, to decide whether, having regard to the Interests of such Applicant, such proposed Deviation is proper to be made; and it shall be lawful for the Board of Trade, if they think fit, to decide such Question accordingly, and by their Certificate in Writing either to disallow the making of such Deviation, or to authorize the making thereof, either simply or with any such Modification as shall seem proper to the Board of Trade; and after any such Certificate shall have been given by the Board of Trade it shall not be lawful for the Company to make such Deviation, except in conformity with such Certificate.

Arches, Tunnels, &c. to be made as marked on deposited Plans.

XIII. Where in any Place it is intended to carry the Railway on an Arch or Arches or other Viaduct, as marked on the said Plan or Section, the same shall be made accordingly; and where a Tunnel is marked on the said Plan or Section as intended to be made at any Place, the same shall be made accordingly, unless the Owners, Lessees, and Occupiers of the Land in which such Tunnel is intended to be made shall consent that the same shall not be so made.

Limiting Deviations from Gradients, Curves, &c.

XIV. It shall not be lawful for the Company to deviate from or alter the Gradients, Curves, Tunnels, or other Engineering Works described in the said Plan or Section, except within the following Limits, and under the following Conditions; (that is to say,)

Subject to the above Provisions in regard to altering Levels, it shall be lawful for the Company to diminish the Inclination or Gradients of the Railway to any Extent, and to increase the said Inclination or Gradients as follows; (that is to say,) in Gradients of an Inclination not exceeding One in a Hundred, to any Extent not exceeding Ten Feet *per* Mile, or to any further Extent which shall be certified by the Board of Trade to be consistent with the public Safety, and not prejudicial to the public Interest; and in Gradients exceeding the Inclination of One in a Hundred, to any Extent not exceeding Three Feet *per* Mile, or to any further Extent which shall be so certified by the Board of Trade as aforesaid:

It shall be lawful for the Company to diminish the Radius of any Curve described in the said Plan to any Extent which shall leave

leave a Radius of not less than Half a Mile, or to any further Extent authorized by such Certificate as aforesaid from the Board of Trade: *Construction of Railway.*

It shall be lawful for the Company to make a Tunnel, not marked on the said Plan or Section, instead of a Cutting, or a Viaduct instead of a solid Embankment, if authorized by such Certificate as aforesaid from the Board of Trade.

XV. It shall be lawful for the Company to deviate from the Line delineated on the Plans so deposited, provided that no such Deviation shall extend to a greater Distance than the Limits of Deviation delineated upon the said Plans, nor to a greater Extent in passing through a Town that Ten Yards, or elsewhere to a greater Extent than One hundred Yards from the said Line, and that the Railway by means of such Deviation be not made to extend into the Lands of any Person, whether Owner, Lessee, or Occupier, whose Name is not mentioned in the Books of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in manner herein or in the special Act provided for in Cases of unintentional Errors in the said Book of Reference. *Lateral Deviations.*

XVI. Subject to the Provisions and Restrictions in this and the special Act, and any Act incorporated therewith, it shall be lawful for the Company, for the Purpose of constructing the Railway, or the Accommodation Works connected therewith, herein-after mentioned, to execute any of the following Works; (that is to say,) *Works to be executed.*

They may make or construct, in, upon, across, under, or over any Lands, or any Streets, Hills, Valleys, Roads, Railroads, or Tramroads, Rivers, Canals, Brooks, Streams, or other Waters, within the Lands described in the said Plans, or mentioned in the said Books of Reference or any Correction thereof, such temporary or permanent Inclined Planes, Tunnels, Embankments, Aqueducts, Bridges, Roads, Ways, Passages, Conduits, Drains, Piers, Arches, Cuttings, and Fences as they think proper; *Inclined Planes, &c.*

They may alter the Course of any Rivers not navigable, Canals, Brooks, Streams, or Watercourses, and of any Branches of navigable Rivers, such Branches not being themselves navigable, within such Lands, for the Purpose of constructing and maintaining Tunnels, Bridges, Passages, or other Works over or under the same, and divert or alter, as well temporarily as permanently, the Course of any such Rivers or Streams of Water, Roads, Streets, or Ways, or raise or sink the Level of any such Rivers or Streams, Roads, Streets, or Ways, in order the more conveniently to carry the same over or under or by the Side of the Railway, as they may think proper; *Alteration of Course of Rivers, &c.*

They may make Drains or Conduits into, through, or under any Lands adjoining the Railway, for the Purpose of conveying Water from or to the Railway; *Drains, &c.*

They may erect and construct such Houses, Warehouses, Offices, and other Buildings, Yards, Stations, Wharfs, Engines, Machinery, *Warehouses, &c.*

	chinery, Apparatus, and other Works and Conveniences, as they think proper;
Alterations and Repairs.	They may from Time to Time alter, repair, or discontinue the before-mentioned Works or any of them, and substitute others in their Stead; and
General Power.	They may do all other Acts necessary for making, maintaining, altering, or repairing, and using the Railway:
Proviso as to Damages.	Provided always, that in the Exercise of the Powers by this or the special Act granted the Company shall do as little Damage as can be, and shall make full Satisfaction, in manner herein and in the special Act, and any Act incorporated therewith, provided, to all Parties interested, for all Damage by them sustained by reason of the Exercise of such Powers.

Works on the Shore of the Sea, &c. not to be constructed without the Authority of the Commissioners of Woods and Forests and Commissioners of the Admiralty.

XVII. It shall not be lawful for the Company to construct on the Shore of the Sea, or of any Creek, Bay, Arm of the Sea, or navigable River communicating therewith, where and so far up the same as the Tide flows and reflows, any Work, or to construct any Railway or Bridge across any Creek, Bay, Arm of the Sea, or navigable River, where and so far up the same as the Tide flows and reflows, without the previous Consent of Her Majesty, Her Heirs and Successors, to be signified in Writing under the Hands of Two of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of the Lord High Admiral aforesaid for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only according to such Plan and under such Restrictions and Regulations as the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and the said Lord High Admiral, or the said Commissioners, may approve of, such Approval being signified as last aforesaid; and where any such Work, Railway, or Bridge shall have been constructed it shall not be lawful for the Company at any Time to alter or extend the same without obtaining, previously to making any such Alteration or Extension, the like Consents or Approvals; and if any such Work, Railway, or Bridge shall be commenced or completed contrary to the Provisions of this Act, it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or the said Lord High Admiral, or the said Commissioners for executing the Office of Lord High Admiral, to abate and remove the same, and to restore the Site thereof to its former Condition, at the Costs and Charge of the Company; and the Amount thereof may be recovered in the same Manner as a Penalty is recoverable against the Company.

Alteration of Water and Gas Pipes, &c.

XVIII. It shall be lawful for the Company, for the Purpose of constructing the Railway, to raise, sink, or otherwise alter the Position of any of the Watercourses, Water Pipes, or Gas Pipes belonging to any of the Houses adjoining or near to the Railway, and also the Mains and other Pipes laid down by any Company or Society who may furnish the Inhabitants of such Houses or Places with Water or Gas, and also to remove all other Obstructions to such Construction,

tion, so as the same respectively be done with as little Detriment and Inconvenience to such Company, Society, or Inhabitants as the Circumstances will admit, and be done under the Superintendence of the Company to which such Water Pipes or Gas Pipes belong, and of the several Commissioners or Trustees, or Persons having Control of the Pavements, Sewers, Roads, Streets, Highways, Lanes, and other public Passages and Places within the Parish or District where such Mains, Pipes, or Obstructions shall be situate, or of their Surveyor, if they or he think fit to attend, after receiving not less than Forty-eight Hours Notice for that Purpose.

*Construction
of Railway.*

XIX. Provided always, That it shall not be lawful for the Company to remove or displace any of the Mains or Pipes (other than private Service Pipes), Syphons, Plugs, or other Works belonging to any such Company or Society, or to do any thing to impede the Passage of Water or Gas into or through such Mains or Pipes, until good and sufficient Mains or Pipes, Syphons, Plugs, and all other Works necessary or proper for continuing the Supply of Water or Gas as sufficiently as the same was supplied by the Mains or Pipes proposed to be removed or displaced, shall, at the Expence of the Company, have been first made and laid down in lieu thereof, and be ready for Use, in a Position as little varying from that of the Pipes or Mains proposed to be removed or displaced as may be consistent with the Construction of the Railway, and to the Satisfaction of the Surveyor or Engineer of such Water or Gas Company or Society, or, in case of Disagreement between such Surveyor or Engineer and the Company, as a Justice shall direct.

*Company
not to dis-
turb Pipes
until they
have laid
down others.*

XX. It shall not be lawful for the Company to lay down any such Pipes contrary to the Regulations of any Act of Parliament relating to such Water or Gas Company or Society, or to cause any Road to be lowered for the Purposes of the Railway, without leaving a Covering of not less than Eighteen Inches from the Surface of the Road over such Mains or Pipes.

*Pipes not to
be laid con-
trary to Act
of Parlia-
ment, and 18
Inches sur-
face Road to
be retained.*

XXI. The Company shall make good all Damage done to the Property of the Water or Gas Company or Society, by the Disturbance thereof, and shall make full Compensation to all Parties for any Loss or Damage which they may sustain by reason of any Interference with the Main Pipes or Works of such Water or Gas Company or Society, or with the private Service Pipes of any Person supplied by them with Water.

*Company to
make good
all Damage.*

XXII. If it shall be necessary to construct the Railway or any of the Works over any Mains or Pipes of any such Water or Gas Company or Society, the Company shall, at their own Expence, construct and maintain a good and sufficient Culvert over such Main or Pipe, so as to leave the same accessible for the Purpose of Repairs.

*When Rail-
way crosses
Pipes, Com-
pany to
make a
Culvert.*

XXIII. If by any such Operations as aforesaid the Company shall interrupt the Supply of Water or Gas they shall forfeit Twenty Pounds for every Day that such Supply shall be so interrupted; and

*Penalty for
obstructing
Supply of
Gas or
such
Water.*

*Construction
of Railway.*

such Penalty shall be appropriated to the Benefit of the Poor of the Parish in which such Obstruction shall occur, in such Manner as the Minister and Kirk Session of the Parish shall direct.

*Penalty for
obstructing
Construction
of Railway.*

XXIV. If any Person wilfully obstruct any Person acting under the Authority of the Company in the lawful Exercise of their Power, in setting out the Line of the Railway, or pull up or remove any Poles or Stakes driven into the Ground for the Purpose of so setting out the Line of the Railway, or deface or destroy any Marks made for the same Purpose, he shall forfeit a Sum not exceeding Five Pounds for every such Offence.

*Temporary
Use of
Lands.*

And with respect to the temporary Occupation of Lands near the Railway during the Construction thereof, be it enacted as follows :

*Company
may occupy
temporarily
private
Roads
within Five
hundred
Yards of the
Railway.*

XXV. Subject to the Provisions herein and in the special Act contained, it shall be lawful for the Company at any Time before the Expiration of the Period by the special Act limited for the Completion of the Railway, to enter upon and use any existing private Road being a Road gravelled or formed with Stones or other hard Materials and not being an Avenue, or a planted or ornamental Road or an Approach to any Mansion House within the prescribed Limits, if any, or, if no Limits be prescribed, not being more than Five hundred Yards distant from the Centre of the Railway, as delineated on the Plans ; but before the Company shall enter upon or use any such existing Road they shall give Three Weeks Notice of their Intention to the Owners and Occupiers of such Road and of the Lands over which the same shall pass, and shall in such Notice state the Time during which, and the Purposes for which, they intend to occupy such Road, and shall pay to the Owners and Occupiers of such Road, and of the Lands through which the same shall pass, such Compensation for the Use and Occupation of such Road, either in a gross Sum of Money or by half-yearly Instalments, as shall be agreed upon between such Owners and Occupiers respectively and the Company, or, in case they differ about the Compensation, the same shall be settled by the Sheriff in the same Manner as any Compensation not exceeding Fifty Pounds is directed to be settled by the Lands Clauses Consolidation (*Scotland*) Act, 1845.

*Power to
Owners and
Occupiers of
Road and
Land to ob-
ject that
other Roads
should be
taken.*

XXVI. It shall be lawful for the Owners and Occupiers of any such Road, and of the Lands over which the same passes, within Ten Days after the Service of the aforesaid Notice, by Notice in Writing to the Company, to object to the Company making Use of such Road, on the ground that other Roads, such as the Company are herein-before authorized to use for the Purposes aforesaid, or that some public Road would be more fitting to be used for the same, and upon the Objection being so made such Proceedings may be had as are herein-after mentioned with respect to Lands temporarily occupied by the Company, in respect of which Three Weeks Notice is herein-after required to be given, and in the same Manner as if in the Provisions relative to such Proceedings the Word Road or Roads or the Words Road and the Land over which the same passes, as

the Case may require, had been substituted in such Provisions for the Word Lands.

*Temporary
Use of
Lands.*

XXVII. Subject to the Provisions herein and in the special Act contained, it shall be lawful for the Company, at any Time before the Expiration of the Period by the special Act limited for the Completion of the Railway, without making any previous Payment, Tender, or Deposit, to enter upon any Lands, within the prescribed Limits, or if no Limits be prescribed, not being more than Two hundred Yards distant from the Centre of the Railway, as delineated on the Plans, and not being a Garden, Orchard, or Plantation attached or belonging to a House, nor a Park, planted Walk, Avenue, or Ground ornamentally planted, and not being nearer to the Mansion House of the Owner of any such Lands than the prescribed Distance, or if no Distance be prescribed, then not nearer than Five hundred Yards therefrom, and to occupy the said Lands so long as may be necessary for the Construction or Repair of that Portion of the Railway, or of the Accommodation Works connected therewith; herein-after mentioned, and to use the same for any of the following Purposes ;(that is to say,)

Power to take temporary Possession of Land without previous Payment of Price.

For the Purpose of taking Earth or Soil by Side Cuttings therefrom ;

For the Purpose of depositing Spoil thereon ;

For the Purpose of obtaining Materials therefrom for the Construction or Repair of the Railway or such Accommodation Works as aforesaid ; or

For the Purpose of forming Roads thereon to or from or by the Side of the Railway ;

And in exercise of the Powers aforesaid it shall be lawful for the Company to deposit and also to manufacture and work upon such Lands Materials of every Kind used in constructing the Railway, and also to dig and take from out of any such Lands any Clay, Stone, Gravel, Sand, or other Things that may be found therein useful or proper for constructing the Railway or any such Roads as aforesaid, and for the Purposes aforesaid to erect thereon Workshops, Sheds, and other Buildings of a temporary Nature : Provided always, that nothing in this Act contained shall exempt the Company from an Action for Nuisance or other Injury, if any done, in the Exercise of the Powers herein-before given to the Lands or Habitations of any Party other than the Party whose Lands shall be so taken or used for any of the Purposes aforesaid : Provided always, that no Stone or Slate Quarry, Brick Field, or other like Place, which at the Time of the passing of the special Act shall be commonly worked or used for getting Materials therefrom for the Purpose of selling or disposing of the same, shall be taken or used by the Company, either wholly or in part, for any of the Purposes lastly herein-before mentioned.

XXVIII. In case any such Lands shall be required for Spoil Banks or for Side Cuttings, or for obtaining Materials for the Construction or repairing of the Railway, the Company shall before entering thereon (except in the Case of Accident to the Railway requiring immediate Reparation) give Three Weeks Notice in Writing to the Owners and Occupiers of such Lands of their Intention to enter upon the same

Company to give Notice previous to such temporary Possession.

for

*Temporary
Use of
Lands.*

for such Purposes, and in case the said Lands are required for any of the other Purposes herein-before mentioned the Company shall (except in the Cases aforesaid) give Ten Days like Notice thereof; and the Company shall in such Notices respectively state the Substance of the Provisions herein-after contained respecting the Right of such Owner or Occupier to require the Company to purchase any such Lands, or to receive Compensation for the temporary Occupation thereof, as the Case may be.

*Service of
Notices on
Owners and
Occupiers of
Lands.*

XXIX. The said Notice shall either be served personally on such Owners and Occupiers, or left at their last usual Place of Abode, if any such can, after diligent Inquiry, be found, and in case any such Owner shall be absent from the United Kingdom, or cannot be found after diligent Inquiry, such Notice shall be served on the Factor or Agent (if any) of such Owner, and shall also be left with the Occupier of such Lands, or, if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

*Power to
Owner to
object that
other Lands
ought to be
taken.*

XXX. In any Case in which a Notice of Three Weeks is herein-before required to be given it shall be lawful for the Owner or Occupier of the Lands therein referred to, within Ten Days after the Service of such Notice, by Notice in Writing to the Company, to object to the Company making use of such Lands, either on the ground that the Lands proposed to be taken for the Purposes aforesaid, or some Part thereof, or of the Materials contained therein, are essential to be retained by such Owner, in order to the beneficial Enjoyment of other neighbouring Lands belonging to him, or on the ground that other Lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such Purposes by the Company; and upon Objection being so made such Proceedings may be had as herein-after mentioned; and if in such Case the Company shall refuse to occupy such other Lands in lieu of those mentioned in the Notice, it shall be lawful for the Sheriff, on the Application of such Owner or Occupier, to summon the Company and the Owners and Occupiers of such other Lands to appear before him at a Time and Place to be named in such Summons, such Time not being more than Fourteen Days after such Application nor less than Seven Days from the Service of such Summons; and on the Appearance of the Parties, or in the Absence of any of them, upon Proof of due Service of the Summons, it shall be lawful for such Sheriff to determine summarily which of the said Lands shall be used by the Company for the Purposes aforesaid, and to authorize the Company to occupy and use the same accordingly.

*Power to the
Sheriff to
summon
other Owners
before him.*

XXXI. If in the Case last mentioned it shall appear to such Sheriff, upon the Inquiry before him, that the Lands of any other Party not summoned before him, being sufficient in Quantity, and such as the Company are herein-before authorized to take or use for the Purposes aforesaid, would be more fitting to be used by the Company than the Lands of the Person who shall have been so summoned as aforesaid, it shall be lawful for the said Sheriff to adjourn such Inquiry, and to summon such other Person to appear before him at any Time, not being more than Fourteen Days from such

such Inquiry nor less than Seven Days from the Service of such Summons; and on the Appearance of the Parties, or, in the Absence of any of them, on Proof of due Service of the Summons, it shall be lawful for such Sheriff to determine finally which Lands shall be used for the Purposes aforesaid, and to authorize the Company to occupy and use the same accordingly.

*Temporary
Use of
Lands.*

XXXII. Before entering, under the Provisions herein-before contained, upon any such Lands as shall be required for Spoil Banks or for Side Cuttings, or for obtaining Materials or forming Roads as aforesaid, the Company shall, if required by the Owner or Occupier thereof, Seven Days at least before the Expiration of the Notice to take such Lands as herein-before mentioned, find Two sufficient Persons, to be approved of by the Sheriff, in case the Parties differ, who shall enter into a Bond to such Owner or Occupier in a Sum to such Amount as shall be approved of by the Sheriff, in case the Parties differ, for the Payment of such Compensation as may become payable in respect of the same in manner herein mentioned.

The Com-
pany to give
Sureties, if
required.

XXXIII. Before the Company shall use any such Lands for any of the Purposes aforesaid they shall, if required so to do by the Owner or Occupier thereof, separate the same by a sufficient Fence from the Lands adjoining thereto, with such Gates as may be required by the said Owner or Occupier for the convenient Occupation of such Lands, and shall also, to all private Roads used by them as aforesaid, put up Fences and Gates, in like Manner, in all Cases where the same may be necessary, to prevent the straying of Cattle from or upon the Lands traversed by such Roads, and in case of any Difference between the Owners or Occupiers of such Roads and Lands and the Company as to the Necessity for such Fences and Gates, such Fences and Gates as any Two Justices shall deem necessary for the Purposes aforesaid, on Application being made to them, in like Manner as herein-before is provided in respect of the Use of such Road.

Company
to separate
the Lands
before using
them.

XXXIV. That if any Land shall be taken or used by the Company, under the Provisions of this or the special Act, for the Purpose of getting Materials therefrom for the Construction or Repair of the Railway or the Accommodation Works connected therewith, they shall work the same in such Manner as the Surveyor or Agent of the Owner of such Land shall direct; or, in case of Disagreement between such Surveyor or Agent and the Company, in such Manner as any Justice shall direct, on the Application of either Party, after Notice of the hearing of the Application shall have been given to the other Party.

Stone
Quarries,
&c. to be
worked as
Surveyor or
Owner shall
direct.

XXXV. In all Cases in which the Company shall in exercise of the Powers aforesaid enter upon any Lands for the Purpose of making Spoil Banks or Side Cuttings thereon, or for obtaining therefrom Materials for the Construction or Repair of the Railway, it shall be lawful for the Owners or Occupiers of such Lands, or Parties having such Interests therein as, under the Provisions in the said Lands Clauses Consolidation Act mentioned, are capable of being by

Owners of
Lands may
compel Com-
pany to pur-
chase Lands
so tempora-
rily occu-
pied.

*Temporary
Use of
Lands.*

them sold or conveyed to the Company, at any Time during the Possession of any such Lands by the Company, and before such Owners or Occupiers shall have accepted Compensation from the Company in respect of such temporary Occupation, to serve a Notice in Writing on the Company requiring them to purchase the said Lands, or Interests therein capable of being sold and conveyed by them respectively; and in such Notice such Owners or Occupiers shall set forth the Particulars of such their Interest in such Lands, and the Amount of their Claim in respect thereof; and the Company shall thereupon be bound to purchase the said Lands, or the Interest therein capable of being sold and conveyed by the Parties serving such Notice.

Compensa-
tion to be
made for
temporary
Occupation.

XXXVI. In any of the Cases aforesaid, where the Company shall not be required to purchase such Lands, and in all other Cases where they shall take temporary Possession of Lands by virtue of the Powers herein or in the special Act granted, it shall be incumbent on the Company, within One Month after their Entry upon such Lands, upon being required so to do, to pay to the Occupier of the said Lands the Value of any Crop or Dressing that may be thereon, as well as full Compensation for any other Damage of a temporary Nature which he may sustain by reason of their so taking possession of his Lands, and shall also from Time to Time during their Occupation of the said Lands pay half-yearly to such Occupier or to the Owner of the Lands, as the Case may require, a Rent, to be fixed by the Sheriff, in case the Parties differ, and shall also within Six Months after they shall have ceased to occupy the said Lands, and not later than Six Months after the Expiration of the Time by the special Act limited for the Completion of the Railway, pay to such Owner and Occupier, or deposit in the Bank for the Benefit of all Parties interested, as the Case may require, Compensation for all permanent or other Loss, Damage, or Injury that may have been sustained by them by reason of the Exercise, as regards the said Lands, of the Powers herein or in the special Act granted, including the full Value of all Clay, Stone, Gravel, Sand, and other Things taken from such Lands.

Compensa-
tion to be
ascertained
under the
Lands
Clauses Act.

XXXVII. The Amount and Application of the Purchase Money and other Compensation payable by the Company in any of the Cases aforesaid shall be determined in the Manner provided by the said Lands Clauses Consolidation Act for determining the Amount and Application of the Compensation to be paid for Lands taken under the Provisions thereof.

*Lands for
additional
Stations.*

Land to be
taken for
additional
Stations, &c.

XXXVIII. And be it enacted, That it shall be lawful for the Company, in addition to the Lands authorized to be compulsorily taken by them under the Powers of this or the special Act, to contract with any Party willing to sell the same for the Purchase of any Land adjoining or near to the Railway, or to any other Railway communicating therewith, and on which the Traffic thereupon may pass, and in any Town or City adjoining to or near such Railways, not exceeding in the whole the prescribed Number of Acres for extraordinary Purposes; (that is to say,)

For

For the Purpose of making and providing additional Stations, Yards, Wharfs, and Places for the Accommodation of Passengers, and for receiving, depositing, and loading or unloading Goods or Cattle to be conveyed upon the Railway, and for the Erection of Weighing Machines, Toll Houses, Offices, Warehouses, and other Buildings and Conveniences;

Lands for additional Stations.

For the Purpose of making convenient Roads or Ways to the Railway, or any other Purpose which may be requisite or convenient for the Formation or Use of the Railway.

And with respect to the crossing of Roads, or other Interference therewith, be it enacted as follows:

Crossing of Roads, and Construction of Bridges.

XXXIX. If the Line of the Railway cross any Turnpike Road or public Highway, then, except where otherwise provided by the special Act, either such Road shall be carried over the Railway, or the Railway shall be carried over such Road, by means of a Bridge, of the Height and Width and with the Ascent or Descent by this or the special Act in that Behalf provided; and such Bridge, with the immediate Approaches, and all other necessary Works connected therewith, shall be executed and at all Times thereafter maintained at the Expence of the Company: Provided always, that, with the Consent of the Sheriff or Two or more Justices, as after mentioned, it shall be lawful for the Company to carry the Railway across any Highway, other than a public Carriage Road, on the Level.

Crossing of Roads.

XL. If the Railway cross any Turnpike Road or public Carriage Road on a Level, the Company shall erect and at all Times maintain good and sufficient Gates across such Road, on each Side of the Railway where the same shall communicate therewith, and shall employ proper Persons to open and shut such Gates; and such Gates shall be kept constantly closed across such Road on both Sides of the Railway, except during the Time when Horses, Cattle, Carts, or Carriages passing along the same shall have to cross such Railway; and such Gates shall be of such Dimensions and so constructed as when closed to fence in the Railway, and prevent Cattle or Horses passing along the Road from entering upon the Railway; and the Person intrusted with the Care of such Gates shall cause the same to be closed as soon as such Horses, Cattle, Carts, or Carriages shall have passed through the same, under a Penalty of Forty Shillings for every Default therein: Provided always, that it shall be lawful for the Board of Trade, in any Case in which they are satisfied that it will be more conducive to the public Safety that the Gates on any level Crossing over any such Road should be kept closed across the Railway, to order that such Gates shall be kept so closed, instead of across the Road, and in such Case such Gates shall be kept constantly closed across the Railway, except when Engines or Carriages passing along the Railway shall have Occasion to cross such Road, in the same Manner and under the like Penalty as above directed with respect to the Gates being kept closed across the Road.

Provision in Cases where Roads are crossed on a Level.

XLI. Where

As to crossing of Turnpike Roads adjoining Stations.

XLI. Where the Railway crosses any Turnpike Road on a Level adjoining to a Station, all Trains on the Railway shall be made to slacken their Speed before arriving at such Turnpike Road, and shall not cross the same at any greater Rate of Speed than Four Miles an Hour; and the Company shall be subject to all such Rules and Regulations with regard to such Crossings as may from Time to Time be made by the Board of Trade.

Construction of Bridges over Roads.

XLII. Every Bridge to be erected for the Purpose of carrying the Railway over any Road, except as otherwise provided by the special Act, shall be built in conformity with the following Regulations; (that is to say,)

The Width of the Arch shall be such as to leave thereunder a clear Space of not less than Thirty-five Feet if the Arch be over a Turnpike Road, and of Twenty-five Feet if over a public Carriage Road, and of Twelve Feet if over a private Road:

The clear Height of the Arch from the Surface of the Road shall be not less than Sixteen Feet for a Space of Twelve Feet if the Arch be over a Turnpike Road, and Fifteen Feet for a Space of Ten Feet if over a public Carriage Road; and in each of such Cases the clear Height at the springing of the Arch shall not be less than Twelve Feet:

The clear Height of the Arch for a Space of Nine Feet shall not be less than Fourteen Feet over a private Carriage Road:

The Descent made in the Road in order to carry the same under the Bridge shall not be more than One Foot in Thirty Feet if the Bridge be over a Turnpike Road, One Foot in Twenty Feet if over a public Carriage Road, and One Foot in Sixteen Feet if over a private Carriage Road, not being a Tramroad or Railroad, or if the same be a Tramroad or Railroad the Descent shall not be greater than the prescribed Rate of Inclination, and if no Rate be prescribed the same shall not be greater than as it existed at the passing of the special Act.

Construction of Bridges over Railway.

XLIII. Every Bridge erected for carrying any Road over the Railway shall, except as otherwise provided by the special Act, be built in conformity with the following Regulations; (that is to say,)

There shall be a good and sufficient Fence on each Side of the Bridge of not less Height than Four Feet, and on each Side of the immediate Approaches of such Bridge of not less than Three Feet:

The Road over the Bridge shall have a clear Space between the Fences thereof of Thirty-five Feet if the Road be a Turnpike Road, and Twenty-five Feet if a public Carriage Road, and Twelve Feet if a private Road:

The Ascent shall not be more than One Foot in Thirty Feet if the Road be a Turnpike Road, One Foot in Twenty Feet if a public Carriage Road, and One Foot in Sixteen Feet if a private Carriage Road, not being a Tramroad or Railroad, or if the same be a Tramroad or Railroad the Ascent shall not be greater than the prescribed Rate of Inclination, and if no Rate be prescribed the same shall not be greater than as it existed at the passing of the special Act.

XLIV. Pro-

XLIV. Provided always, That in all Cases where the average available Width for the Passage of Carriages of any existing Roads within Fifty Yards of the Points of crossing the same is less than the Width herein-before prescribed for Bridges over or under the Railway, the Width of such Bridges need not be greater than such average available Width of such Roads, but so nevertheless, that such Bridges be not of less Width, in the Case of a Turnpike Road or public Carriage Road, than Twenty Feet: Provided also, that if at any Time after the Construction of the Railway the average available Width of any such Road shall be increased beyond the Width of such Bridge on either Side thereof, the Company shall be bound, at their own Expence, to increase the Width of the said Bridge to such Extent as they may be required by the Trustees or Surveyors of such Road, not exceeding the Width of such Road as so widened, or the maximum Width herein or in the special Act prescribed for a Bridge in the like Case over or under the Railway.

The Width of the Bridges need not exceed the Width of Road in certain Cases.

XLV. Provided also, That if the mesne Inclination of any Road within Two hundred and fifty Yards of the Point of crossing the same, or the Inclination of such Portion of any Road as may require to be altered, or for which another Road shall be substituted, shall be steeper than the Inclination herein-before required to be preserved by the Company, then the Company may carry any such Road over or under the Railway, or may construct such altered or substituted Road at an Inclination not steeper than the said mesne Inclination of the Road so to be crossed, or of the Road so requiring to be altered, or for which another Road shall be substituted.

Existing Inclinations of Roads crossed or diverted need not be improved.

XLVI. If, in the Exercise of the Powers by this or the special Act granted, it be found necessary to cross, cut through, raise, sink, or use any Part of any Road, whether Carriage Road, Horse Road, Tramroad, or Railway, either public or private, so as to render it impassable for or dangerous to Passengers or Carriages, or to the Persons entitled to the Use thereof, the Company shall, before the Commencement of any such Operations, cause a sufficient Road to be made instead of the Road to be interfered with, and shall at their own Expence maintain such substituted Road in a State as convenient for Passengers and Carriages as the Road so interfered with, or as nearly so as may be.

Before Roads interfered with, others to be substituted.

XLVII. If the Company do not cause another sufficient Road to be so made before they interfere with any such existing Road as aforesaid they shall forfeit Twenty Pounds for every Day during which such substituted Road shall not be made after the existing Road shall have been interrupted; and such Penalty shall be paid to the Trustees, Commissioners, Surveyor, or other Person having the Management of such Road, if a public Road, and shall be applied for the Purposes thereof, or in case of a private Road the same shall be paid to the Owner thereof; and every such Penalty shall be recoverable, with Costs, by Action in any competent Court.

Penalty for not substituting a Road.

Party suffering Damage from Interruption of Road to recover in an Action on the Case.

XLVIII. If any Party entitled to a Right of Way over any Road so interfered with by the Company shall suffer any special Damage by reason that the Company shall fail to cause another sufficient Road to be made before they interfere with the existing Road, it shall be lawful for such Party to recover the Amount of such special Damage from the Company, with Expences, by Action in the Court of Session, if the Damage claimed exceeds Twenty-five Pounds, or in the Sheriff Court, if the Damage claimed does not exceed Twenty-five Pounds, and that whether any Party shall have sued for such Penalty as aforesaid or not, and without Prejudice to the Right of any Party to sue for the same.

Period for Restoration of Roads interfered with.

XLIX. If the Road so interfered with can be restored compatibly with the Formation and Use of the Railway, the same shall be restored to as good a Condition as the same was in at the Time when the same was first interfered with by the Company, or as near thereto as may be; and if such Road cannot be restored compatibly with the Formation and Use of the Railway, the Company shall cause the new or substituted Road, or some other sufficient substituted Road, to be put into a permanently substantial Condition, equally convenient as the former Road, or as near thereto as Circumstances will allow; and the former Road shall be restored, or the substituted Road put into such Condition as aforesaid, as the Case may be, within the following Periods after the first Operation on the former Road shall have been commenced, unless the Trustees or Parties having the Management of the Road to be restored by Writing under their Hands consent to an Extension of the Period, and in such Case within such extended Period, (that is to say,) if the Road be a Turnpike Road, within Six Months, and if the Road be not a Turnpike Road, within Twelve Months.

Penalty for failing to restore Road.

L. If any such Road be not so restored, or the substituted Road so completed as aforesaid, within the Periods herein or in the special Act fixed for that Purpose, the Company shall forfeit to the Trustees, Commissioners, Surveyor, or other Person having the Management of the Road interfered with by the Company, if a public Road, or if a private Road to the Owner thereof, Twenty Pounds for every Day after the Expiration of such Periods respectively during which such Road shall not be so restored or the substituted Road completed; and it shall be lawful for the Sheriff or Justices by whom any such Penalty is imposed to order the whole or any Part thereof to be laid out in executing the Work in respect whereof such Penalty was incurred.

Company to repair Roads used by them.

LI. If in the course of making the Railway the Company shall use or interfere with any Road they shall from Time to Time make good all Damage done by them to such Road; and if any Question shall arise as to the Damage done to any such Road by the Company, or as to the Repair thereof by them, the same shall be determined by the Sheriff or Two Justices; and such Sheriff or Justices may direct such Repairs to be made in the State of such Road, in respect of the Damage done by the Company, and within such Period, as they think reasonable, and may impose on the Company, for not carrying

into effect such Repairs, any Penalty, not exceeding Five Pounds *per* Day, as to such Sheriff or Justices shall seem just ; and such Penalty shall be paid to the Surveyor or other Person having the Management of the Road interfered with by the Company, if a public Road, and be applied for the Purposes of such Road, or if a private Road the same shall be paid to the Owner thereof: Provided always, that in determining any such Question with regard to a Turnpike Road the said Sheriff or Justices shall have regard to and make full Allowance for any Tolls that may have been paid by the Company on such Road in the course of the using thereof.

*Crossing of
Roads, and
Construction
of Bridges.*

LII. If the Railway shall cross any Highway other than a public Carriageway on the Level the Company shall at their own Expence make and at all Times maintain convenient Ascents and Descents and other convenient Approaches, with Handrails and other Fences, and shall, if such Highway be a Bridleway, erect and at all Times maintain good and sufficient Gates, and if the same shall be a Footway, good and sufficient Gates or Stiles on each Side of the Railway where the Highway shall communicate therewith.

Company to
make suffi-
cient Ap-
proaches and
Fences to
Bridleways
and Foot-
ways cross-
ing on the
Level.

LIII. When the Company shall intend to apply for the Consent of the Sheriff or Two Justices, as herein-before provided, so as to authorize them to carry the Railway across any Highway other than a public Carriage Road on the Level, they shall, Fourteen Days at least previous to the Time at which such Application is intended to be made, cause Notice of such intended Application to be given in some Newspaper circulating in the County, and also to be affixed upon the Door of the Parish Church of the Parish in which such Crossing is intended to be made, or if there be no such Church some other Place to which Notices are usually affixed ; and if it appear to the Sheriff, or to any Two or more Justices acting for the District in which such Highway at the proper Crossing thereof is situate, after such Notice as aforesaid, that the Railway can, consistently with a due Regard to the public Safety and Convenience, be carried across such Highway in the Level, it shall be lawful for such Sheriff or Justices to consent that the same may be so carried accordingly.

Proceedings
on Applica-
tion to Sheriff
or Justices
to consent
to level
Crossings of
Bridleways
and Foot-
ways.

LIV. If, when the Railway shall cross any Highway on the Level the Company fail to make convenient Ascents and Descents or other convenient Approaches, and such Handrails, Fences, Gates, and Stiles as they are herein-before required to make, it shall be lawful for the Sheriff or Two Justices, on the Application of the Surveyor of Roads, or of any Two Householdors within the Parish or District where such Crossing shall be situate, after not less than Ten Days Notice to the Company, to order the Company to make such Ascent and Descent or other Approach, or such Handrails, Fences, Gates, or Stiles as aforesaid, within a Period to be limited for that Purpose by such Sheriff or Justices ; and if the Company fail to comply with such Order they shall forfeit Five Pounds for every Day that they fail so to do ; and it shall be lawful for the Sheriff or Justices by whom any such Penalty is imposed to order the whole or any Part thereof to be applied, in such Manner and by such Person as they

Sheriff or
Justices to
have Power
to order Ap-
proaches and
Fences to be
made to
Highways
crossing
on the Level.

think

think fit, in executing the Work in respect whereof such Penalty was incurred.

*Screens for
Turnpike
Roads.*

Screen for
Turnpike
Road to be
made, if
required by
the Board of
Trade.

LV. If the Commissioners or Trustees of any Turnpike Road, or the Surveyor of any Highway, apprehend Danger to the Passengers on such Road in consequence of Horses being frightened by the Sight of the Engines or Carriages travelling upon the Railway, it shall be lawful for such Commissioners or Trustees or Surveyor, after giving Fourteen Days Notice to the Company, to apply to the Board of Trade with respect thereto; and if it shall appear to the said Board that such Danger might be obviated or lessened by the Construction of any Works in the Nature of a Screen near to or adjoining the Side of such Road, it shall be lawful for them, if they shall think fit, to certify the Works necessary or proper to be executed by the Company for the Purpose of obviating or lessening such Danger, and by such Certificate to require the Company to execute such Works within a certain Time after the Service of such Certificate, to be appointed by the said Board.

Penalty for
failing to
construct.

LVI. Where by any such Certificate as aforesaid the Company shall have been required to execute any such Work in the Nature of a Screen they shall execute and complete the same within the Period appointed for that Purpose in such Certificate, and if they fail so to do they shall forfeit to the Commissioners or Trustees or Surveyor Five Pounds for every Day during which such Works shall remain uncompleted beyond the Period so appointed for their Completion; and it shall be lawful for the Justices by whom any such Penalty is imposed to order the whole or any Part thereof to be laid out in executing the Work in respect whereof such Penalty was incurred.

*Construction
or Reparation
of Bridges.*

Sheriff or
Justices to
have Power
to order
Repair of
Bridges, &c.

LVII. Where, under the Provisions of this or the special Act, or any Act incorporated therewith, the Company are required to maintain or keep in repair any Bridge, Fence, Approach, Gate, or other Work executed by them, it shall be lawful for the Sheriff or Two Justices, on the Application of the Surveyor of Roads, or of any Two Household-ers of the Parish or District where such Work may be situate, complaining that any such Work is out of repair, after not less than Ten Days Notice to the Company, to order the Company to put such Work into complete Repair within a Period to be limited for that Purpose by such Sheriff or Justices; and if the Company fail to comply with such Order they shall forfeit Five Pounds for every Day that they fail so to do; and it shall be lawful for the Sheriff or Justices by whom any such Penalty is imposed to order the whole or any Part thereof to be applied, in such Manner and by such Persons as they think fit, in putting such Work into repair.

Board of
Trade em-
powered to
modify the
Construction
of certain
Roads,
Bridges, &c.
where a

LVIII. And whereas Expence might frequently be avoided, and public Convenience promoted, by a Reference to the Board of Trade upon the Construction of public Works of an engineering Nature connected with the Railway, where a strict Compliance with the Provisions of this or the special Act might be impossible, or attended with Inconvenience to the Company, and without adequate Advantage to the Public; be it enacted, That in case any Difference in regard
to

to the Construction, Alteration, or Restoration of any Road or Bridge, or other public Work of an engineering Nature, required by the Provisions of this or the special Act, shall arise between the Company and any Trustees, Commissioners, Surveyors, or other Persons having the Control of or being authorized by Law to enforce the Construction of such Road, Bridge, or Work, it shall be lawful for either Party, after giving Fourteen Days Notice in Writing of their Intention so to do to the other Party, to apply to the Board of Trade to decide upon the proper Manner of constructing, altering, or restoring such Road, Bridge, or other Work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize, by Certificate in Writing, any Arrangement or Mode of Construction in regard to any such Road, Bridge, or other Work which shall appear to them either to be in substantial Compliance with the Provisions of this and the special Act, or to be calculated to afford equal or greater Accommodation to the Public using such Road, Bridge, or other Work; and after any such Certificate shall have been given by the Board of Trade the Road, Bridge, or other Work therein mentioned shall be constructed by the Company in conformity with the Terms of such Certificate, and being so constructed shall be deemed to be constructed in conformity with the Provisions of this and the special Act: Provided always, that no such Certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private Rights or Interests will not be injuriously affected thereby.

strict Compliance with the Act impossible or inconvenient.

LIX. And be it enacted, That all Regulations, Certificates, Notices, and other Documents in Writing purporting to be made or issued by or by the Authority of the Board of Trade, and signed by some Officer appointed for that Purpose by the Board of Trade, shall, for the Purposes of this and the special Act, and any Act incorporated therewith, be deemed to have been so made and issued, and that without Proof of the Authority of the Person signing the same, or of the Signature thereto, which Matters shall be presumed until the contrary be proved; and Service of any such Document, by leaving the same at one of the principal Offices of the Railway Company, or by sending the same by Post addressed to the Secretary at such Office, shall be deemed good Service upon the Company; and all Notices and other Documents required by this or the special Act to be given to or laid before the Board of Trade shall be delivered at, or sent by Post addressed to, the Office of the Board of Trade in *London*.

Authentication of Certificates of the Board of Trade, Service of Notices, &c.

And with respect to Works for the Accommodation of Lands adjoining the Railway, be it enacted as follows:

LX. The Company shall make and at all Times thereafter maintain the following Works for the Accommodation of the Owners and Occupiers of Lands adjoining the Railway; (that is to say,)

Such and so many convenient Gates, Bridges, Arches, Culverts, and Passages over, under, or by the Sides of or leading to or from the Railway as shall be necessary for the Purpose of making good any Interruptions caused by the Railway to the

Works for Accommodation and Protection of Lands.

Works to be erected for the Accommodation of adjoining Lands.

Gates, Bridges, &c.:

*Works for
Accommo-
dation and
Protection of
Lands.*

Fences :

Use of the Lands through which the Railway shall be made ; and such Works shall be made forthwith after the Part of the Railway passing over such Lands shall have been laid out or formed, or during the Formation thereof :

Also sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences for separating the Land taken for the Use of the Railway from the adjoining Lands not taken, and protecting such Lands from Trespass, or the Cattle of the Owners or Occupiers thereof from straying thereout, by reason of the Railway, together with all necessary Gates made to open towards such adjoining Lands, and not towards the Railway, and all necessary Stiles ; and such Posts, Rails, and other Fences shall be made forthwith after the taking of any such Lands, if the Owners thereof shall so require, and the said other Works as soon as conveniently may be :

Drains :

Also all necessary Arches, Tunnels, Culverts, Drains, or other Passages, either over or under or by the Sides of the Railway, of such Dimensions as will be sufficient at all Times to convey the Water as clearly from the Lands lying near or affected by the Railway as before the making of the Railway, or as nearly so as may be ; and such Works shall be made from Time to Time as the Railway Works proceed :

Watering
Places.

Also proper Watering Places for Cattle where by reason of the Railway the Cattle of any Person occupying any Lands lying near thereto shall be deprived of Access to their former Watering Places ; and such Watering Places shall be so made as to be at all Times as sufficiently supplied with Water as theretofore, and as if the Railway had not been made, or as nearly so as may be ; and the Company shall make all necessary Watercourses and Drains for the Purpose of conveying Water to the said Watering Places : Provided always, that the Company shall not be required to make such Accommodation Works in such a Manner as would prevent or obstruct the working or using of the Railway, and that the Company may, in lieu of such Accommodation Works, make Compensation to the Owners and Occupiers of the Lands, for the Want thereof, in such Manner as may be agreed upon between the Company and such Owners and Occupiers, nor to make any Accommodation Works with respect to which the Owners, Lessees, and Occupiers of the Lands shall have agreed to receive and shall have been paid Compensation instead of the making of them.

Differences
asto Accom-
modation
Works to be
settled by
Sheriff or
Justices.

LXI. If any Difference arise respecting the Kind or Number of any such Accommodation Works, or the Dimensions or Sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by the Sheriff or Two Justices ; and such Sheriff or Justices shall also appoint the Time within which such Works shall be commenced and executed by the Company.

Execution of
Works by
Owners on
default by
the Com-
pany.

LXII. If for Seven Days next after the Time appointed by such Sheriff or Justices for the Commencement of any such Works the Company shall fail to commence such Works, or having commenced shall fail to proceed diligently to execute the same in a sufficient Manner, it shall be lawful for the Party aggrieved by such Failure himself

himself to execute such Works or Repairs; and the reasonable Expences thereof shall be repaid by the Company to the Party by whom the same shall so have been executed; and if there be any Dispute about such Expences the same shall be settled by the Sheriff or Two Justices: Provided always, that no such Owner or Occupier or other Person shall obstruct or injure the Railway, or any of the Works connected therewith, for a longer Time, nor use them in any other Manner, than is unavoidably necessary for the Execution or Repair of such Accommodation Works.

Works for Accommodation and Protection of Lands.

LXIII. If any of the Owners or Occupiers of Lands affected by such Railway shall consider the Accommodation Works made by the Company, or directed by such Sheriff or Justices to be made by the Company, insufficient for the commodious Use of their respective Lands, it shall be lawful for any such Owner or Occupier, at his own Expence, to make such further Works for that Purpose as he shall think necessary, and as shall be agreed to by the Company, or, in case of Difference, as shall be authorized by the Sheriff or Two Justices.

Power to Owners of Land to make additional Accommodation Works.

LXIV. If the Company so desire, all such last-mentioned Accommodation Works shall be constructed under the Superintendence of their Engineer, and according to Plans and Specifications to be submitted to and approved by such Engineer; nevertheless the Owners or Occupiers of Lands shall not be entitled to require either that Plans should be adopted which would involve a greater Expence than that incurred in the Execution of similar Works by the Company, or that the Plans selected should be executed in a more expensive Manner than that adopted in similar Cases by the Company.

Works to be constructed under the Superintendence of the Company's Engineer.

LXV. The Company shall not be compelled to make any further or additional Accommodation Works for the Use of Owners and Occupiers of Land adjoining the Railway after the Expiration of the prescribed Period, or, if no Period be prescribed, after Five Years from the opening of the Railway for public Use.

Accommodation Works not to be required after Five Years.

LXVI. Until the Company shall have made the Bridges or other proper Communications which they shall under the Provisions herein or in the special Act, or any Act incorporated therewith, contained, have been required to make between Lands intersected by the Railway, and no longer, the Owners and Occupiers of such Lands, and any other Persons whose Right of Way shall be affected by the Want of such Communication, and their respective Servants, may at all Times freely pass and repass, with Carriages, Horses, and other Animals, directly (but not otherwise) across the Part of the Railway made in or through their respective Lands, solely for the Purpose of occupying the same Lands, or for the Exercise of such Right of Way, and so as not to obstruct the Passage along the Railway, or to damage the same; nevertheless, if the Owner or Occupier of any such Lands have in his Arrangements with the Company received or agreed to receive Compensation for or on account of any such Communications, instead of the same being formed, such Owner or Occupier, or those claiming under him, shall not be entitled so to cross the Railway.

Owners to be allowed to cross until Accommodation Works made.

LXVII. During

Materials,
&c. to vest in
Company for
Purposes of
Prosecution.

LXVII. During the Execution of any Contract made with the Company the Works in course of being done under such Contract, and all the Materials of every Description brought upon or near such Works for the Purpose of being used in the Execution of such Contract, shall, in all Proceedings instituted by them for the Purpose of protecting the same, or by the public Prosecutor for the Purpose of Punishment on account of Offences committed against the same, be held to be the Property of the Company.

Penalty on
Persons
omitting to
fasten Gates.

LXVIII. If any Person omit to shut and fasten any Gate set up at either Side of the Railway, for the Accommodation of the Owners or Occupiers of the adjoining Lands, as soon as he, and the Carriage, Cattle or other Animals, under his Care, have passed through the same, he shall forfeit for every such Offence any Sum not exceeding Forty Shillings.

*Branch
Railways.*

Power to
Parties to
make private
Branch Rail-
ways com-
municating
with the
Railway.
5 & 6 Vict.
c. 55.

LXIX. And be it enacted, That this or the special Act shall not prevent the Owners or Occupiers of Lands adjoining to the Railway, or any other Persons, from laying down, either upon their own Lands or upon the Lands of other Persons, with the Consent of such Persons, any collateral Branches of Railway to communicate with the Railway, for the Purpose of bringing Carriages to or from or upon the Railway, but under and subject to the Provisions and Restrictions of an Act passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*; and the Company shall, if required, at the Expence of such Owners and Occupiers and other Persons, and subject also to the Provisions of the said last-mentioned Act, make Openings in the Rails, and such additional Lines of Rail as may be necessary for effecting such Communication, in Places where the Communication can be made with Safety to the Public, and without Injury to the Railway, and without Inconvenience to the Traffic thereon; and the Company shall not take any Rate or Toll or other Monies for the passing of any Passengers, Goods, or other Things along any Branch so to be made by any such Owner or Occupier or other Person; but this Enactment shall be subject to the following Restrictions and Conditions; (that is to say,)

Restrictions
and Condi-
tions.

No such Branch Railway shall run parallel to the Railway:

The Company shall not be bound to make any such Openings in any Place which they shall have set apart for any specific Purpose with which such Communication would interfere, nor upon any Inclined Plane or Bridge, nor in any Tunnel;

The Persons making or using such Branch Railways shall be subject to all Bye Laws and Regulations of the Company from Time to Time made with respect to passing upon or crossing the Railway, and otherwise; and the Persons making or using such Branch Railways shall be bound to construct, and from Time to Time, as Need may require, to renew, the offset Plates and Switches according to the most approved Plan adopted by the Company, and under the Direction of their Engineer.

And

And with respect to Mines lying under or near the Railway, be it enacted as follows :

*Working
of Mines.*

LXX. The Company shall not be entitled to any Mines of Coal, Ironstone, Slate, or other Minerals under any Land purchased by them, except only such Parts thereof as shall be necessary to be dug or carried away or used in the Construction of the Works, unless the same shall have been expressly purchased; and all such Mines, excepting as aforesaid, shall be deemed to be excepted out of the Conveyance of such Lands, unless they shall have been expressly named therein and conveyed thereby.

Promoters of the Undertaking not to be entitled to Minerals.

LXXI. If the Owner, Lessee, or Occupier of any Mines or Minerals lying under the Railway, or any of the Works connected therewith, or within the prescribed Distance, or, where no Distance shall be prescribed, Forty Yards therefrom, be desirous of working the same, such Owner, Lessee, or Occupier shall give to the Company Notice in Writing of his Intention so to do Thirty Days before the Commencement of working; and upon the Receipt of such Notice it shall be lawful for the Company to cause such Mines to be inspected by any Person appointed by them for the Purpose; and if it appear to the Company that the working of such Mines, either wholly or partially, is likely to damage the Works of the Railway, and if the Company be desirous that such Mines or any Parts thereof should be left unworked, and if they be willing to make Compensation for such Mines or Minerals, or such Parts thereof as they desire to be left unworked, they shall give Notice to such Owner, Lessee, or Occupier of such their Desire, and shall in such Notice specify the Parts of the Mines under the Railway or Works or within the Distance aforesaid which they shall desire to be left unworked, and for which they shall be willing to make Compensation; and in such Case such Owner, Lessee, or Occupier shall not work or get the Mines or Minerals comprised in such Notice; and the Company shall make Compensation for the same, and for all Loss or Damage occasioned by the non-working thereof, to the Owner, Lessee, and Occupier thereof respectively; and if the Company, and such Owner, Lessee, or Occupier, do not agree as to the Amount of such Compensation, the same shall be settled as in other Cases of disputed Compensation.

Mines lying near the Railway not to be worked if the Company willing to purchase them.

LXXII. If before the Expiration of such Thirty Days the Company do not give Notice of their Desire to have such Mines left unworked, and of their Willingness to make such Compensation as aforesaid, it shall be lawful for such Owner, Lessee, or Occupier to work the said Mines, or such Parts thereof for which the Company shall not have agreed to pay Compensation, up to the Limits of the Mines or Minerals for which they shall have agreed to make Compensation, in such Manner as such Owner, Lessee, or Occupier shall think fit, for the Purpose of getting the Minerals contained therein; and if any Damage or Obstruction be occasioned to the Railway or Works by the working or getting of any such Minerals which the Company shall so have required to be left unworked, and for which they shall so have agreed to make Compensation, the same shall be forthwith repaired or removed, as the Case may require, and such Damage made good,

If Company unwilling to purchase, Owner may work the Mines.

*Working of
Mines.*

by the Owner, Lessee, or Occupier of such Mines or Minerals, and at his own Expence; and if such Repair or Removal be not forthwith done, or, if the Company shall so think fit, without waiting for the same to be done by such Owner, Lessee, or Occupier, it shall be lawful for the Company to execute the same, and recover from such Owner, Lessee, or Occupier the Expence occasioned thereby by Action in any competent Court.

*Mining Com-
munications.*

LXXIII. If the working of any such Mines or Minerals under the Railway or Works, or within the above mentioned Distance therefrom, be prevented as aforesaid by reason of apprehended Injury to the Railway, it shall be lawful for the respective Owners, Lessees, and Occupiers of such Mines, and whose Mines shall extend so as to be on both Sides of the Railway, to cut and make such and so many Airways, Headways, Gateways, or Water Levels through the Mines, Measures, or Strata the working whereof shall be so prevented as may be requisite to enable them to ventilate, drain, and work their said Mines; but no such Airway, Headway, Gateway, or Water Level shall be of greater Dimensions or Section than the prescribed Dimensions and Sections, and where no Dimensions shall be prescribed not greater than Eight Feet wide and Eight Feet high, nor shall the same be cut or made upon any Part of the Railway or Works, or so as to injure the same, or to impede the Passage thereon.

*Company to
make Com-
pensation for
Injury done
to Mines;*

LXXIV. The Company shall from Time to Time pay to the Owner, Lessee, or Occupier of any such Mines extending so as to be on both Sides of the Railway all such additional Expences and Losses as shall be incurred by such Owner, Lessee, or Occupier by reason of the Severance of the Lands lying over such Mines by the Railway, or of the continuous working of such Mines being interrupted as aforesaid, or by reason of the same being worked in such Manner and under such Restrictions as not to prejudice or injure the Railway, and for any Minerals not purchased by the Company which cannot be obtained by reason of making and maintaining the Railway; and if any Dispute or Question shall arise between the Company, and such Owner, Lessee, or Occupier as aforesaid, touching the Amount of such Losses or Expences, the same shall be settled as in other Cases of disputed Compensation.

*and also for
any Airway
or other
Work made
necessary by
the Railway.*

LXXV. If any Loss or Damage be sustained by the Owner or Occupier of the Lands lying over any such Mines the working whereof shall have been so prevented as aforesaid (and not being the Owner, Lessee, or Occupier of such Mines), by reason of the making of any such Airway or other Work as aforesaid, which or any like Work would not have been necessary to be made but for the working of such Mines having been so prevented as aforesaid, the Company shall make full Compensation to such Owner or Occupier of the Surface Lands for the Loss or Damage so sustained by him.

*Power to the
Company to
enter and*

LXXVI. For better ascertaining whether any such Mines are being worked or have been worked so as to damage the Railway or

or Works, it shall be lawful for the Company, after giving Twenty-four Hours Notice in Writing, to enter upon any Lands through or near which the Railway passes wherein any such Mines are being worked or are supposed so to be, and to enter into and return from any such Mines or the Works connected therewith; and for that Purpose it shall be lawful for them to make use of any Apparatus or Machinery connected with such Mines belonging to the Owner, Lessee, or Occupier of such Mines upon Payment of the reasonable Cost of using and working the same, and of any Loss thereby occasioned to the working of the Mines, or otherwise, and to use all necessary Means for discovering the Distance from the Railway to the Parts of such Mines which are being worked or about so to be.

inspect the working of Mines.

LXXVII. If any such Owner, Lessee, or Occupier of any such Mine shall refuse to allow any Person appointed by the Company for that Purpose to enter into and inspect any such Mines or Works in manner aforesaid, every Person so offending shall for every such Refusal forfeit to the Company a Sum not exceeding Twenty Pounds.

Penalty for Refusal to allow Inspection.

LXXVIII. If it appear that any such Mines have been worked contrary to the Provisions of this or the special Act, the Company may, if they think fit, give Notice to the Owner, Lessee, or Occupier thereof to construct such Supports or Works, and to adopt such Means as may be necessary or proper for making safe the Railway, and preventing Injury thereto; and if after such Notice any such Owner, Lessee, or Occupier do not forthwith proceed to construct the Works necessary for making safe the Railway, the Company may themselves construct such Works, and recover the Expence thereof from such Owner, Lessee, or Occupier by Action in any competent Court.

If Mines improperly worked, Supports to be made.

And with respect to the carrying of Passengers and Goods upon the Railway, and the Tolls to be taken thereon, be it enacted as follows:

Passengers and Goods on Railway.

LXXIX. It shall be lawful for the Company to use and employ locomotive Engines or other moving Power, and Carriages and Waggons to be drawn or propelled thereby, and to carry and convey upon the Railway all such Passengers and Goods as shall be offered to them for that Purpose, and to make such reasonable Charges in respect thereof as they may from Time to Time determine upon, not exceeding the Tolls by the special Act authorized to be taken by them.

Company to employ locomotive Power, Carriages, &c.

LXXX. It shall be lawful for the Company from Time to Time to enter into any Contract with any other Company, being the Owners or Lessees or in possession of any other Railway, for the Passage over or along the Railway by the special Act authorized to be made of any Engines, Coaches, Waggons, or other Carriages of any other Company, or which shall pass over any other Line of Railway, or for the Passage over any other Line of Railway of any

Company empowered to contract with other Companies.

*Passengers
and Goods
on Railway.*

any Engines, Coaches, Waggon, or other Carriages of the Company, or which shall pass over their Line of Railway, upon the Payment of such Tolls and under such Conditions and Restrictions as may be mutually agreed upon; and for the Purpose aforesaid it shall be lawful for the respective Parties to enter into any Contract for the Division or Apportionment of the Tolls to be taken upon their respective Railways.

Contract not
to affect Per-
sons not Par-
ties to it.

LXXXI. Provided always, That no such Contract as aforesaid shall in any Manner alter, affect, increase, or diminish any of the Tolls which the respective Companies, Parties to such Contracts, shall for the Time being be respectively authorized and entitled to demand or receive from any Person or any other Company, but that all other Persons and Companies shall, notwithstanding any such Contract, be entitled to the Use and Benefit of any of the said Railways, upon the same Terms and Conditions, and on Payment of the same Tolls, as they would have been in case no such Contract had been entered into.

Company
not to be
liable to a
greater
Extent than
Common
Carriers.

LXXXII. Nothing in this or the special Act contained shall extend to charge or make liable the Company further or in any other Case than where, according to the Laws of *Scotland*, Stage Coach Proprietors and Common Carriers would be liable, nor shall extend in any Degree to deprive the Company of any Protection or Privilege which Common Carriers or Stage Coach Proprietors may be entitled to; but, on the contrary, the Company shall at all Times be entitled to the Benefit of every such Protection and Privilege.

Power to
vary Tolls
under like
Circum-
stances.

LXXXIII. And whereas it is expedient that the Company should be enabled to vary the Tolls upon the Railway so as to accommodate them to the Circumstances of the Traffic, but that such Power of varying should not be used for the Purpose of prejudicing or favouring particular Parties, or for the Purpose of collusively and unfairly creating a Monopoly, either in the Hands of the Company or of particular Parties; it shall be lawful therefore for the Company, subject to the Provisions and Limitations herein and in the special Act contained, from Time to Time to alter or vary the Tolls by the special Act authorized to be taken, either upon the whole or upon any particular Portions of the Railway, as they shall think fit; provided that all such Tolls be at all Times charged equally to all Persons, and after the same Rate, whether *per Ton per Mile* or otherwise, in respect of all Passengers, and of all Goods or Carriages of the same Description, and conveyed or propelled by a like Carriage or Engine passing only over the same Portion of the Line of Railway under the same Circumstances; and no Reduction or Advance in any such Tolls shall be made either directly or indirectly in favour of or against any particular Company or Person travelling upon or using the Railway.

Tolls to be
charged
equally
under like
Circum-
stances.

How Tolls to
be calculated
where Rail-

LXXXIV. And whereas Authority has been given by various Acts of Parliament to Railway Companies to demand Tolls for the Conveyance of Passengers and Goods and for other Services over a

Fraction

Fraction of a Mile equal to the Toll which they are authorized to demand for One Mile; be it enacted, That in Cases in which any Railway shall be amalgamated with any other adjoining Railway or Railways such Tolls shall be calculated and imposed at such Rates as if such amalgamated Railways had originally formed One Line of Railway.

ways are
amalgamated.

LXXXV. It shall not be lawful for the Company at any Time to demand or take a greater Amount of Toll, or make any greater Charge for the Carriage of Passengers or Goods, than they are by this and the special Act authorized to demand; and upon Payment of the Tolls from Time to Time demandable all Companies and Persons shall be entitled to use the Railway, with Engines and Carriages properly constructed as by this and the special Act directed, subject nevertheless to the Provisions and Restrictions of the said Act of the Sixth Year of Her present Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*, and to the Regulations to be from Time to Time made by the Company by virtue of the Powers in that Behalf hereby and by the special Act conferred upon them

Railway to
be free on
Payment of
Tolls.

5 & 6 Vict.
c. 55.

LXXXVI. A List of all the Tolls authorized by the special Act to be taken, and which shall be exacted by the Company, shall be published by the same being painted upon One Toll Board or more in distinct Black Letters on a White Ground, or White Letters on a Black Ground, or by the same being printed in legible Characters on Paper affixed to such Board, and by such Board being exhibited in some conspicuous Place on the Stations or Places where such Tolls shall be made payable.

Collection
Tolls.

List of Tolls
to be ex-
hibited on a
Board.

LXXXVII. The Company shall cause the Length of the Railway to be measured, and Posts or other conspicuous Objects to be set up and maintained along the whole Line thereof, at the Distance of One Quarter of a Mile from each other, with Numbers or Marks inscribed thereon denoting such Distances.

Milestones.

LXXXVIII. No Tolls shall be demanded or taken by the Company for the Use of the Railway during any Time at which the Boards herein-before directed to be exhibited shall not be so exhibited, or at which the Milestones herein-before directed to be set up and maintained shall not be so set up and maintained; and if any Person wilfully pull down, deface, or destroy any such Board or Milestone he shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Tolls to be
taken only
whilst Board
exhibited
and Mile-
stones set up.

LXXXIX. The Tolls shall be paid to such Persons, and at such Places upon or near to the Railway, and in such Manner and under such Regulations, as the Company shall, by Notice to be annexed to the List of Tolls, appoint.

Tolls to be
paid as di-
rected by
the Com-
pany.

XC. If, on demand, any Person fail to pay the Tolls due in respect of any Carriage or Goods, it shall be lawful for the Company to detain and sell such Carriage, or all or any Part of such Goods,

In default of
Payment of
Tolls, Goods,
&c. may be

detained and sold. Goods, or, if the same shall have been removed from the Premises of the Company, to detain and sell any other Carriages or Goods within such Premises belonging to the Party liable to pay such Tolls, and out of the Monies arising from such Sale to retain the Tolls payable as aforesaid, and all Charges and Expences of such Detention and Sale, rendering the Overplus, if any, of the Monies arising by such Sale, and such of the Carriages or Goods as shall remain unsold, to the Person entitled thereto, or it shall be lawful for the Company to recover any such Tolls by Action at Law.

Account of Lading, &c. to be given.

XCI. Every Person being the Owner or having the Care of any Carriage or Goods passing or being upon the Railway shall, on demand, give to the Collector of Tolls, at the Places where he attends for the Purpose of receiving Goods or of collecting Tolls for the Part of the Railway on which such Carriage or Goods may have travelled or be about to travel, an exact Account in Writing signed by him of the Number or Quantity of Goods conveyed by any such Carriage, and of the Point on the Railway from which such Carriage or Goods have set out or are about to set out, and at what Point the same are intended to be unloaded or taken off the Railway; and if the Goods conveyed by any such Carriage, or brought for Conveyance as aforesaid, be liable to the Payment of different Tolls, then such Owner or other Person shall specify the respective Numbers or Quantities thereof liable to each or any of such Tolls.

Penalty for not giving Account of Lading.

XCII. If any such Owner or other such Person fail to give such Account, or to produce his Way-bill or Bill of Lading, to such Collector or other Officer or Servant of the Company demanding the same, or if he give a false Account, or if he unload or take off any Part of his Lading or Goods at any other Place than shall be mentioned in such Account, with Intent to avoid the Payment of any Tolls payable in respect thereof, he shall for every such Offence forfeit to the Company a Sum not exceeding Ten Pounds for every Ton of Goods, or for any Parcel not exceeding One Hundred Weight, and so in proportion for any less Quantity of Goods than One Ton, or for any Parcel exceeding One Hundred Weight, (as the Case may be,) which shall be upon any such Carriage; and such Penalty shall be in addition to the Toll to which such Goods may be liable.

Disputes as to Amount of Tolls chargeable.

XCIII. If any Dispute arise concerning the Amount of the Tolls due to the Company, or concerning the Charges occasioned by any Detention or Sale thereof under the Provisions herein or in the special Act contained, the same shall be settled by the Sheriff or by Two Justices; and it shall be lawful for the Company in the meanwhile to detain the Goods, or (if the Case so require) the Proceeds of the Sale thereof.

Differences as to Weights, &c.

XCIV. If any Difference arise between any Toll Collector or other Officer or Servant of the Company and any Owner of or Person having the Charge of any Carriage passing or being upon the Railway, or of any Goods conveyed or to be conveyed by such Carriage, respecting the Weight, Quantity, Quality, or Nature of such Goods, such Collector or other Officer may lawfully detain such Carriage

Carriage or Goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or Examination such Goods appear to be of greater Weight or Quantity or of other Nature than shall have been stated in the Account given thereof, then the Person who shall have given such Account shall pay, and the Owner of such Carriage, or the respective Owners of such Goods, shall also, at the Option of the Company, be liable to pay the Costs of such measuring and examining; but if such Goods appear to be of the same or less Weight or Quantity than and of the same Nature as shall have been stated in such Account, then the Company shall pay such Costs, and they shall also pay to such Owner of or Person having Charge of such Carriage, and to the respective Owners of such Goods, such Damage (if any) as shall appear to the Sheriff or any Two Justices, on a summary Application to him or them for that Purpose, to have arisen from such Detention.

*Collection of
Tolls.*

XCV. If at any Time it be made to appear to any such Sheriff or Justices, upon the Complaint of the Company, that any such Detention, measuring, or examining of any Carriage or Goods, as herein-before mentioned, was without reasonable Ground, or that it was vexatious on the Part of such Collector or other Officer, then the Collector or other Officer shall himself pay the Costs of such Detention and measuring, and the Damage occasioned thereby; and in default of immediate Payment of any such Costs or Damage the same may be recovered by Pounding and Sale of the Goods of such Collector, and such Sheriff or Justices shall issue his or their Warrant accordingly.

*Toll Col-
lector to be
liable for
wrongful
Detention of
Goods.*

XCVI. If any Person travel or attempt to travel in any Carriage of the Company, or of any other Company or Party using the Railway, without having previously paid his Fare, and with Intent to avoid Payment thereof, or if any Person, having paid his Fare for a certain Distance, knowingly and wilfully proceed in any such Carriage beyond such Distance without previously paying the additional Fare for the additional Distance, and with Intent to avoid Payment thereof, or if any Person knowingly and wilfully refuse or neglect, on arriving at the Point to which he has paid his Fare, to quit such Carriage, every such Person shall for every such Offence forfeit to the Company a Sum not exceeding Forty Shillings.

*Penalty on
Passengers
practising
Frauds on
the Com-
pany.*

XCVII. If any Person be discovered, either in or after committing or attempting to commit any such Offence as in the preceding Enactment mentioned, all Officers and Servants and other Persons on behalf of the Company, or such other Company or Party as aforesaid, and all Constables, Gaolers, and Peace Officers, may lawfully apprehend and detain such Person until he can conveniently be taken before the Sheriff or some Justice, or until he be otherwise discharged by due Course of Law.

*Detention of
Offenders.*

XCVIII. No Person shall be entitled to carry, or to require the Company to carry, upon the Railway, any Aquafortis, Oil of Vitriol, Gunpowder, Lucifer Matches, or any other Goods which in the Judgment

*Penalty for
bringing
dangerous
Goods on
Railway.*

Collection of
Tolls.

Judgment of the Company may be of a dangerous Nature; and if any Person send by the Railway any such Goods without distinctly marking their Nature on the Outside of the Package containing the same, or otherwise giving Notice in Writing to the Book-keeper or other Servant of the Company with whom the same are left, at the Time of so sending, he shall forfeit to the Company Twenty Pounds for every such Offence; and it shall be lawful for the Company to refuse to take any Parcel that they may suspect to contain Goods of a dangerous Nature, or require the same to be opened to ascertain the Fact.

Delivery of
Matters in
possession or
custody of
Toll Col-
lector at
removal.

XCIX. If any Collector of Tolls or other Officer employed by the Company be discharged or suspended from his Office, or die, abscond, or absent himself, and if such Collector or other Officer, or the Wife, Widow, or any of the Family or Representatives of any such Collector or other Officer, refuse or neglect, after Seven Days Notice in Writing for that Purpose, to deliver up to the Company, or to any Person appointed by them for that Purpose, any Station, Dwelling House, Office, or other Building, with its Appurtenances, or any Books, Papers, or other Matters belonging to the Company in the Possession or Custody of any such Collector or Officer at the Occurrence of any such Event as aforesaid, then, upon Application being made by the Company to the Sheriff or to any Two Justices, it shall be lawful for such Sheriff or Justices to order any Constable, with proper Assistance, to enter upon such Station or other Building, and to remove any Person found therein, and to take possession thereof, and of any such Books, Papers, or other Matters, and to deliver the same to the Company, or any Person appointed by them for that Purpose.

Annual
Account to
be made up,
and a Copy
transmitted
to the Sheriff
Clerk.

C. And be it enacted, That the Company shall every Year cause an annual Account in abstract to be prepared, showing the total Receipts and Expenditure of all Funds levied by virtue of this or the special Act for the Year ending on the Thirty-first Day of *December* or some other convenient Day in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Directors or some of them, and by the Auditors, and shall, if required, transmit a Copy of the said Account, free of Charge, to the Sheriff Clerks of the Counties through which the Railway shall pass on or before the Thirty-first Day of *January* then next; and the Copy of such Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: Provided always, that if the said Company shall omit to prepare or transmit such Account as aforesaid, if required so to do by any such Sheriff Clerk, they shall forfeit for every such Omission the Sum of Twenty Pounds.

Bye Laws.

And with respect to the Regulations of the Use of the Railway, be it enacted as follows:

Company to
regulate the

CI. It shall be lawful for the Company from Time to Time, subject to the Provisions and Restrictions in this and the special Act contained,

contained, to make Regulations for the following Purposes; (that is to say,) Use of the Railway.

For regulating the Mode by which and the Speed at which Carriages using the Railway are to be moved or propelled;

For regulating the Times of the Arrival and Departure of any such Carriages;

For regulating the loading or unloading of such Carriages, and the Weights which they are respectively to carry;

For regulating the Receipt and Delivery of Goods and other Things which are to be conveyed upon such Carriages;

For preventing the smoking of Tobacco, and the Commission of any other Nuisance, in or upon such Carriages, or in any of the Stations or Premises occupied by the Company;

And, generally, for regulating the travelling upon or using and working of the Railway:

But no such Regulation shall authorize the closing of the Railway, or prevent the Passage of Engines or Carriages on the Railway, at reasonable Times, except at any Time when in consequence of any of the Works being out of repair, or from any other sufficient Cause, it shall be necessary to close the Railway or any Part thereof.

CII. For better enforcing the Observance of all or any of such Regulations it shall be lawful for the Company, subject to the Provisions of an Act passed in the Fourth Year of the Reign of Her present Majesty, intituled *An Act for regulating Railways*, to make Bye Laws, and from Time to Time to repeal or alter such Bye Laws, and make others, provided that such Bye Laws be not repugnant to the Laws of that Part of the United Kingdom where the same are to have Effect, or to the Provisions of this or the special Act; and such Bye Laws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Company; and any Person offending against any such Bye Law shall forfeit for every such Offence any Sum not exceeding Five Pounds, to be imposed by the Company in such Bye Laws as a Penalty for any such Offence; and if the Infraction or Non-observance of any such Bye Law or other such Regulation as aforesaid be attended with Danger or Annoyance to the Public or Hindrance to the Company in the lawful Use of the Railway, it shall be lawful for the Company summarily to interfere to obviate or remove such Danger, Annoyance, or Hindrance, and that without Prejudice to any Penalty incurred by the Infraction of any such Bye Law. Power to make Regulations by Bye Laws. 3 & 4 Vict c. 97.

CIII. The Substance of such last-mentioned Bye Laws, when confirmed or allowed according to the Provisions of any Act in force regulating the Allowance or Confirmation of the same, shall be painted on Boards, or printed on Paper and pasted on Boards, and hung up and affixed and continued on the Front or other conspicuous Part of every Wharf or Station belonging to the Company, according to the Nature or Subject Matter of such Bye Laws respectively, and so as to give public Notice thereof to the Parties interested therein or affected thereby; and such Boards shall from Time to Time be renewed as often as the Bye Laws thereon, or any Part thereof, shall be obliterated or destroyed; and no Penalty imposed Publication of such Bye Laws.

Bye Laws. — by any such Bye Law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Such Bye Laws to be binding on all Parties.

CIV. Such Bye Laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Persons acting under the same; and for Proof of the Publication of any such Bye Laws it shall be sufficient to prove that a printed Paper or painted Board, containing a Copy of such Bye Laws, was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged then that such Paper or Board was replaced as soon as conveniently might be.

Leasing of Railway.

Exercise of Power to lease Railway.

CV. Where the Company shall be authorized by the special Act to lease the Railway, or any Part thereof, to any Company or Person, the Lease to be executed in pursuance of such Authority shall contain all usual and proper Obligations on the Part of the Lessee for maintaining the Railway, or the Portion thereof comprised in such Lease, in good and efficient Repair and working Condition during the Continuance thereof, and for so leaving the same at the Expiration of the Term thereby granted, and such other Provisions, Conditions, Obligations, and Agreements as are usually inserted in Leases of a like Nature.

Powers vested in Company to be exercised by Lessees.

CVI. Such Lease shall entitle the Company or Person to whom the same shall be granted to the free Use of the Railway or Portion of Railway comprised therein, and during the Continuance of any such Lease all the Powers and Privileges granted to and which might otherwise be exercised and enjoyed by the Company, or the Directors thereof, or their Officers, Agents, or Servants, by virtue of this or the special Act, with regard to the Possession, Enjoyment, and Management of the Railway, or of the Part thereof comprised in such Lease, and the Tolls to be taken thereon, shall be exercised and enjoyed by the Lessee, and the Officers and Servants of such Lessee, under the same Regulations and Restrictions as are by this or the special Act imposed on the Company and their Directors, Officers, and Servants; and such Lessee shall, with respect to the Railway comprised in such Lease, be subject to all the Obligations by this or the special Act imposed on the Company.

Carriages and Engines.

And with respect to the Engines and Carriages to be brought on the Railway, be it enacted as follows:

Engines to consume their Smoke.

CVII. Every locomotive Steam Engine to be used on the Railway shall, if it use Coal or other similar Fuel emitting Smoke, be constructed on the Principle of consuming and so as to consume its own Smoke; and if any Engine be not so constructed the Company or Party using such Engine shall forfeit Five Pounds for every Day during which such Engine shall be used on the Railway.

Engines to be approved by the Com-

CVIII. No locomotive or other Engine, or other Description of moving Power, shall at any Time be brought upon or used on the Railway

Railway unless the same have first been approved of by the Company; and within Fourteen Days after Notice given to the Company by any Party desirous of bringing any such Engine on the Railway the Company shall cause their Engineer or other Agent to examine such Engine at any Place within Three Miles Distance from the Railway to be appointed by the Owner thereof, and to report thereon to the Company; and within Seven Days after such Report, if such Engine be proper to be used on the Railway, the Company shall give a Certificate to the Party requiring the same of their Approval of such Engine; and if at any Time the Engineer or other Agent of the Company report that any Engine used upon the Railway is out of repair, or unfit to be used upon the Railway, the Company may require the same to be taken off, or may forbid its Use upon the Railway until the same shall have been repaired to the Satisfaction of the Company, and upon the Engine being so repaired the Company shall give a Certificate to the Party requiring the same of their Approval of such Engine; and if any Difference of Opinion arise between the Company and the Owner of any such Engine as to the Fitness or Unfitness thereof for the Purpose of being used on the Railway, such Difference shall be settled by Arbitration.

pany, and
Certificate
of Approval
given.

Unfit En-
gines to be
removed.

CIX. If any Person, whether the Owner or other Person having the Care thereof, bring or use upon the Railway any locomotive or other Engine, or any moving Power, without having first obtained such Certificate of Approval as aforesaid, or if, after Notice given by the Company to remove any such Engine from the Railway, such Person do not forthwith remove the same, or if, after Notice given by the Company not to use any such Engine upon the Railway, such Person do so use such Engine, without having first repaired the same to the Satisfaction of the Company, and obtained such Certificate of Approval, every such Person shall in any of the Cases aforesaid forfeit to the Company a Sum not exceeding Twenty Pounds; and in any such Case it shall be lawful for the Company to remove such Engine from the Railway.

Penalties on
Persons
using im-
proper
Engines.

CX. No Carriage shall pass along or be upon the Railway (except in directly crossing the same, as herein or by the special Act authorized,) unless such Carriage be at all Times, so long as it shall be used or shall remain on the Railway, of the Construction and in the Condition which the Regulations of the Company for the Time being shall require; and if any Dispute arise between the Company and the Owner of any such Carriage as to the Construction or Condition thereof, in reference to the then existing Regulations of the Company, such Dispute shall be settled by Arbitration.

Carriages to
be construct-
ed according
to Company's
Regulations.

CXI. The Regulations from Time to Time to be made by the Company respecting the Carriages to be used on the Railway shall be drawn up in Writing, and be authenticated by the Common Seal of the Company, and shall be applicable alike to the Carriages of the Company and to the Carriages of other Companies or Persons using the Railway; and a Copy of such Regulations shall, on demand, be furnished by the Secretary of the Company to any Person applying for the same.

Regulations
to apply also
to Company's
Carriages.

CXII. If

Penalty for using improper Carriages.

CXII. If any Carriage, not being of such Construction or in such Condition as the Regulations of the Company for the Time being require, be made to pass or be upon any Part of the Railway (except as aforesaid), the Owner thereof, or any Person having for the Time being the Charge of such Carriage, shall forfeit to the Company a Sum not exceeding Ten Pounds for every such Offence, and it shall be lawful for the Company to remove any such Carriage from the Railway.

Owner's Name, &c. to be registered, and exhibited on Carriages.

CXIII. The respective Owners of Carriages using the Railway shall cause to be entered with the Secretary or other Officer of the Company appointed for that Purpose the Names and Places of Abode of the Owners of such Carriages respectively, and the Numbers, Weights, and Gauges of their respective Carriages; and such Owners shall also, if so required by the Company, cause the same Particulars to be painted in legible Characters on some conspicuous Part of the Outside of every such Carriage, so as to be always open to View; and every such Owner shall, whenever required by the Company, permit his Carriage to be weighed, measured, or gauged at the Expence of the Company.

On Non-compliance Carriage may be removed.

CXIV. If the Owner of any Carriage fail to comply with the Requisitions contained in the preceding Enactment, it shall be lawful for the Company to refuse to allow such Carriage to be brought upon the Railway, or to remove the same therefrom, until such Compliance.

Carriages improperly loaded, or suffered to obstruct the Way, may be unloaded or removed.

CXV. If the Loading of any Carriage using the Railway be such as to be liable to Collision with other Carriages properly loaded, or to be otherwise dangerous, or if the Person having the Care of any Carriage or Goods upon the Railway suffer the same or any Part thereof to remain on the Railway so as to obstruct the Passage or working thereof, it shall be lawful for the Company to cause such Carriage or Goods to be unloaded and removed in any Manner proper for preventing such Collision or Obstruction, and to detain such Carriage or Goods, or any Part thereof, until the Expences occasioned by such unloading, Removal, or Detention be paid.

Company not to be liable for Damage by unloading, &c.

CXVI. The Company shall not be liable for any Damage or Loss occasioned by any such unloading, Removal, or Detention as aforesaid, except for Damage wilfully or negligently done to any Carriage or Goods so unloaded, removed, or detained; nor shall they be liable for the safe Custody of any such Carriage or Goods so detained unless the same be wrongfully detained by them, and then only for so long a Time as the same shall have been so wrongfully detained.

Owners liable for Damage by Servants.

CXVII. The respective Owners of Engines and Carriages passing or being upon the Railway shall be answerable for any Damage done by their Engines or Carriages, or by any of the Servants or Persons employed by them, to or upon the Railway, or the Machinery or Works belonging thereto, or to or upon the Property of any other Person.

CXVIII. It

CXVIII. It shall be lawful for any Owner of any Engine or Carriage who shall pay the Amount of any Damage caused by the Misfeasance or Negligence of any Servant or other Person employed by him to recover the Amount so paid by him from such Servant or other Person.

Owners to recover from Servants.

And with respect to the Settlement of Disputes by Arbitration, be it enacted as follows : *Arbitration.*

CXIX. When any Dispute directed by this or the special Act, or any Act incorporated therewith, to be settled by Arbitration, shall have arisen, then, unless both Parties shall concur in the Appointment of a single Arbiter, each Party, on the Request of the other Party, shall nominate and appoint an Arbiter to whom such Dispute shall be referred; and every Appointment of an Arbiter shall be made on the Part of the Company under the Hand of the Secretary or any Two of the Directors of the Company, and on the Part of any other Party under the Hand of such Party, or if such Party be a Company or Corporation, under the Hand of the proper Officer or Person authorized by such Company or Corporation; and such Appointment shall be delivered to the Arbiter, and shall be deemed a Submission to Arbitration on the Part of the Party by whom the same shall be made; and after any such Appointment shall have been made neither Party shall have Power to revoke the same without the Consent of the other, nor shall the Death of either Party operate as such Revocation; and if for the Space of Fourteen Days after any such Dispute shall have arisen, and after a Request in Writing, in which shall be stated the Matters so required to be referred to Arbitration, shall have been served by the one Party on the other Party, to appoint an Arbiter, such last-mentioned Party fail to appoint such Arbiter, then upon such Failure the Party making the Request, and having himself appointed an Arbiter, may appoint such Arbiter to act on behalf of both Parties; and such Arbiter may proceed to hear and determine the Matters which shall be in dispute, and in such Case the Award or Determination of such single Arbiter shall be final.

Where Questions are to be determined by Arbitration Arbiters to be appointed within Fourteen Days after Notice.

CXX. If before the Matters so referred shall be determined any Arbiter appointed by either Party die, or become incapable to act, the Party by whom such Arbiter was appointed may nominate and appoint in Writing some other Person to act in his Place; and if for the Space of Seven Days after Notice in Writing from the other Party for that Purpose he fail to do so the remaining or other Arbiter may proceed *ex parte*; and every Arbiter so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the former Arbiter at the Time of such his Death or Incapacity as aforesaid.

Vacancy of Arbiter to be supplied.

CXXI. Where more than One Arbiter shall have been appointed such Arbiters shall, before they enter upon the Matters so referred to them, nominate and appoint by Writing under their Hands an Oversman to decide on any such Matters on which they shall differ, or which shall be referred to them under this or the special Act; and

Appointment of Oversman.

Arbitration. if such Oversman shall die or become incapable to act, they shall forthwith after such Death or Incapacity appoint another Oversman in his Place; and the Decision of every such Oversman on the Matters on which the Arbiters shall differ shall be final.

Lord Ordinary to appoint an Oversman on Neglect of Arbiters. CXXII. If in either of the Cases aforesaid the said Arbiters shall refuse, or shall for Seven Days after Request of either Party to such Arbitration neglect to appoint an Oversman, the Lord Ordinary, on the Application of either Party to such Arbitration, shall appoint an Oversman; and the Decision of such Oversman on the Matters on which the Arbiters shall differ, or which shall be referred to them under this or the special Act, shall be final.

In case of Death of single Arbitrer, Matter to begin de novo. CXXIII. If when a single Arbitrer shall have been appointed such Arbitrer shall die or become incapable to act before he shall have made his Award, the Matters referred to him shall be determined by Arbitration, under the Provisions of this or the special Act, in the same Manner as if such Arbitrer had not been appointed.

If either Arbitrer refuse to act, the other to proceed ex parte. CXXIV. If where more than One Arbitrer shall have been appointed either of the Arbiters refuse or for Seven Days neglect to act, the other Arbitrer may proceed *ex parte*, and the Decision of such Arbitrer shall be as effectual as if he had been the single Arbitrer by both Parties.

If Arbiters fail to make their Award within Twenty one Days the Matter to go to the Umpire. CXXV. If where more than One Arbitrer shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such Arbiters shall fail to make their Award within Twenty-one Days after the Day on which the last of such Arbiters shall have been appointed, or within such extended Time as shall have been appointed for that Purpose by both such Arbiters, under their Hands, the Matters referred to them shall be determined by the Umpire to be appointed as aforesaid.

Power of Arbiters to call for Books, &c. CXXVI. The said Arbiters or their Oversman may call for the Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in dispute, and may examine the Parties or their Witnesses on Oath, and administer the Oaths necessary for that Purpose, and may also grant Diligence for the Recovery of such Documents as either Party may require, or for citing Witnesses, and on Application to the Lord Ordinary Letters of Supplement, or such other Writ as may be necessary, shall be issued by the Lord Ordinary in support of such Diligence.

Expences to be in the Discretion of the Arbiters. CXXVII. Except where by this or the special Act, or any Act incorporated therewith, it shall be otherwise provided, the Expences of and attending every such Arbitration, to be determined by the Arbiters, including the Expence of recording the Decreet Arbitral or Award in the Books of Council and Session, and of furnishing Extracts thereof from the said Books, shall be in the Discretion of the Arbiters or the Oversman, as the Case may be.

CXXVIII. The Arbiters or Oversman, as the Case may be, shall make the Decreet Arbitral or Award in Writing, and shall cause the same to be recorded in the Books of Council and Session; and Extracts of Decreets Arbitral or Awards so recorded shall make Faith in all Courts and Cases in like Manner as the original Decreets Arbitral or Awards themselves, except where the Originals are offered to be improven.

Awards to be in Writing, and recorded;

CXXIX. No Award made in respect to any Question referred to Arbitration under the Provisions of this or the special Act shall be set aside for Irregularity or Error in Matter of Form.

Not to be set aside for Matter of Form.

CXXX. And be it enacted, That any Summons or Notice, or any Writ or other Proceeding at Law, requiring to be served upon the Company, may be served by the same being left at or transmitted through the Post directed to the principal Office of the Company, or One of their principal Offices where there shall be more than One, or being given personally to the Secretary, or in case there be no Secretary then by being given to any One Director of the Company.

Service of Notices upon Company.

CXXXI. And be it enacted, That if any Party shall have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this or the special Act, or any Act incorporated therewith, or by virtue of any Power or Authority thereby given, and if before Action brought in respect thereof such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender shall have been made it shall be lawful for the Defender, by Leave of the Court where such Action shall be pending, at any Time before the Record is closed to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defenders are allowed to pay Money into Court.

Tender of Amends.

And with respect to the Recovery of Damages not specially provided for, and to the Determination of any other Matter referred to the Sheriff or to Justices, be it enacted as follows :

Recovery of Damages and Penalties.

CXXXII. In all Cases where any Damages, Charges, or Expences are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dispute, shall be ascertained and determined by the Sheriff; and if the Amount so ascertained be not paid by the Company or other Party liable to pay the same, within Seven Days after Demand, the Amount may be recovered by Pounding and Sale of the Goods of the Company or other Party liable as aforesaid, and the Sheriff shall, on Application, issue his Warrant accordingly.

Provision for Damages not otherwise provided for.

CXXXIII. If sufficient Goods of the Company cannot be found whereon to levy any such Damages, Charges, or Expences payable by the Company, the same may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Pounding and Sale of the Goods

Distress, &c. against the Treasurer.

*Recovery of
Damages and
Penalties.*

Goods of the Treasurer of the Company, and the Sheriff, on Application, shall issue his Warrant accordingly; but no such Pounding and Sale shall be executed against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer, or left at his Residence; and if such Treasurer pay any Money under such Distress or Pounding and Sale as aforesaid he may retain the Amount so paid by him, and all Expences occasioned thereby, out of any Money belonging to the Company coming into his Custody or Control, or he may sue the Company for the same.

*Method of
proceeding
before the
Sheriff or
Justices in
Questions of
Damages.*

CXXXIV. Where in this or the special Act, or any Act incorporated therewith, any Question of Damages, Charges, Expences, or other Matter is referred to the Determination of any Sheriff or Justices, it shall be lawful for the Sheriff or any Justice, upon the Application of either Party, to order the other Party to appear before such Sheriff if the Order shall be issued by the Sheriff, or before Two Justices if the Order shall have been issued by a Justice, at a Time and Place to be named in such Summons; and upon the Appearance of such Parties, or in the Absence of any of them upon Proof of due Service of the Summons, it shall be lawful for such Sheriff or such Two Justices, as the Case may be, to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, on Oath; and the Expences of every such Inquiry shall be in the Discretion of such Sheriff or Justices, and he or they shall determine the Amount thereof.

*Publication
of Penalties.*

CXXXV. The Company shall publish the short Particulars of the several Offences for which any Penalty is imposed by this or the special Act, or any Act incorporated therewith, or by any Bye Law of the Company affecting other Persons than the Shareholders, Officers, or Servants of the Company, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Company, and where any such Penalties are of local Application shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have reference; and such Particulars shall be renewed as often as the same or any Part thereof is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required.

*Penalty for
defacing
Boards used
for such
Publication.*

CXXXVI. If any Person pull down or injure any Board put up or affixed as required by this or the special Act, or any Act incorporated therewith, for the Purpose of publishing any Bye Law or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and shall defray the Expences attending the Restoration of such Board.

CXXXVII. Every

CXXXVII. Every Penalty or Forfeiture imposed by this or the special Act, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceeding before the Sheriff or Two Justices; and on Complaint being made to any Sheriff or Justice he shall issue an Order requiring the Party complained against to appear before himself if the Order be issued by a Sheriff, or before Two or more Justices if the Order be issued by a Justice, at a Time and Place to be named in such Order; and every such Order shall be served on the Party offending either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence after Proof of the due Service of such Order, it shall be lawful for any Sheriff or Two Justices to proceed to the hearing of the Complaint; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Sheriff or Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Expences attending the Conviction as such Sheriff or Justices shall think fit.

Penalties to be summarily recovered before the Sheriff or Two Justices.

CXXXVIII. If forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture, and of such Expences as aforesaid, be not paid, the Amount of such Penalty and Expences shall be levied by Poinding and Sale, and such Sheriff or Justices, or either of them, shall issue his or their Warrant of Poinding and Sale accordingly.

Penalties may be levied by Poinding and Sale.

CXXXIX. It shall be lawful for any such Sheriff or Justices to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Poinding and Sale to be issued for levying such Penalty or Forfeiture and Expences, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Sheriff or Justices, for his Appearance before him or them on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Poinding and Sale it shall appear to the Sheriff or Justices, by the Admission of the Offender or otherwise, that no sufficient Poinding and Sale can be had within the Jurisdiction of such Sheriff or Justices whereon to levy such Penalty or Forfeiture and Expences, he or they may, if he or they think fit, refrain from issuing such Warrant; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Sheriff or Justices, then such Sheriff or Justices shall by Warrant cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture and Expences be sooner paid and satisfied.

Imprisonment in default of sufficient Poinding.

CXL. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Poinding and Sale, such

Poinding and Sale how to be made.

*Recovery of
Damages and
Penalties.*

such Sum of Money shall be levied by Poinding and Sale of the Goods and Effects of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Effects, after satisfying such Sum of Money, and the Expences of the Poinding and Sale, shall be returned, on demand, to the Party whose Goods shall have been seized.

Poinding
not unlawful
for Want of
Form.

CXLI. No Poinding and Sale made by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser or Wrongdoer, on account of any Defect or Want of Form in the Summons, Conviction, Warrant, or other Proceeding relating thereto, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action before the Sheriff Court.

Application
of Penalties.

CXLII. The Sheriff or Justices by whom any such Penalty or Forfeiture shall be imposed, where the Application thereof is not otherwise provided for, may award not more than One Half thereof to the Informer, and shall award the Remainder to the Kirk Session, or Treasurer or Collector of the Funds for the Poor, of the Parish in which the Offence shall have been committed, for the Benefit of the Poor of such Parish.

Penalties to
be sued for
within Six
Months.

CXLIII. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before the Sheriff or Justices, unless the Complaint respecting such Offence shall have been made before such Sheriff or some Justice within Six Months next after the Commission of such Offence.

Damage to
be made
good in
addition to
Penalty.

CXLIV. If, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this or the special Act, or any Act incorporated therewith, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good such Damage as well as to pay such Penalty; and the Amount of such Damage shall, in case of Dispute, be determined by the Sheriff or Justices by whom the Party incurring such Penalty shall have been convicted; and on Nonpayment of such Damages, on demand, the same shall be levied by Poinding and Sale, and such Sheriff or Justices shall issue his or their Warrant accordingly.

Penalty on
Witnesses
making de-
fault.

CXLV. It shall be lawful for any Sheriff or Justice to summon any Person to appear before him as a Witness in any Matter in which such Sheriff or Justice or Two or more Justices shall have Jurisdiction under the Provisions of this or the special Act, or any Act incorporated therewith, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable

reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Sheriff or Justice or Justices, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

*Recovery of
Damages and
Penalties.*

CXLVI. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall be found committing any Offence against the Provisions of this or the special Act, or any Act incorporated therewith, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him with all convenient Despatch before the Sheriff or a Justice, without any Warrant or other Authority than this or the special Act; and such Sheriff or Justice shall proceed with all convenient Despatch in the Matter of the Complaint against such Offender.

*Transient
Offenders.*

CXLVII. Any Sheriff to whom any Application is authorized to be made, and before whom any judicial Proceeding shall in consequence take place or become necessary under or by virtue of this or the special Act, or any Act incorporated therewith, shall and he is hereby authorized and required summarily to call before him all Parties who appear to him to be interested therein, and to proceed forthwith to hear *vivâ voce*, and pronounce Judgment regarding the Matters mentioned in such Application or Proceedings, or to do the several Matters and Things required by this Act to be done by him, without waiting the ordinary Course of the Roll of Causes before him, and without written Pleadings or a written Record, or reducing any Evidence which may be led by either of the Parties to Writing, unless and except where the said Sheriff shall consider that the Matters mentioned in such Application or Proceedings can with more Advantage be decided with written Pleadings and with a written Record, in which Case he shall proceed to make up a Record, and bring the said Matters to a Conclusion with all convenient Despatch; and the Orders and Judgments of the said Sheriff when pronounced without a Record shall be final and conclusive, and not subject to Review by Suspension or Advocation or to Reduction on any Ground whatever.

*Proceedings
by Sheriff
need not be
in Writing.*

CXLVIII. The Sheriff or Justice or Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule to this Act annexed.

*Form of
Conviction.*

CXLIX. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Suspension or otherwise into any Superior Court.

*Proceedings
not to be
quashed for
Want of
Form, &c.*

CL. In all Cases which may come before any Sheriff Substitute under this or the special Act, or any Act incorporated therewith, in which written Pleadings shall have been allowed, and a written Record shall have been made up, and where the Evidence which

*Power of
Appeal to
Sheriff.*

has

*Recovery of
Damages and
Penalties.*

has been led by the Parties shall have been reduced to Writing, but in no other Case whatever, it shall be competent for any of the Parties thereto, within Seven Days after a final Judgment shall have been pronounced by such Sheriff Substitute, to appeal against the same to the Sheriff of the County, by lodging a Minute of Appeal with the Sheriff Clerk of such County or his Depute; and the said Sheriff shall thereupon review the Proceedings of the said Sheriff Substitute and whole Process, and, if he think proper, hear the Parties *vivâ voce* thereon, and pronounce Judgment; and such Judgment shall in no Case be subject to Review by Suspension or Advocation or to Reduction on any Ground whatever.

Parties allowed to appeal from Justices to Quarter Sessions on giving Security.

CLI. If any Party shall feel aggrieved by any Determination or Adjudication of any Justices with respect to any Matter under the Provisions of this or the special Act, or any Act incorporated therewith, he may, unless otherwise specially provided, appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Court to make such Order as they think reasonable.

CLII. At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Expences, both of the Adjudication and of the Appeal, as they may think reasonable.

Special Act.

And with respect to the Provision to be made for affording Access to the special Act by all Parties interested, be it enacted as follows:

Copies of special Act to be kept and deposited, and allowed to be inspected.

CLIII. The Company shall at all Times after the Expiration of Six Months after the passing of the special Act keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty or some of them; and shall also within the Space of such Six Months deposit in the Offices of each of the Sheriff Clerks of the several Counties into which the Works shall extend a Copy of such special Act, so printed as aforesaid; and the said Sheriff Clerks shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like

like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of certain Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.* *Special Act.* 7 W. 4. & 1 Vict. c. 83.

CLIV. If the Company shall fail to keep or deposit, as hereinbefore mentioned, any of the said Copies of the special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited. *Penalty on Company failing to keep or deposit Act.*

CLV. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament. *Alteration of Act.*

SCHEDULE referred to by the foregoing Act.

Form of Conviction before

to wit.

BE it remembered, That on the Day of in the
 Year of our Lord *A. B.* is convicted before me *C.*,
 the Sheriff [*or* before us *D.*, *E.*, Two of Her Majesty's Justices of
 the Peace] for the County of [*here describe*
the Offence generally, and the Time and Place when and where
committed], contrary to the [*here name the special Act*]. Given
 under my Hand [*or* under our Hands], the Day and Year first
 above written.

C.
or
D.
E.

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 Printers to the Queen's most Excellent Majesty. 1845.