



ANNO QUADRAGESIMO OCTAVO

GEORGI II. REGIS.

Cap. 46.

An Act for making a Railway from or near to the Town of *Kilmarnock*, in the County of *Ayr*, to a Place called *The Troon*, in the said County.

[27th May 1808.]

WHEREAS the making and maintaining a Railway for the Passage of Waggon and other Carriages from or near to the Town of *Kilmarnock*, in the Parish of *Kilmarnock* and County of *Ayr*, to a certain Place called *The Troon*, in the Parish of *Dundonald*, in the said County, will be of great Advantage to several considerable Manufactories established in the said County of *Ayr*, and to the Inhabitants of the adjacent Country, by opening a more cheap and easy Communication for the Conveyance not only of Coal, Lime, and Minerals, but also of Goods, Wares, and Merchandize of various kinds; But the same cannot be accomplished without the Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Most Honourable *William Henry Cavendish Bentinck Scott* commonly called Marquis of *Titchfield*, the Right Honourable *Archibald Montgomerie* commonly called Lord *Montgomerie*, and *John Boyle* Esquire, together with such Person or Persons, Bodies Politic and Corporate, as they or their respective Proxies, or the major

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Part of them present at any General or Special General Assembly to be holden for the Purposes of this Act, shall nominate and appoint, and their several and respective Successors, Executors, Administrators, and Assigns, being a Proprietor or Proprietors of any Share or Shares in the Undertaking to be executed by this Act, shall be and they are hereby accordingly united into a Company for making, completing, and maintaining the said Railway and other Works hereby authorized to be made, according to the Rules, Orders, and Directions herein-after expressed, and shall for that Purpose be one Body Politic and Corporate, by the Name of "*The Company of Proprietors of the Kilmarnock and Troon Railway,*" and by that Name shall have perpetual Succession and a Common Seal, and by that Name shall or may sue and be sued, and shall have full Power to purchase Lands, Tenements, and Heritages, to them, their Successors and Assigns, for the Use of the said Undertaking, without incurring any of the Penalties or Forfeitures of the Statutes of Mortmain, and also to sell any of the Lands, Tenements, or Heritages so purchased, as shall not be necessary for the Purposes of this Act.

The Com-
pany may
raise among
themselves a
certain Sum.

II. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors to raise and contribute amongst themselves, in such Proportions as they shall think proper, any Sum or Sums of Money, not exceeding in the whole the Sum of Forty Thousand Pounds (except as herein-after mentioned); which said Sum of Money shall be laid out and applied, in the first place, in discharging the Expences of obtaining and passing this Act, and of the Surveys, Plans, and Estimates, and other incidental Expences relating thereto, and then for and towards the making, completing, and maintaining the said Railway, and other requisite Works and Conveniences thereto, and for otherwise carrying the several Purposes of this Act into execution; and the said Sum of Forty Thousand Pounds shall be divided into Shares of Five Hundred Pounds each; and no Body Politic, Corporate, or Collegiate, or Person contributing thereto, or becoming a Proprietor in the said Undertaking, shall become a Proprietor of less than One Share; and such Shares shall be and are hereby vested in the several Persons and Bodies Politic, Corporate, or Collegiate, so subscribing and contributing to the same, and their several and respective Executors, Administrators, Successors, and Assigns, and to their and every of their proper Use and Benefit, proportionably to the Sums they shall severally raise and contribute; and all Bodies Politic, Corporate, and Collegiate, and all Persons whatsoever, their several and respective Successors, Executors, Administrators, and Assigns, who shall severally subscribe for One or more Share or Shares, or such Sum or Sums of Money as shall be called for and demanded by virtue of this Act for carrying on and completing the said Undertaking, shall be entitled to and receive the entire and net Distribution of an equal proportionable Part (according to the Money so by them respectively paid) of the Profits and Advantages that shall and may arise and accrue by the Rates and other Sums of Money to be raised, recovered, or received by the said Company of Proprietors by the Authority of this Act; and every Body Politic, Corporate, and Collegiate, and Person having such Property in the said Undertaking as aforesaid, shall bear and pay a proportionable Sum towards carrying on the same in Manner herein directed.

III. And

III. And be it further enacted, That all and every the Shares and Proportions of all Bodies Politic, Corporate and Collegiate, and all other Person and Persons of and in the said Undertaking, or the joint Stock or Fund of the said Company of Proprietors, shall be deemed Personal Estate, and transmissible as such, and not of the Nature of Real Property.

Shares to be Personal Estate.

IV. And be it further enacted, That every Body Politic, Corporate, or Collegiate, and every Person who shall, by virtue of this Act, have subscribed or undertaken for one Share in the said Undertaking, his, her, or their respective Successors, Executors, and Administrators, shall have a Vote for every such Share in the General and Special General Assemblies, to be holden as herein appointed for carrying on the said Undertaking; which Vote or Votes may be given by them, him, or her, or by their, his, or her Proxies or Proxy, constituted under the Seal of such Body Politic, Corporate, or Collegiate, or the Hand of the Proprietor constituting the said Proxy, or in case of Infancy, Lunacy, or other Disability, under the Hand of his or her Tutor, Curator, Guardian, or Trustee, or Tutors, Curators, Guardians, or Trustees; and every such Vote by Proxy shall be as good and sufficient, to all Intents and Purposes, as if such Principal had voted in Person, or being an Infant had been of full Age, or being a Lunatic had been sane, and voted in Person; and every Question, Matter, or Thing, which shall be proposed, discussed, or considered, in any General or Special General Assembly of the said Company of Proprietors, shall be determined by the Majority of Votes and Proxies then present, computing One Vote to every Share, provided that the Members present, or represented, be possessed of not less than Six Shares; and the Appointment of such Proxies may be made according to the Form following; (that is to say)

Subscribers to have a Vote for every Share.

Votes may be given by Proxy.

“ I, *A. B.* of _____ one of the Proprietors [*or, we,*
 “ *I, C. D.* being Tutor, Curator, or Guardian of *E. F.* one of the
 “ Proprietors] of the *Kilmarnock and Troon* Railway, Do hereby nomi-
 “ nate, constitute, and appoint *G. H.* of _____ to be my
 “ [*or, his, or, her*] Proxy in my [*or, his, or, her*] Name, and in my [*or,*
 “ *his, or, her*] Absence, to vote or give my [*or, his, or, her*] Assent or
 “ Dissent to any Business, Matter, or Thing, relating to the said Un-
 “ dertaking, in such Manner as he, the said *G. H.*, shall think proper,
 “ according to his Opinion and Judgment, for the Benefit of the said
 “ Undertaking, or any Thing appertaining thereto. In Witness where-
 “ of, I have hereunto set my Hand [*or, Seal*] the
 “ Day of _____

V. And be it further enacted, That it shall be lawful for any of the said Proprietors, if they shall respectively so think fit, to nominate a Proxy for any One or more of the Shares or Subscriptions holden by such Proprietors respectively, or to nominate several Proxies, but not more than One Proxy for each Share or Subscription; and that the Proxy or Proxies who shall be appointed by any Proprietor or Proprietors shall have and exercise such or the like Powers and Privileges as the Proprietor or Proprietors might have personally had and exercised, unless otherwise restrained by the Terms of his or their Appointment or Appointments; and which Appointment or Appointments, and all Revocations

Proprietors of more than One Share may have several Proxies.

cations thereof, shall be entered in a Book to be kept by the Clerk of the said Company.

Power to raise among themselves a further Sum, if necessary.

VI. And be it further enacted, That in case the Money herein-before authorised to be raised shall be found insufficient for the making, completing, and maintaining of the said Railway, and other the Works hereby authorised to be made, and all necessary Charges and Expences relating thereto, then and in such Case it shall and may be lawful for the said Company of Proprietors to raise and contribute among themselves, in Manner and Form aforesaid, and in such Shares and Proportions as to them shall seem meet, or to raise, by the Admission of new Subscribers, any further or other Sum of Money for completing and perfecting the said Undertaking, not exceeding the Sum of Fifteen Thousand Pounds, and every Body Politic, Corporate, or Collegiate, or other Person, being a Subscriber towards raising such further or other Sum of Money, shall be a Proprietor in the said Undertaking, and shall have a like Vote by themselves, himself, or herself, or their, his, or her Proxies or Proxy, in respect of every Five Hundred Pounds of the said additional Sum to be raised, and shall also be liable to such Forfeitures, and stand interested in all the Profits of the said Undertaking, in proportion to the Sum they, he, or she shall or may subscribe thereunto, as generally and extensively, to all Intents and Purposes, as if such further or other Sum hereby allowed to be subscribed for and raised had originally been part of the Sum of Forty Thousand Pounds; any Thing herein contained to the contrary thereof in anywise notwithstanding.

Power to raise Money upon Security of the Undertaking

VII. Provided always, and be it enacted, That in case the said Company of Proprietors shall be desirous of raising the said Sum of Fifteen Thousand Pounds herein-before authorised to be raised, or any Part thereof; by Heritable Debt or by Mortgage of the said Undertaking, it shall be lawful for the said Company to borrow and take up at Interest all or any Part of the said Sum of Fifteen Thousand Pounds on the Credit of the said Undertaking, and to assign the Property of the said Undertaking, and the Rates arising or to arise by virtue of this Act, or any Part thereof (the Costs and Charges of assigning whereof shall be paid out of such Rates) as a Security for any such Sum or Sums of Money to be borrowed as aforesaid, with Interest, to such Person or Persons, or to his, her, or their Trustee or Trustees who shall advance the same; all which said Mortgages or Assignments shall be made under the Common Seal of the said Company in the Words, or to the Effect following; (that is to say),

“ Number

Form of Security.

“ BY virtue of an Act made in the Forty-eighth Year of the Reign
 “ of King George the Third, intituled, [*here set forth the Title of*
 “ *this Act*] We the Company of Proprietors of the *Kilmarnock and*
 “ *Troon* Railway, incorporated by and under the said Act, in considera-
 “ tion of the Sum of _____ to us in Hand paid by
 “ _____ of _____ do assign
 “ unto the said _____ his or her Executors, Ad-
 “ ministrators and Assigns, the said Undertaking, and all and singular
 “ the Rates arising by virtue of the said Act, and all the Estate, Right,
 “ Title, and Interest, of, in, and to the same, to hold unto the said
 “

“ his or her Executors, Administrators, or Assigns,
 “ until the said Sum of together with
 “ Interest for the same, after the Rate of for every One
 “ Hundred Pounds for a Year, shall be fully paid and satisfied. Given
 “ under our Common Seal, this Day of
 “ in the Year of our Lord

And all and every Person or Persons to whom such Mortgage or Assignment shall be made, shall be equally entitled one with the other to his, her, or their Proportion or Proportions of the said Rates and Premises, according to the respective Sums in such Assignments mentioned to be advanced, without any Preference by reason of Priority of any such Assignments, or on any other Account whatsoever; and a Memorial of every such Assignment, containing the Date, Name or Names of the Person or Persons to whom made, the Sum of Money borrowed, and the Rate of Interest, shall be entered in a Book or Books to be kept by the Clerk to the said Company, which said Book or Books shall and may be perused at all reasonable Times by any of the Proprietors or Creditors of the said Undertaking, or any Persons interested therein, without Fee or Reward; and all and every Person or Persons to whom any such Mortgage or Mortgages, Assignment or Assignments, shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer his, her, or their Right or Interest therein, to any Person or Persons whomsoever; which Transfer shall and may be in the Words, or to the Effect following; (that is to say),

“ I [or, we] in consideration of the Sum of
 “ of paid by of
 “ do hereby transfer a certain Mortgage, Number
 “ made by the Company of Proprietors of the *Kilmarnock and Troon*
 “ Railway, to bearing Date the Day of
 “ for securing the Sum of and
 “ Interest, and all my [or, our] Right and Property therein to the said
 “ his [or, her] Executors, Administrators and
 “ Assigns. Dated this Day of in the Year
 “ of our Lord

Form of
 Transfer of
 the Security.

And every such Transfer shall, within Sixty Days after the Date thereof, be produced to the Clerk to the said Company, who shall cause a Memorial to be made thereof in the like Manner as the original Mortgages or Assignments, for which the said Clerk shall be paid such Sum as the said Company shall appoint, not exceeding the Sum of Two Shillings and Sixpence; and after such Entry made, every such Transfer shall entitle such Assignee or Assignees, his, her, or their Executors, Administrators, and Assigns, to the full Benefit thereof and Payment thereon; and it shall not be in the Power of any Person or Persons who shall have executed such Transfer to make void, relate, or discharge the same, or any Sum or Sums of Money due thereon, or thereby secured, or any Part thereof.

VIII. And be it further enacted, That the Interest of the Money which shall be borrowed by Mortgage or otherwise as aforesaid, shall be paid Half-
 [Loc. & Per.] 9 2 yearly

Interest of
 Money bor-
 rowed to be

paid in preference to Dividends.

Persons holding Securities not entitled to vote.

First and other General Meetings.

Committee to be appointed.

yearly to the several Persons entitled thereto, in preference to any Interest or Dividends due and payable by virtue of this Act to the said Company or any of them, and shall from Time to Time be fully paid and discharged and provided for before the Yearly or other Interest or Dividends due to the said Proprietors, or any of them, shall be paid, made, and divided; and in case the same or any Part thereof shall be behind, and unpaid by the Space of Thirty Days next after the same shall become due and payable as aforesaid, and after Demand made, then and in every such Case the said Interest so due and unpaid as aforesaid, shall be sued for and recovered, with Costs, in the Court of Session in *Scotland*: Provided always, that no Person to whom any such Mortgage or Assignment shall be made or transferred as aforesaid, shall be deemed a Proprietor of any Share, or shall be capable of acting or voting as such, either as Principal or by Proxy, at any Meeting of the said Company, for or on Account of his or her having lent or advanced any Sum or Sums of Money on the Credit of such Assignment.

IX. And be it further enacted, That the first General Assembly of the said Company of Proprietors for putting this Act into Execution shall be held at the Town House, in the Town of *Kilmarnock*, or at a public Inn in the said Town, upon the Forty-second Day after the passing of this Act, at the Hour of Eleven of the Clock in the Forenoon; and all future General Assemblies of the said Company shall be holden on the first *Tuesday* in the Month of *May*, in each and every Year, in such Place as the said Company of Proprietors, at the next preceding General Assembly, shall appoint; and in case of no Appointment, every such General Assembly shall be holden where the last General Assembly was holden, and all such General Assemblies shall be holden at the Hour of Eleven of the Clock in the Forenoon; and the said Company of Proprietors, at such respective General Assemblies, and at their Special General Assemblies as herein-after mentioned, shall and may appoint a Chairman, and such Chairman shall not only vote as a Proprietor or Proxy, but in case of an Equality of Votes, shall have the decisive or casting Vote; and if upon any Election of a Chairman, Two or more Persons shall be proposed to fill that Office, and shall have an equal Number of Votes, then and in every such Case the Persons so proposed shall draw Lots for the same.

X. And be it further enacted, That the said Company of Proprietors shall at their said first General Assembly, nominate and appoint Five or more Persons, either out of the Proprietors of the said Company, or other Persons, to be a Committee for the Management of the Concerns of the said Company, until the next General Assembly to be holden on the first *Tuesday* in the Month of *May* then next ensuing, and the Powers of the said Committee shall then cease and determine, and the said Company of Proprietors assembled at such General Assembly shall proceed to the Nomination and Appointment of another, or may re-appoint the said Committee, or any Member or Members thereof, and so in like Manner at every ensuing General Assembly, to be holden on the first *Tuesday* in the Month of *May* in each and every Year, and the Powers of the said Committee shall then cease and determine; but no Person holding any Place or Employment of Profit or Contract under the said Company, shall be capable of serving upon a Committee during the Time of his Continuance in such Place, Office, or Employment of Profit,

Profit, or holding such Contract: Provided always, that it shall and may be lawful to and for the Company of Proprietors, at any Special General Assembly to be convened in Manner herein directed, to remove any Member of the said Committee, and to appoint another Person in the room or stead of every Member of the said Committee who shall die, be so removed, refuse to act, or shall hold any Place, Office, Employment of Profit, or Contract under the said Company; and every Person so nominated by the said Special General Assembly shall have the like Powers and Authorities, and shall be subject to the like Rules and Regulations, as if he had been nominated by the said General Assembly.

XI. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors, at any General Assembly or Special General Assembly, to order and dispose of the Custody of their Common Seal, and of the Use and Application thereof, and to make such Rules, Bye Laws, and Orders, for the good Government of the said Company, and of their said Committee, and of their Servants, Agents, or Workmen, and for the whole, complete, and total Superintendance and Management of the said Undertaking, and also for the well-governing of all Persons who shall be employed in the conveying of any Goods, Wares, and Merchandize, and other Articles and Things, upon any Part of the said Railway and other Works, and from Time to Time to alter and repeal the said Rules, Bye Laws, or Orders, all or any of them, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same, as to such General or Special General Assemblies shall seem meet, not exceeding the Sum of Five Pounds for any one Offence; and all such Rules, Bye Laws, and Orders, being reduced into Writing, under the Common Seal of the said Company, and being printed, shall be binding upon and observed by all Parties, and shall be sufficient in any Court of Law or Equity to justify all Persons who shall act under the same, provided the same be not repugnant to the Laws of that Part of the United Kingdom of *Great Britain and Ireland* called *Scotland*, or to any of the Provisions or Directions in this Act contained; and every such General and Special General Assembly shall have Power to call for, audit, and settle all Accounts of Money received, laid out, and disbursed on Account of the said Undertaking, by the Treasurers or Collectors of the Rates, and other Officers by them appointed, or by any other Person or Persons whomsoever, employed by or concerned for or under them in and about the said Railway and other Works thereto belonging; and the said Company of Proprietors shall have Power to adjourn themselves from Time to Time to such Place or Places as shall at any such General or Special General Assembly be by them thought proper and convenient.

Company of Proprietors to make Bye-Laws.

XII. Provided always, and be it further enacted, That if at any such General Assembly there shall not be present Persons, either as Principals or Proxies, whose aggregate Interest or Property in the said Undertaking shall amount to at least Six Shares in the said Undertaking, no Choice of a Committee, nor any Removal of a Person or Persons from any such Committee, nor any Election of any Person or Persons in the room of such of the Members of the said Committee as shall die or decline to act, or shall hold any Place, Office, Employment of Profit or Contract under the

General Meeting to consist of Persons holding Shares.

the said Company, shall be made at that Time; but in such Case there shall be another Assembly of the said Company of Proprietors at the same Place upon that Day Three Weeks, whereof Fourteen Days' Notice shall be given in some Newspaper circulated in the said County of *Ayr*; and if a sufficient Number of Proprietors having such Shares either as Principals or Proxies shall not then attend, the said General Assembly shall stand adjourned to the same Place to the Third *Tuesday* next following, and such Choice, Removal, or new Appointment of any Member of any such Committee shall then take place, and not before; and such Committee so before appointed shall continue to act and have the same Powers as they had and were possessed of until a new Committee shall be appointed as aforesaid; and in case of Failure of the assembling of a sufficient Number of Proprietors having such Shares or Subscriptions as Principals or Proxies at such First General Assembly, every Proprietor who shall not attend such second or adjourned General Assembly in his own Person or by Proxy, shall forfeit to the said Company for every Share which he or she shall possess in the said Undertaking, the Sum of Ten Shillings, to be deducted out of his or her next succeeding Payment of Interest or Dividends of the Profits of the said Undertaking, as the Case may happen; and in case no Interest or Dividends shall be payable to such Person or Persons making default, then the Payment of the said Forfeiture of Ten Shillings may be recovered and enforced by the Ways and Means herein-after appointed for the Recovery of any other of the Penalties or Forfeitures imposed by this Act.

Special General Meetings may be called by any Proprietor.

XIII. And be it further enacted, That if it shall at any Time appear that for the more effectually putting this Act into execution a Special General Assembly of the said Company is necessary to be held, it shall be lawful for any One or more of the said Proprietors, or their Proxy or Proxies, to cause Twenty Days' Notice at least to be given thereof in some Newspaper usually circulated in the said County of *Ayr*, or by giving to each Proprietor, or by leaving at his or her usual Place of Abode a Notice in Writing, signed by such Proprietor or Proprietors, his, her, or their Proxy or Proxies, or by the Clerk to the said Company for the Time being, or in such other Manner as the said Company shall at any General or Special General Assembly direct or appoint, specifying in such Notice the Reason and Intention of requesting such Special General Assembly, and the Time when and the Place where the same shall be held; and the said Proprietors are hereby authorized to meet pursuant to such Notice; and such of them as shall be present shall proceed to the Execution of the Powers by this Act given to the said Company with respect to the Matters so specified only; and all such Acts of the Proprietors, or the major Part of them, met together at every such Special General Assembly (provided such major Part shall be possessed of at least Six Shares in the said Undertaking, either as Principals or Proxies) shall be as valid with respect to the Matters specified in such Notice, as if the same had been done at a General Assembly at the Time herein-before appointed for holding the same.

Officers to the Company to be appointed.

XIV. And be it further enacted, That it shall be lawful for the said Company at any General or Special General Assembly from Time to Time to nominate and appoint a Treasurer and Clerk, and such other Officers as they shall think proper, and shall take sufficient Security from every

every such Treasurer, and other officers, for the due Execution of his Office, as the said Company shall think proper; and from Time to Time to remove any such Treasurer, Clerk, and other Officers, or any of them; and such Clerk shall attend the General and Special General Assemblies of the said Company, and the Meetings of the said Committee, and shall in a proper Book or Books, to be provided for that Purpose, enter and keep a true and perfect Account of the Names and Places of Abode of the several Proprietors of the said Undertaking, and of the several Persons who shall from Time to Time become Owners and Proprietors, or entitled to any Share or Shares therein, and of their respective Proxies, and of all the Acts, Proceedings, and Transactions of the said Company, by virtue of and under the Authority of this Act; and every Proprietor of the said Undertaking, and his or her Proxy and Proxies, shall and may at all convenient Times have Recourse to and peruse and inspect the same, *gratis*, and may demand and have Copies thereof, or any Part thereof, paying Sixpence for every One hundred Words, and so in proportion for any greater or less Number of Words so to be copied; and if such Clerk shall refuse to permit any of the said Proprietors or Proxies to inspect and peruse any such Books at all convenient Times and Seasons, or refuse to make any such Copy or Copies in a reasonable Time, at the Rate aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings, for the Benefit of the said Undertaking; and in case by Reason of any Negligence, Misconduct, or Inability of any such Treasurer, Clerk, or other Officers, to execute their respective Offices, it shall be requisite to displace or remove him or them from their respective Offices, it shall and may be lawful to and for the said Committee to remove any such Treasurer, Clerk or other Officer, from their respective Offices, and to appoint some other Person in their respective Places, and also to appoint some other fit and proper Person or Persons to be such Treasurer, Clerk, or other Officer in the place of every Treasurer, Clerk or other Officer, who shall die or quit the Service of the said Company, and every such Appointment shall continue until the then next General or Special General Assembly of the said Company, when such Appointment shall be confirmed, or another Treasurer, Clerk, or other Officer shall be nominated and appointed in his or their Stead.

XV. And be it further enacted, That all such Officers and Persons so to be appointed as aforesaid, shall at such Time and Times, and in such Manner as the said Company of Proprietors or such Committee shall direct, deliver to the said Company of Proprietors or to such Committee, or to such Person or Persons as they respectively shall appoint, true and perfect Accounts in Writing of all Matters and Things committed to their Charge by virtue of this Act, and also of all the Monies which shall have been by such Officer or Officers and Person or Persons respectively received by virtue and for the Purposes of this Act, and how much thereof hath been paid and disbursed, and for what Purposes together with the proper and legal Receipts or Vouchers for such Payments and shall pay all such Monies as shall remain in their respective Hands to the said Company of Proprietors or to such Committee, or to such Person or Persons as they shall respectively appoint; and if any such Officer or Person shall refuse to produce or deliver up such Receipts or Vouchers, or to make Payment as aforesaid, or shall not deliver to the said Company of Proprietors or to such Committee, or to such Person or Persons as they

Officers to
account.

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respectively shall appoint, within Ten Days after being thereunto required by the said Company of Proprietors or by such Committee, all Books, Papers, and Writings in his or their Custody or Power, relating to the Execution of this Act, or shall refuse or neglect to pay such Monies as upon the Balance of any Account or Accounts shall appear to be due in their respective Hands, to the said Company of Proprietors or to such Committee, or as they respectively shall direct and appoint, then and in either of the Cases aforesaid the said Company of Proprietors may, and are hereby authorized and empowered to bring or cause to be brought any Action or Actions against the Officer or Officers, Person or Persons so neglecting or refusing as aforesaid, in order for the Recovery of the Monies that shall be in the Hands of such Officer or Officers, Person or Persons respectively, or if Complaint shall be made by the said Company of Proprietors or by such Committee, or by such Person or Persons as they respectively shall appoint for that Purpose, of any such Refusal or Neglect as aforesaid, to any Two or more of the Justices of the Peace for the County or Place wherein such Officer or Officers, Person or Persons so neglecting or refusing shall be and reside, such Justices may and they are hereby authorized and required, by a Warrant or Warrants under their Hands and Seals, to cause the Officer or Officers, Person or Persons so refusing or neglecting, to be brought before them, and upon his or their appearing, or not being to be found, to hear and determine the Matter in a summary Way, and if, upon the Confession of the Party or Parties, or by any Testimony of any credible Witness or Witnesses upon Oath, it shall appear to such Justices that any of the Monies that shall have been collected, raised, or received by virtue of this Act, shall be in the Hands of such Officer or Officers, Person or Persons, such Justices may, and they are hereby authorized and required upon Non-payment thereof, by a Warrant or Warrants under their Hands, to cause such Money to be levied by Distress and Sale of the Goods and Effects of such Officer or Officers, Person or Persons respectively; and if no Goods or Effects of such Officer or Officers, Person or Persons can be found sufficient to answer and satisfy the said Money, and the Charges of making such Distress and Sale, or if such Officer or Officers, Person or Persons shall still persist in refusing or neglecting to deliver up all such Monies, Accounts, Receipts, Vouchers, Books, Papers, and Writings as aforesaid to the Company of Proprietors or to such Committee or other Person or Persons as they respectively shall appoint, then and in every or either of the Cases aforesaid such Justices shall commit every such Offender to the Common Gaol for the County where the Offender may be found, there to remain without Bail until he shall make and give a true and perfect Account and Payment as aforesaid, or until he shall compound with the said Company of Proprietors or with the said Committee, and shall have paid such Composition in such Manner as they respectively shall appoint, and until he shall deliver up such Monies, Accounts, Receipts, Vouchers, Books, Papers, and Writings as aforesaid, or give Satisfaction in respect thereof to the said Company of Proprietors or to such Committee; but no such Officer or Person so committed for Want of sufficient Distress, shall be confined or detained in Prison by virtue of such Warrant for any longer Space of Time than Twelve Calendar Months.

Committee to
appoint a
Chairman.

XVI. And be it further enacted, That the said Committee for the Time being of the said Company shall meet at such Times and at such Places, and from Time to Time adjourn themselves to such other Time and
Place

Place as they shall think fit; and at all Meetings of the said Committee one of the Members present shall be appointed President or Chairman, and all Questions, Matters, and Things which shall be proposed, discussed, or considered at such Meetings shall be finally determined by the Majority of Votes, and the Chairman, in case of an Equality of Votes on any Question that may be agitated at any Meeting, shall always have a Second or casting Vote; and all the Powers and Authorities hereby vested in or directed to be exercised by the said Committee, may be done and exercised by the major Part of them present at their respective Meetings the whole Number present not being less than Three; and in order to defray the Expence of the Meetings of the said Committees, it shall be lawful for the said Committees, and they hereby allowed to expend or detain to themselves such reasonable Sum of Money, out of the Capital Stock of the said Proprietors; for their Expences in attending such Meetings, as shall be directed, adjusted, and settled by the said Company of Proprietors at any General or Special General Assembly; and the said Committee shall have Power and Authority to contract for and agree for the Purchase of any Lands, Tenements, Heritages, and Materials for the Use of the said Undertaking and Works thereunto belonging, and shall and may settle, adjust, and determine all Matters, Questions, and Differences which shall or may arise between the said Company of Proprietors and the several Owners of and Persons interested in any Lands, Tenements; or Heritages which shall or may be taken, used, damaged, or affected by the Execution of any of the Powers hereby granted, and shall and may make Contracts, Agreements, and Bargains with the Workmen, Agents, Undertakers, and other Persons employed or concerned in making and completing and continuing the Works belonging to the said Undertaking and all and every Part or Parts thereof, and the said Committee shall (subject nevertheless to the Orders and Directions of such General and Special General Assemblies as aforesaid) have full power and Authority to direct and manage the Affairs of the said Company of Proprietors; and the said Committee shall by themselves, or the Clerk to the said Company of Proprietors, keep a full and true Account of all Money disbursed and Payments made by the said Committee, and by all and every Person and Persons employed by or under them, and of all and every Sum and Sums of Money which they shall receive, on behalf or in respect of the said Undertaking, from any Collector or Collectors, or other Officer or Officers, or from any other Person or Persons whomsoever, employed in or having any Concerns, Dealings, or Transactions with the said Undertaking, or in or with any Part or Parts thereof, and shall regularly by themselves, or their Clerk as aforesaid write, insert, and enter in a Book or Books to be from Time to Time provided at the expence of the said Company of Proprietors for that Purpose, Minutes or Copies (as the Case shall require) of every such Contract, Bargain, Receipt, and Disbursement, and of all other their Orders and Proceedings, which Book or Books shall be deposited with and kept locked up under the Care and Direction of the said Committee; provided always, that every Proprietor shall have free Access thereto, upon every reasonable Desire for his and her Inspection, and the said Committee shall have Power from Time to Time to make such Call or Calls for Money from the Subscribers to and Proprietors of the said Undertaking, to defray the Expences of, or to carry on the same, as they the said Committee from Time to Time shall find wanting and necessary for

Their Expences to be paid.

Powers of the Committee.

Power to make Calls.

for those Purposes, so that no such Call shall exceed the Sum of Fifty Pounds upon each Share; and such Calls shall not be made but at the Distance of Sixty Days at least from each other, and Twenty Days Notice at the least shall be given of all such Calls as aforesaid, by Advertisement in some Newspaper or Newspapers usually circulating in the said County of *Ayr*, or in such other Manner as the said Company of Proprietors shall, at any General or Special General Assembly, direct and appoint; provided that it shall not be lawful to make any further Call upon any Proprietor or Proprietors who shall have paid to the said Company, in Obedience to the said Calls or otherwise, the full Amount of the Sum which by his, her, or their, Subscription he, she, or they had undertaken to pay for his, her, or their said Share or Shares; and every Owner or Owners, Proprietor or Proprietors of any Share or Shares in the said Undertaking shall pay his, her, or their rateable Proportions of the Monies to be called for as aforesaid, to such Person or Persons, and at such Time and Place as the said Committee shall from Time to Time order and direct; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part of the said Money so called for as aforesaid, at the Time and Place appointed by the said Committee, or within Twenty Days next ensuing he, she, or they so neglecting or refusing, shall forfeit and pay the Sum of Five Pounds for every Share he, she, or they shall have in the said Undertaking, together with Interest at the Rate of Five Pounds *per Centum per Annum* from the Time so appointed; and if such Person or Persons shall continue to neglect or refuse to pay his, her, or their rateable Call or Calls as aforesaid, with such Interest and Penalty as aforesaid, for the Space of Six Calendar Months next after the Time so appointed for Payment thereof, then he, she, or they so neglecting or refusing shall forfeit his, her, or their respective Share and Shares in the said Undertaking, and all the Profits and Benefits thereof; all which Shares so forfeited shall be vested in the said Company of Proprietors, in trust for and for the Benefit of all the rest of the said Proprietors, in Proportion to their respective Interests in the said Undertaking, or shall, at the Discretion of any of the said General or Special General Assemblies, be publicly sold for the use of the rest of the said Proprietors, whose Shares and Interests shall not have been forfeited as aforesaid: Provided always, that no Advantage shall be taken of the Forfeiture of any Share or Shares in the said Undertaking, until Notice shall be given by the Clerk or Treasurer to the said Company to the Owner or Owners thereof, or Notice in Writing left at his, her, or their usual or last Place of Abode, nor unless the same shall be declared to be forfeited at some General or Special General Assembly of the said Company; and every such Forfeiture shall be an Indemnification and Discharge to and for every Proprietor or Proprietors so forfeiting, after such Share or Shares shall be deemed to be forfeited by a General Assembly, but not before, against all Actions, Suits, or Prosecutions whatsoever, to be commenced or prosecuted for any Breach of Contract or other Agreement between such Proprietor or Proprietors so forfeiting and the rest of the Proprietors, with regard to carrying on the said Undertaking.

On Non-Payment, Shares may be forfeited or sold.

But Notice to be given to Subscribers before Forfeiture of Shares.

Subscriptions may be recovered by Action.

XVII. Provided always, and be it further enacted, That the respective Persons who have subscribed, or who shall hereafter subscribe or advance any Money for and towards the said Undertaking, or shall be Owner or Owners, Proprietor or Proprietors of any Share or Shares in the said Undertaking, shall and are hereby required to pay the Sum or Sums by them

them respectively subscribed (or such Parts and Proportions thereof as shall from Time to Time be called for by the Committee of the said Company of Proprietors, by virtue of the Powers and Directions of this Act) at such Times and Places, and in such Manner as shall be directed by the said Committee; and in case any of such Subscribers shall neglect or refuse to pay the same at the Time and Place and in Manner so required for that Purpose, the said Company of Proprietors are hereby empowered to sue for and recover the same, with such Interest and Penalty as aforesaid, in any Court of Law or Equity.

XVIII. And be it further enacted, That in any Action brought by the said Company against any Owner or Owners of any Share or Shares in the said Undertaking, to recover any Sum or Sums of Money due and payable to the said Company for or by reason of any Call or Calls made by virtue of this Act, it shall be sufficient for the said Company to declare or alledge that the Defendant or Defendants, being a Proprietor or Proprietors of such or so many Share or Shares in the said Undertaking, is or are indebted to the said Company in such Sum or Sums of Money as the Call or Calls in Arrear shall amount unto, for such or so many Call or Calls of such or so many Sum or Sums of Money, upon such or so many Share or Shares belonging to the said Defendant or Defendants (as the Case may happen to be) whereby an Action hath accrued to the said Company by virtue of this Act, without setting forth the special Matter; and on Trial of such Action it shall only be necessary to prove that the Defendant or Defendants, at the Time of making such Call or Calls, was or were a Proprietor or Proprietors of some Share or Shares in the said Undertaking, and that such Call or Calls was or were in fact made, and that such Notice thereof was given as is directed by this Act, without proving the Appointment of the Committee who made such Call or Calls, or any other Matter whatsoever; and the said Company shall thereupon be entitled to recover what shall appear due, unless it shall appear that any such Call exceed the Sum of Fifty Pounds for every Sum of Five hundred Pounds, or was made within the Distance of Sixty Days from the last preceding Call, or without Notice given as aforesaid; and after Judgment shall be given for the said Company in any Action, Execution shall not be stayed by reason of any Bill of Suspension or Advocation brought by the Defendant or Defendants therein, unless such Defendant or Defendants, with Two sufficient Securities, shall first become bound to the said Company, to be acknowledged in the Court in which Judgment shall be given, in double the Sum adjudged to the said Company by such Judgment, to prosecute the said Bills with Effect; and also if the said Judgment be affirmed, or the said Bills be refused, to satisfy and pay the Debt, Damages, and Costs adjudged by the said Judgment, and all Costs and Damages so awarded for Delay of execution.

Directing
Proceedings
in Actions
for Calls.

XIX. And be it further enacted, That such Committee shall from Time to Time make Reports of their Proceedings to and be subject to the Examination and Controul of the said General and Special Assemblies of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises, as shall from Time to Time be made by the said Proprietors at any such General or Special

Committee to
report to and
be under
Controul of
General
Meetings.

[Loc. & Per.]

9. 8

Assembly,

Assembly, such Order and Directions not being contrary to any express Directions and Provisions in this Act contained.

On the Death of Subscribers, Calls to be completed by their Executors.

XX. And be it further enacted, That if the Owner or Owners of any Share or Shares in the said Undertaking shall happen to die before such Call or Calls shall have been made for the full Sum to be advanced on any Share or Shares which he, she, or they shall have been possessed of or entitled to, without having made Provision by Will or otherwise, how or in what Manner such Share or Shares shall be disposed of, and how or by what Means the future Calls in respect thereof shall be paid to the said Company for the Purposes of the said Undertaking, then and in such Case the Executors or Administrators of any such Owner so dying, or the Trustee or Trustees, Committee or Committees, Curator or Curators, of any Lunatic or Lunatics, Tutor or Tutors, Curator or Curators, Guardian or Guardians of any Infant or Infants, Lunatic or Lunatics, or of any other Person or Persons entitled to the Estate and Effects of such deceased Owner, are hereby respectively authorized to pay, and shall be indemnified against all and every Person or Persons whomsoever for or on account of his, her, or their having paid any Sum or Sums of Money when called for as aforesaid, to complete every such Subscription so contracted for or begun; and if such deceased Owner or Owners shall not have left Funds sufficient, or in case the Executors or Administrators, Trustee or Trustees, Committee or Committees, Tutor or Tutors, Curator or Curators shall refuse or neglect to answer such Calls, the said Company of Proprietors shall be and they are hereby authorized and required to admit any other Person or Persons to be Proprietor or Proprietors of the Share or Shares of such deceased Owner or Owners, on Condition that he, she, or they so admitted do and shall, on or before such Admission, pay to the Executors or Administrators of such deceased Owner or Owners, or to the Trustee or Trustees, Committee or Committees, Tutor or Tutors, Curator or Curators, Guardian or Guardians of any Infant or Infants, or to any other Person or Persons who shall or may be entitled to his, her, or their Effects, the full Sum or Sums of Money which shall have been paid by such Owner or Owners in his or their Lifetime, by virtue of any Call or Calls, or otherwise, upon such Share or Shares, or such other Sum or Sums of Money as the same shall be sold for; and in case no Person or Persons shall be found who are willing to be admitted on such Conditions as aforesaid, then and in such Case such Share or Shares shall be forfeited to and become vested in the Rest of the said Proprietors, in proportion to their respective Interests in the said Undertaking, and shall be subject to be sold and disposed of in like Manner as other forfeited Shares may be sold and disposed of by virtue of this Act.

Shares may be sold.

XXI. And be it further enacted, That it shall be lawful for the several Proprietors of the said Undertaking, his, her, or their respective Executors or Administrators, to sell and dispose of any Share or Shares to which he, she, or they may be entitled therein, subject to the Rules and Conditions herein mentioned and provided; and the Conveyance of such Shares shall be in the Form, or to the Effect following, *videlicet*:

Form of Conveyance.

“ I *A. B.* in consideration of paid to
 “ I me by *C. D.* do hereby sell and transfer unto the said *C. D.*, a
 “ Share

“ Share [or, Shares, as the Case may be] of the Undertaking
 “ called *The Kilmarnock and Troon Railway*, To hold to him the
 “ said C. D, his Executors, Administrators and Assigns, subject to the
 “ same Rules, Orders, and Restrictions, and on the same Conditions that
 “ I held the same immediately before the Execution hereof; and I the said
 “ C. D. do hereby agree to take and accept the said Share [or Shares]
 “ subject to the same Rules, Orders, Restrictions, and Conditions; as
 “ witness our Hands the Day of ”

And on every such Sale the said Deed of Conveyance, being executed by the Seller or Sellers, and the Purchaser or Purchasers of such Share or Shares, shall be kept by the said Purchaser or Purchasers for his, her, or their Security, after the Clerk of the said Proprietors for the Time being shall have entered in a proper Book or Books, to be kept for that Purpose, a Memorial of such Transfer and Sale for the use of the said Company, and have testified or indorsed the Entry of such Memorial on the said Deed of Sale or Transfer, for which no more than Two Shillings and Sixpence shall be paid, and the said Clerk is hereby required to make such Entry accordingly; and until such Memorial shall have been made and entered as above directed, such Purchaser or Purchasers shall have no Part of the Profits of the said Undertaking, nor any Interest for such Share paid unto him, her, or them, or any Vote in respect thereof, as a Proprietor or Proprietors of the said Undertaking.

XXII. And be it further enacted, That after any Call of such Money shall have been made by such Committee as aforesaid, no Person or Persons shall sell or transfer any Share or Shares which he, she, or they shall possess in the said Undertaking, upon the Penalty of forfeiting his, her, or their respective Share or Shares therein to the said Company, in trust for the Benefit of all the said Proprietors, unless he, she, or they, at the Time of such Sale or Transfer, shall have paid and discharged to the Treasurer of said Company of Proprietors, the whole and entire Sum of Money which shall have been called for upon each Share so sold or transferred; such Forfeiture nevertheless to be notified and declared at a General or Special General Assembly in Manner before directed.

After a Call is made no Share to be sold until Call is satisfied.

XXIII. And for the better Security of the several Proprietors of the said Undertaking as to their respective Shares therein, Be it further enacted That the said Company of Proprietors shall and they are hereby required to cause the Names and proper Additions of the several Persons who shall be entitled to the Shares in the said Undertaking, with the Number of Shares which they are then respectively entitled to hold, and also the proper Number by which every Share shall be distinguished, to be fairly and distinctly entered in a Book or Books to be kept by the Clerk to the said Company of Proprietors, and after such Entry made, to cause their Common Seal to be affixed thereto; and shall also cause a Certificate or Instrument, with the Common Seal of the said Company affixed thereto, to be delivered to every such Subscriber upon Demand, specifying the Share or Shares to which he, she, or they is or are entitled in the said Undertaking, every such Proprietor paying to the Clerk Two Shillings and Sixpence and no more, for every such Certificate or Instrument; and such Certificate or Instrument shall be admitted in all Courts whatever as Evidence of the Title of such Subscriber, his, her, or their
 Executors,

Names of Proprietors, and Number of their Shares, to be entered in a Book, and Tickets with the Numbers delivered to them.

Executors, Administrators, and Assigns, to the Share or Shares therein specified; but the Want of such Certificate or Instrument shall not hinder or prevent the Owner or Proprietor of any of the said Shares from selling or disposing thereof; and in case any such Certificate or Instrument shall become defaced or damaged, or shall have been lost or destroyed, then another shall be made out and entered by the Clerk on the same Terms and Conditions as aforesaid.

Proof and
Entries in
Cases of Mar-
riages and
Deaths.

XXIV. And whereas much Inconvenience may arise by the frequent Change of the Right and Title to the Shares of and in the said Undertaking by the Marriage and Death of Proprietors, and it may be difficult in such Cases to ascertain to whom the Dividend arising or becoming due upon such Shares ought to be paid and do belong; Be it therefore further enacted, That before any Person or Persons who shall claim any Part or Share of the Profits of the said Undertaking, in right of Marriage, shall be entitled to receive the same in case of the Marriage of any Female who may be a Proprietor in the said Undertaking and may at the Time of such Marriage be domiciliated in *England*, an Affidavit containing a Copy of the Register of such Marriage, or the Effect of such Register, shall be made and sworn to by some credible Person before one of the Judges at *Westminster*, a Master or Master Extraordinary in Chancery, or any one of His Majesty's Justices of the Peace; and the said Judges, Justices, Master or Master Extraordinary in Chancery, and Justices of the Peace are hereby authorized and empowered to swear any such Person to such Affidavit, and such Affidavit shall be transmitted to the Clerk or Clerks of the said Company for the Time being, who shall file the same, and make an Entry thereof in the Book or Books which shall be kept by the said Clerk or Clerks for the Entry of Transfers and Sales of Shares in the said Undertaking; and that before any Person or Persons who shall claim any Part or Share of the Profits of the said Undertaking in right of a Proprietor who was domiciliated in *England*, by virtue of any Bequest or Will, or in a course of Administration, shall be entitled to receive the same, the said Will, or the Probate Copy thereof, or such Letters of Administration, shall be produced and shewn to the Law Clerk of the said Company, or an Affidavit containing a Copy of so much of such Will as shall relate to the Share or Shares of the Testator, or of the Letters of Administration in case the Proprietor shall have died intestate, shall be made and sworn to by the Executor or Executors of such Will, or by the Administrator or Administrators of the Estate and Effects of the Proprietor dying intestate (as the Case may happen to be) before one of the Judges at *Westminster*, a Master or Master Extraordinary in Chancery, or one of His Majesty's Justices of the Peace; and shall also be transmitted to the said Clerk or Clerks, who shall file and enter the same in Manner hereinbefore mentioned; and in case of any Female Proprietor of the said Undertaking, who may happen to be domiciliated in *Scotland*, entering into Marriage, an Affidavit of such Marriage, by One or more credible Witnesses, shall be made before any one of the Judges of the Court of Session, or before any Sheriff Depute or Justice of Peace, and transmitted to the Clerk of the said Company, who shall make an Entry thereof in the Books of the said Company; and if no Settlement or Provision has been made by the Parties to the contrary, and of which they shall make a Declaration before one or other of the Judges before mentioned, then the Share or Shares of such Female Proprietor shall

shall be transferred in the Books of the said Company to her Husband who may be entitled to the same; and in the Event of the Death of any of the said Proprietors who were domiciliated in *Scotland*, upon Production to the Clerk of the said Company of Letters of Confirmation, or confirmed Testament or Testaments, dative under Authority of the respective Commissaries in *Scotland*, within whose Jurisdiction such Proprietors may have resided, and of which an Entry shall be made in the Books of the Company, the Share or Shares of such Proprietors shall be transferred to the several Person or Persons entitled thereto by the said Confirmations.

XXV. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors, and they are hereby authorized and empowered by themselves, their Deputies, Agents, Officers, Workmen, and Servants, to make and complete a Railway, to be called *The Kilmarnock and Troon Railway*, from or near the Town of *Kilmarnock*, in the Parish of *Kilmarnock* and County of *Ayr*, by the way of *High and Low Wards, Slofs-Park, Westmuir, Grange, Burnbrae, Mount, Springhill, Third Part*, in the Parish of *Kilmarnock*, *East and West Gatehead*, in the Parish of *Kilmaurs*, *Cockbill, Lavemill, Harperland, Girtridge, and Girtridge-Mill, Pendicle of Girtridge, Bogside, Kilnford, Auchans, Park-Thorn, Shewalton-Moss, Auchengate, Hillhouse Parks, Barrassie, Burnfoot, Scrapknows, Saint Meddans, Troon Park, and Troon Point Park*, all in the Parish of *Dundonald* aforesaid, to the said Place called *The Troon*, in the same Parish of *Dundonald*, all which Places are in the said County of *Ayr*; and for the Purposes aforesaid the said Company, their Deputies, Servants, Agents, and Workmen, are hereby authorized and empowered to enter into and upon the Lands and Grounds of any Person or Persons, Bodies Politic, Corporate, or Collegiate whatsoever, and to survey and take Levels of the same, or any Part thereof, and to set out and ascertain such Parts thereof as they shall think necessary and proper for making the said Railway, and all such other Works, Matters, and Conveniencies, as they shall think proper and necessary for making, effectuating, altering, preserving, improving, completing, maintaining, and using the same, and also to bore, dig, cut, trench, fough, get, remove, take, carry away, lay, use, and manufacture, any Earth, Clay, Stone, Soil, Rubbish, Trees, Roots of Trees, Beds of Gravel, or Sand, or any other Matters, or Things, which may be dug or got in making the said Railway, or other Works, or out of the Lands or Grounds of any Person or Persons adjoining, or lying convenient or contiguous thereto, and which may be proper, requisite, or necessary, for making, carrying on, continuing, maintaining, altering, or repairing the said Railway, and other Works, or which may hinder, prevent, or obstruct the making, using, or completing, altering, extending, or maintaining the same respectively, according to the Intent and Meaning of this Act; as also to make, build, erect, and set up, in, over, under, or upon the said Railway and other Works, or upon the Lands adjoining or near to the same, such and so many Bridges, Piers, Arches, Tunnels, Drains, Houses, Warehouses, Tollhouses, Weighbeams, Cranes, or other Machines, and other Works, Ways, Roads, and Conveniencies, on and where the said Company shall think necessary and convenient for the Purposes of the said Undertaking; and also from Time to Time to alter, repair, and amend or discontinue the same, and to

Empowering
the Company
to erect the
Railway.

[*Loc. & Per.*]

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make,

make, direct, alter, widen, enlarge, and extend any Ways, Passages, or other Works or Conveniencies, as well for carrying and conveying of Goods, Wares, Merchandize, and other Articles, to and from the said Railway or other Works, as for the carrying and conveying of all Manner of Materials necessary for the making, erecting, finishing, altering, repairing, maintaining, amending, widening, or enlarging the Railway and other Works hereby authorized to be made, or which may be useful for any of the Purposes thereof; and also to place, lay, work, or manufacture the said Materials on the Lands or Grounds near to the Place or Places where the said Works or any of them be or are intended to be made, erected, repaired, or done, and also to make, set out, and appoint such Roads and Ways convenient for haling or drawing of Waggons and other Carriages passing upon the said Railway, with Men, Horses, or otherwise, and proper Places for Waggons and other Carriages to turn, lie, or pass each other, as they the said Company shall think convenient; and to construct, erect, make, and do all other Matters and Things which they shall think convenient or necessary for the making, effectuating, altering, preserving, improving, completing, and using of the said Railway and other Works to be made or constructed in pursuance of and according to the true Intent and Meaning of this Act, they the said Company, their Deputies, Agents, Servants, and Workmen, doing as little Damage as may be in the execution of the several Powers to them hereby granted, and making full Satisfaction, in Manner hereinafter mentioned, to the Owners and Proprietors of and all Persons interested in any Lands or other Hereditaments which shall be taken, used, removed, diverted, or prejudiced for all Damages to be by them sustained in or by the Execution of all or any of the Powers of this Act; and this Act shall be sufficient to indemnify the said Company, and their Deputies, Servants, Agents, and Workmen, and all other Persons whomsoever, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Provisoos and Restrictions as hereinafter mentioned and contained: Provided always, that where the said Railway shall cross any Turnpike Roads or public Highways, the Ledge or Flank of the Railway, for the Purpose of guiding the Wheel of the Carriages, shall not exceed One Inch in Heighth above the Level of the Road, and that no Trees or Roots of Trees shall be cut, taken, or removed without the Consent of the Owner or Owners thereof, except such as may obstruct the making or Course of the said Railway or other Works.

Houses and
Gardens not
to be injured.

XXVI. Provided always, That nothing herein contained shall authorize or empower the said Company, or any Person or Persons acting by or under their Authority, to take, use, or injure or damage, for the Purposes of the said Railway or other Works, or any other of the Purposes aforesaid, any House or other Building which was erected or built at or before the passing of this Act, or any Land or Ground which was then set apart or used as or for a Garden, Orchard, Yard, planted Walk, or Avenue to a House, without the Consent of the Owners and Occupiers thereof and Persons interested therein respectively.

If old Roads
destroyed,
new ones to
be made.

XXVII. And be it further enacted, That when and as often as it shall be found necessary by the said Company of Proprietors to make or cut through any Carriage or Horse Road, be the same public or private, or so much injure the same as to render it impassable or inconvenient for

Car-

Carriages or Horses, or the Persons entitled to the Use and Benefit thereof, the said Company of Proprietors shall, at their own Expence, with the Approbation of two Justices of the Peace of the said County of *Ayr*, before any such Road shall be taken, cut through, or injured as aforesaid, cause a good and sufficient Carriage or Horse Road (as the Case may be) to be set out, and made instead thereof, and shall put or cause to be put the same in good and sufficient Repair and Condition.

XXVIII. And whereas a Survey has been taken to ascertain the Practicability of making the said intended Railway and other Works, and a Map or Plan, with a proper Book of Reference thereto, has been made in consequence thereof; Be it further enacted, That there shall be made Two Parts of the said Map or Plan and Book of Reference thereto, which shall be certified by the Right Honourable the Speaker of the House of Commons, and one Part thereof shall be deposited with the Clerk of the Peace of the County of *Ayr*, and the other Part thereof shall be deposited with the Clerk of the said Company of Proprietors, to either of which Maps, Plans, and Books of Reference, all Persons shall have Liberty to resort, and to examine or make Extracts from or Copies of the same, paying to the said respective Clerks for Copies of or Extracts of the said Books of Reference after the Rate of Sixpence for every One Hundred Words; and both of the said Maps or Plans, or Books of Reference so certified, or true Copies thereof, shall be and the same is and are hereby declared to be good Evidence in all Courts of Law or elsewhere; and the Clerk for the Time being to the said Company, upon Twenty-one Days Notice given to him for that Purpose, shall and is hereby required from Time to Time to produce the Map or Plan and Book of Reference, so deposited with him as aforesaid, before any Jury or Juries to be impannelled by virtue of this Act, at the Time and Place to be mentioned in such Notice, in order that the same may be then and there given in Evidence, such Clerk having a reasonable Sum of Money allowed for his travelling Expences, Absence from Home, and Attendance on such Occasions.

Maps and Books of Reference to be authenticated by the Speaker of the House of Commons.

XXIX. And be it further enacted, That it shall not be lawful for the said Company of Proprietors in making the said intended Railway, to deviate from the Course or Direction delineated in the said Map or Plan, more than Fifty Yards in the Estate of Dame *Margaret Cunningham*, of *Fairlie*, and Sir *William Cunningham*, of *Robertland*, and One Hundred and Fifty Yards in the Lands of the other Persons named in the Book of Reference, or to cut, carry, or convey the said Railway into, through, across, under, or over any Part or Parts of the several Estates, Lands, or Grounds, now or late belonging to or reputed to belong to the said several and respective Persons named or described in the said Book of Reference, more than Fifty Yards in the Estate of the said Dame *Margaret Cunningham* of *Fairlie*, and Sir *William Cunningham* of *Robertland*, and One Hundred and Fifty Yards from such Part or Parts as is or are mentioned in the said Book of Reference in that Behalf, in the Lands of the other Persons aforesaid, without the Consent in Writing, signed by the Person or Persons to whom such Estates, Lands, or Grounds, shall respectively belong: Provided always, that such and the like Rates upon the said Railway as are hereinbefore mentioned shall, notwithstanding such

Power to deviate 150 Yards from Line in the Plan.

Variations,

Variations, or Deviations as aforesaid, be paid to the said Company, and with the like Powers, and subject to the same Restrictions, Provisions, and Regulations, as are hereinbefore mentioned and provided, in respect to the Course delineated in the said Map or Plan, and set forth in the said Book of Reference.

Proprietors omitted in Book of Reference not entitled to obstruct Railway.

XXX. Provided always, That the said Company of Proprietors may make the said Railway into, through, across, or over the Lands or Grounds of any Person or Persons whomsoever, whose Name or Names shall appear, to the Satisfaction of two Justices of the Peace, and be by them certified under their Hands, to be by Mistake omitted in the said Book of Reference, or that instead thereof the Name or Names of some other Person or Persons to whom such last mentioned Lands or Grounds do not belong, have or hath been by Mistake inserted therein; any Thing herein contained to the contrary thereof in anywise notwithstanding.

Breadth of the Line.

XXXI. And be it further enacted, That the Lands and Grounds to be taken or used for making and using of the said Railway shall not exceed Sixty Yards in Breadth, except in such Places where it shall be judged necessary for Waggons or other Carriages to turn, lie, or pass each other, or where any Warehouses, Cranes, or Weigh-beams, may be erected, or where any Places may be set out or appropriated for the Reception or Delivery of Goods, Wares, and Merchandize, which shall be conveyed on the said Railway, and not above Eighty Yards in Breadth in any Place, without the Consent of the Owners of the Lands or Hereditaments adjoining to the said Railway.

Bodies Politic, & others empowered to sell.

XXXII. And be it further enacted, That after any Lands, Grounds, or other Heritages, shall be set out and ascertained for making the said Railway and other Works, or any Part or Parts thereof, and for providing or constructing the Wharfs and other Works and Conveniencies hereinbefore authorized to be made, or any of them, it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Persons having Life Rents, Husbands, Tutors, Curators, Trustees, and Feoffees in Trust for charitable and other Purposes, Executors and Administrators, and all Trustees and other Persons whomsoever, not only for and on Behalf of themselves, their Heirs and Successors, but also for and on the Behalf of their several Cestuique Trusts or Persons beneficially interested, whether Infants, Issue unborn, Lunatics, Idiots, Femmes Covert, or other Person or Persons, and to and for all Femmes Covert who is, are, or shall be seised, possessed of, or interested in their own Right, or entitled to Terce or other Interest therein, and to and for all and every other Person or Persons whomsoever, who is or are, or shall be seised, possessed of, or interested in any Lands or Heritages, which shall be so set off and ascertained for the Purposes aforesaid, to contract for, sell, or convey the same and every Part thereof unto the said Company, and enfeoff the said Company thereupon; and all such Contracts, Agreements, Sales, Conveyances, Assurances, and Enfeoffments, shall be valid and effectual in Law to all Intents and Purposes whatsoever, any Law, Statute, Usage, or Custom to the contrary in anywise notwithstanding; and all Bodies Politic, Corporate, or Collegiate, and all other Persons hereinbefore capacitated to convey Lands and Heritages whomsoever so conveying, are hereby indemnified for what they shall respectively do
by

by virtue and in pursuance of this Act; and all such Contracts, Agreements, Sales, Conveyances, and Assurances to be made as aforesaid, shall be made at the Expence of the said Company: and shall be made according to the following Forms; (*videlicet*)

“ I, A. B. of _____ in Consideration of the Form of
 “ I, Sum of _____ to me paid, [or, in con- Conveyance
 “ sideration of the Annual Rent of _____ to the Com-
 “ to me to be hereafter yielded and paid] by *The Company of Proprietors* pany.
 “ of the *Kilmarnock and Troon Railway*, Do hereby convey and dispo-
 “ to the said Company, All [*describing the Premises to be conveyed*, and
 “ all my Right, Title, and Interest in and to the same, and every Part
 “ thereof] To hold to the said Company for ever, by virtue and accord-
 “ ing to the true Intent and Meaning of an Act, passed in the Forty-
 “ eighth Year of the Reign of His present Majesty, intituled [*here set*
 “ *forth the Title of this Act*]. In Witness whereof I have hereunto set
 “ my Hand, the _____ Day of _____ in the Year of
 “ our Lord _____

And every such Conveyance shall be kept by the Clerk or Clerks of the said Company, who shall from Time to Time, when requested, deliver attested Copies thereof to any Person or Persons requiring the same, and shall have and receive Sixpence per Sheet for every such attested Copy, reckoning One Hundred Words to every Sheet, and so in Proportion for any greater or less Number of Words; and which Conveyance shall be registered in the General Register of Seifins for the County of *Ayr*, within Sixty Days after they shall be granted, which the Keepers of those Records are hereby appointed to register; and every such Conveyance, upon being registered as aforesaid, shall be valid and effectual to all Intents and Purposes whatsoever; any Law, Statute, Usage, or Custom to the contrary notwithstanding; and the Original of all such Conveyances shall be kept by the Clerk or Clerks to the said Company, who, and the Keeper of the Register of Seifins where the same shall be registered, shall, from Time to Time, when requested, deliver attested Copies thereof to any Person or Persons requiring the same, and shall have and receive Sixpence for every One Hundred Words of each such attested Copy, and so in Proportion for any less Number of Words.

XXXIII. And whereas, in order to carry into Effect the Purposes of this Act, and to avoid Disputes with the Owners or Occupiers of Lands, Grounds, and Heritages, which may be affected by making the said Railway and other Works, the said Company of Proprietors may here- Company
 after purchase Lands and Buildings not necessary to be made use of for the may re-sell
 Purposes of this Act; Be it therefore enacted, That it shall be lawful for Lands.
 the said Company of Proprietors to sell and dispose of, and by Disposition
 to grant and convey according to the Form of the Law of *Scotland*, such
 Part or Parts of the Lands and Buildings as may be so purchased by and
 conveyed to the said Company of Proprietors, and as shall not be wanted
 for the Purposes of the said Railway and Works; and also to lay out and
 appropriate any Part of the said Lands and Premises, as and for a Way or
 Ways, Street or Streets, Avenue or Avenues, Passage or Passages; and
 all such Grants and Conveyances from the said Company of Proprietors
 shall be valid and effectual; any Thing in this Act contained, or any other
 [Loc. & Per.] 9 U Law,

Law, Statute, or Custom to the contrary thereof in anywise notwithstanding; and upon Payment of the Money which shall arise by the Sale or Sales of such Lands or Premises, or any Parts or Parcels thereof, it shall and may be lawful for the Treasurer or Treasurers, for the Time being, to the said Company of Proprietors, to sign and give Receipts for the Money for which the same shall be sold, which Receipts shall be sufficient Discharges to any Person or Persons for the Purchase Money for which such Lands or Premises shall be sold, or for so much thereof as in such Receipts shall be acknowledged or expressed to be received; and such Person or Persons shall not afterwards be answerable or accountable for any Losses, Misapplication, or Nonapplication of such Purchase Money, or any Part thereof: Provided always, that the said Company of Proprietors, before they shall sell and dispose of such Lands or Buildings, shall first offer to re-sell the same at the Price for which they were originally purchased; and the Money *bona fide* expended or laid out on the same, to the Person or Persons from whom they shall have purchased such Lands or Buildings; and in case such Person or Persons shall not then and thereupon agree, or shall refuse to purchase the same, and on an Affidavit being made and sworn before the Sheriff Depute of the County of *Ayr*, or his Substitutes, or before any one of His Majesty's Justices of the Peace for that County, by some Person or Persons no way interested in the said Lands or Buildings, stating that such Offer was made by or on Behalf of the said Company of Proprietors, and that such Offer was not then and thereupon agreed to, or was refused by the Person or Persons to whom the same was so offered, such Affidavit shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made, and was not agreed to or was refused by the Person or Persons to whom it was made (as the Case may be).

Satisfaction
to be made.

XXXIV. And be it further enacted, That all and every Body or Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Trustees, Tutors, Curators, and every other Person or Persons hereinbefore capacitated to sell or convey Lands or other Heritages, and any other Owner or Owners and the Occupier or Occupiers of any Lands or other Heritages, through, in, and upon which the said Railway or other Works hereby authorized shall be made, may accept and receive Satisfaction for the Value of such Lands and Heritages, and for the Damages to be sustained by making and completing the said Works, either in gross Sums or by Yearly Rents, as shall be agreed upon by and between the Parties interested respectively, or any of them and the said Committee; and such Yearly Rents as shall be agreed upon between the said Committee and the Parties interested in such Lands or other Hereditaments, or as shall be so ascertained and settled as aforesaid, shall be charged on the Rates arising by virtue of this Act, and shall be paid by the said Company either Yearly or Half-yearly, as the same shall be agreed or ordered to become due and payable; and in case the same shall not be paid within Thirty Days next after the same shall at any Time so become due and payable, it shall be lawful for any two Justices of the Peace acting in and for the said County of *Ayr*, and they are hereby required by an Order under their Hands, to appoint one or more Person or Persons to receive the Rates hereby granted and made payable, and to pay the same to the Person or Persons to whom the said Rents shall be due and unpaid as aforesaid, the said Justices taking such Security from every such Collector for the due and lawful Execution of his

his Office, as they shall judge proper and sufficient; and every Person so appointed shall be deemed a Collector of the said Rates, and shall have the same Power and Authority for collecting the same, and to receive and retain thereout a reasonable Satisfaction for his Trouble therein, as if he had been appointed a Collector of the said Rates by the said Company, until such Rents, with all Costs and Damages occasioned by the Non-payment thereof, shall be fully satisfied and paid, or it shall be lawful for such Bodies Politic, Corporate, or Collegiate, Trustees, or other Person or Persons to whom such Rents shall be due and owing as aforesaid, to sue for and recover the same, with such Costs of Suit by Action before the Sheriff of the County of *Ayr*; or before the Court of Session or otherwise, to seize, pound, and distrain any Waggon or Carriage, or other Goods or Effects of the said Company, which shall be found upon the said Railway, or in or upon the Warehouses or other Works thereto belonging (Information of such Distress being immediately given to the said Company by Notice in Writing delivered to their Clerk, or one of the Collectors of the Rates, or affixed to some of their Premises near to the Place where such Seizure was made) and to detain the same until Payment of such Rents then due and owing, together with the reasonable Charges attending such Distress; and if such Distress shall not be redeemed within Five Days next after making the same, and Notice thereof given in Writing as aforesaid, then such Waggons, Carriages, or other Goods and Effects so distrained, shall and may be sold or disposed of in such Manner as the Law directs in case of a Distress for Rent by poinding or otherwise.

XXXV. Provided always, and be it enacted, That if any such Body Politic, Corporate, or Collegiate, Trustee or Trustees, or other Person or Persons so interested or entitled as aforesaid, shall refuse to treat, or shall not agree with the said Committee, or by reason of Absence shall be prevented from treating, or through Disability by Nonage, Coverture, or other Impediment, cannot treat for themselves, or make such Agreement as shall be convenient for promoting the said Undertaking, or shall not produce and evince a clear Title to the Premises which they are or shall be possessed of, or to the Interest which they claim therein, then and in every such Case the Sheriff Depute or Substitute shall summon Forty-five sufficient and indifferent Men as Jurymen, to appear before him at such Time and Place as in such Warrant or Warrants shall be appointed, not being less than Nine, nor more than Twenty-one Days after Requisition for that Purpose shall have been served upon the said Sheriff Depute or Substitute by either Party; and out of such Persons so to be summoned the said Sheriff Depute or Substitute shall, in the Presence of the Parties interested, if they choose to attend, and to whom due Notice for that Purpose shall be given, draw out the Names of Fifteen Persons, who shall form a Jury for the Purposes aforesaid; and in case of the Death of any of the Fifteen Persons so drawn, or of their Inability to attend or act, such additional Number shall be drawn in like Manner from the remaining Names of Persons so summoned, as will make up a complete Jury of Fifteen, able to attend and act; and the said Sheriff Depute or Substitute is hereby empowered to summon and call before them all and every such Person and Persons who shall be thought necessary to be examined as a Witness or Witnesses touching the Matters in Question; and the said Sheriff Depute or Substitute may order and authorize the said Jury, or any Five of them, to view the Place or Places, or Matters in Controversy,

In case of Refusal to treat, a Jury to be summoned for settling the Value.

Sheriff may summon Witnesses, and examine them on Oath.

verly, which Jury, upon their Oaths (which Oaths, as well as the Oaths to such Person or Persons as shall be called upon to give Evidence, the said Sheriff Depute or Substitute are hereby empowered to administer) shall enquire of, assess, and ascertain the Sum of Money or Annual Rent to be paid for the said Lands or heritable Subjects, or the Recompence to be made for the Damages that may or shall be sustained as aforesaid, and shall assess separate Damages for the same: and the said Sheriff Depute or Substitute shall give Judgment for such Purchase Monies, Rent, or Recompence, to be assessed by such Juries; which said Verdict, and the Judgment pronounced thereupon as aforesaid, shall be signed by the said Sheriff, and shall be binding and conclusive, to all Intents and Purposes, against all Bodies Politic, Corporate, and Collegiate, and all other Persons whomsoever; and if any such Sheriff Depute or Substitute shall make Default in the Premises, he shall for every such Offence forfeit and pay any Sum not exceeding Twenty Pounds; and if any Person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing shall refuse to give his Verdict, or in any other Matter wilfully neglect his Duty, contrary to the true Intent of this Act; or if any Person so summoned to give Evidence shall not appear, or appearing shall refuse to be sworn and examined, or give Evidence, every Person so offending, having no reasonable Excuse to be allowed by the said Sheriff Depute or Substitute, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, for the Benefit of the Party in whose Behalf such Person was so summoned.

Expence of
Juries

XXXVI. And be it further enacted, That in all Cases where a Verdict shall be given for more Monies as a Recompence or Satisfaction for any Lands or Heritages of any Person or Persons whomsoever, or for any Damage to be done to any Lands or Heritages of any Person or Persons than had been previously offered by or on Behalf of the said Company, then all the Expences of summoning such Jury and taking such Inquest, shall be settled by the said Sheriff Depute or Substitute, and be defrayed by the said Company; but if any Verdict shall be given and made for the same, or for a less Sum than had been previously offered by or on Behalf of the said Company as aforesaid, or in case no Damage shall be given by the Verdict where the Dispute is for Damages only, then and in every such Case the Costs and Expences of summoning such Jury and taking such Inquest shall be settled by the said Sheriff Depute or Substitute, borne and paid by the Person or Persons with whom the said Company shall have such Controversy or Dispute, which said Costs and Expences having been so settled, shall and may be deducted out of the Money so assessed and adjudged, where the same shall exceed such Costs and Expences, as so much Money advanced to and for the Use of such Person or Persons; and the Payment or Tender of the Remainder of such Monies shall be deemed and taken to all Intents and Purposes, to be a Payment or Tender of the whole Sum or Sums so assessed or adjudged, or otherwise such Costs and Expences, in case the same be not paid on Demand after being so ascertained and settled as aforesaid, may be recovered by the Ways and Means as are hereinafter provided for Recovery of Penalties and Forfeitures: Provided always, that whenever any Person or Persons shall, by reason of Absence, Disability, or otherwise, have been prevented as aforesaid from treating, the whole of such Costs, Charges, and Expences shall be borne and defrayed by the said Company.

XXXVII. And

XXXVII. And be it further enacted, That all and every such Person and Persons making Complaint and requesting such Jury, shall, before the said Sheriff Depute or Substitute be obliged to issue out his Warrant or Warrants for summoning such Jury, first enter into Bond with Two sufficient Sureties, to the Treasurer of the said Company for the Time being in the Penalty of One Hundred Pounds, or in such other Penalty as the said Sheriff Depute or Substitute shall appoint, not exceeding the Sum of One hundred Pounds, to prosecute such his, her, or their Complaint, and to bear and pay the Costs and Expences of summoning such Jury and taking such Inquests, in the Proportion and Manner hereinbefore mentioned: Provided always, that the said Sheriff Depute or Substitute shall not receive or take Notice of any Complaint or Complaints to be made by any Person or Persons whomsoever, for any Damage or Injury by him, her, or them sustained in consequence of the Execution of any of the Powers of this Act, unless Notice in Writing shall have been given in relation thereto, by or on Behalf of such Person or Persons, to the said Company or to their Committee or Clerk, Ten Days at the least before such Complaint shall be made to such Sheriff Depute or Substitute, and within the Space of Two Calendar Months next after the Time that such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have ceased.

Persons requesting a Jury to procure Bail for Costs.

Notice to be given.

XXXVIII. And be it further enacted, That the said Sheriff Depute or Substitute, and Juries respectively shall award all Determinations, Judgments, and Verdicts which they shall respectively make and give in the Execution of the Powers hereby vested in them concerning the Value of Lands or heritable Subjects separately and distinctly from the Consideration of any other Damages sustained or to be sustained by any Person or Persons in consequence of the Execution of any of the Powers of this Act, and shall distinguish the Value set upon the Lands and other heritable Subjects, and the Money assessed and adjudged for such Damages as aforesaid, separately and apart from each other.

Awards for Value of Grounds and Damages to be separate.

XXXIX. And be it further enacted, That all the Verdicts of the Juries and the Judgments of the said Sheriffs thereon as aforesaid, shall be kept by the Sheriff, Clerk or other Person having the Custody of the Records of the Sheriff's Court for the said County of Ayr; and the same or true Copies thereof shall be allowed to be good Evidence in all Courts whatsoever; and all Persons shall have liberty to inspect the same, paying for each Inspection the Sum of Sixpence and no more, and to take Copies thereof, paying for every Copy after the Rate of Sixpence for every One hundred Words, and so in proportion for any less Number of Words.

All Determinations and Verdicts of Juries to be deposited in the Sheriff Court.

XL. And, in order that the said Company of Proprietors may not be impeded in the Prosecution of their said Undertaking by means of any such Proceedings before the said Sheriff Depute or Substitute and Jury; be it further enacted, That either upon Payment or legal Tender of such Sum or Sums of Money by the said Company, or on their giving Security for Payment of any such Annual Rent as shall be contracted or agreed for between the Parties, or assessed by such Juries in Manner respectively as aforesaid, for the Purchase of any Lands or other heritable Subjects, or as a Recompence for the yearly Produce or Profits thereof,

The Lands to vest in Company upon paying or giving Security for Value, or Compensation for Damages.

or as a Compensation for Damages as herein before mentioned, to the Proprietor or Proprietors of such Lands and Premises, or to such other Person or Persons as shall be interested therein, or entitled to receive such Money, Rent, or Compensation respectively; or if the Person or Persons interested to the said Lands and heritable Subjects shall not be able to make a good Title thereto, so as to entitle himself or themselves to receive, or shall actually refuse to receive the Sum or Sums awarded to him, her, or them by the said Jury, or to execute a sufficient Conveyance; or in case such Person or Persons to whom such Sum or Sums shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands or heritable Subjects be not known or discovered, then and in any of these Cases, upon Payment of the said Sum or Sums of Money into the Bank or Royal Bank of *Scotland* in Manner by this Act directed; and in all or any of the said Cases, as often as the same shall happen, it shall be lawful for the said Company of Proprietors, and their Agents, Workmen, and Servants immediately to enter upon the Lands, Tenements, and other heritable Subjects respectively (or before such Payment or Tender, or Security given, by leave of the Owners and Occupiers thereof) and then and thereupon such Lands, Tenements, and other Heritages, together with the yearly Profits thereof and all the Estate, Use, Trust, Interest, Benefit, Property, Claim, and Demand, of any Person or Persons therein, shall from thenceforth be vested in and become the sole Property of the said Company of Proprietors to and for the Purposes of this Act for ever, and they shall be deemed in Law to be in the actual Right and Possession thereof, to all Intents and Purposes whatsoever, as fully and effectually as if every Person having any Estate in the Premises had conveyed the same to the said Company by any legal Conveyance whatsoever, and as if they had been enfeoffed thereupon; and such Payment or Security as aforesaid shall not only bar all Right, Title, Claim, Interest, and Demand of the Person or Persons to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the Terce or Jointure of the Wife of every such Person, and all Estates and Interests under Entail or in Reversion or Remainder or otherwise therein against the Issue and Heirs of every such Person, and against all other Persons whomsoever therein: Provided nevertheless, that before such Payment or Security as aforesaid, it shall not be lawful for the said Company of Proprietors, or any Person acting under their Authority, to dig or cut the Lands or Grounds of the Person or Persons entitled to such Payment or Security, for the Purpose of making the said Railway or Works without the Consent of such Person or Persons respectively.

Application
of Compensation
Money to
Corporations,
Minors, &c.
when amount-
ing to 200l.
or upwards.

XLI. And be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Houses, Heritages, or other Subjects purchased, taken, or used for the Purposes of this Act which were held under Entail, or subject to Liferent Annuities or other Incumbrances, or belonging to any Corporation, married Woman, Minor, Lunatic, Idiot or other Person under any legal Disability or Incapacity, such Money, in case the same shall amount to Two Hundred Pounds or upwards, shall be under the Authority and Direction of the Court of Session, and shall without Delay be paid in the Bank of *Scotland*, or Royal Bank of *Scotland*, or such other Bank as the Court shall direct, upon the highest Interest that can be got, in order that it may be applied, with the Approbation and by the Authority of the said Court, in the Purchase of the Land Tax, or in the

Discharge

Discharge of any Debt or Incumbrance affecting the said Lands, Houses, or other Subjects, or affecting other Lands or Houses belonging to the same Persons and settled to the same or like Uses, and under the like Conditions and Limitations; and when such Money cannot be applied to those or the like Purposes, then the same shall be laid out in the Purchase or on the Security of other Lands, Houses, and Subjects of the like Nature, and the Rights and Titles thereof shall be devised to the same Person or Persons, or for their Benefit to the same Series of Heirs, for the same Uses and Purposes, and under the same Provisions, Conditions, and Limitations as the Lands, Houses, and other Subjects taken and used for the Purposes of this Act were devised and settled; or such of them as shall be then existing and capable of taking effect; and in the mean Time, until such Purchase or Security can be effected, the Interest of such Money shall be paid by the Authority of the said Court to the Person or Persons who, for the Time being would have been entitled to the Rents and Profits of the Lands, Houses, or other Subjects so taken and used by the said Company of Proprietors.

XLII. And be it further enacted, That if such Money so to be paid or any such Houses, Lands, Heritages, or other Subjects shall be less than Two Hundred Pounds, but shall be equal to or exceed Twenty Pounds Sterling, then and in all such Cases the same shall at the Option of the Person or Persons who for the Time being would have been entitled to the Rents and Profits of the Lands, Houses, Heritages, and other Subjects conveyed to or taken by the said Company of Proprietors for the Purposes of this Act, to be signified in Writing under their respective Hands, or under the Hands of their Tutors, Curators, or Trustees, in Cases of Minority, Lunacy, or Trust, such Money shall be paid into one or other of the said Banks under the Direction and Authority of the Court of Session, and shall be applied in the Manner before directed, or otherwise the same shall be paid at the like Option to Two Trustees, to be named by the Person or Persons making such Option, and approved of by the said Committee, or any Three or more of them, in order that such Money and the Interest arising thereon may be applied in the Manner before directed, as far as the Circumstances of the Case shall make it practicable.

If less than
200l. and
above 200l.

XLIII. And be it further enacted, That where such Money shall be less than Twenty Pounds Sterling, then the same shall be applied to the use of the Person or Persons who for the Time being would have been entitled to the Rents and Profits of the Lands, Houses, and other Subjects so taken and conveyed for the Purposes aforesaid; in such Manner as the said Committee, or any Three or more of them, shall think fit, or in case of Trust to his or their Trustees, or in case of Minority or Lunacy, to his, her, or their Tutors or Curators for the Use and Benefit of such Person or Persons so entitled respectively.

If less than
20l.

XLIV. And be it further enacted, That in case any Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Houses, or other Subjects purchased by this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises to the Satisfaction of the said Committee, or in case such Person or Persons to whom such Sum or Sums of Money shall be so awarded as

In case of not
making out
Titles, &c.

aforesaid

aforefaid cannot be found, or if the Person or Persons entitled to fuch Lands, Houfes, or other Subjects be not known or difcovered, then and in every fuch Cafe it fhall and may be lawful to and for the faid Committee to order the faid Sum or Sums of Money, fo awarded as aforefaid, to be paid into the Bank of *Scotland*, or *Royal Bank of Scotland*, to the Credit of the Parties interefted in the faid Lands, Houfes, or other Subjects [*describing them*] fubject to the Order, Controul, and Difpofition of the Court of Seflion, which faid Court on the Application of any Person or Persons making Claim to fuch Sum or Sums of Money or any Part thereof by Petition, fhall be and he is hereby empowered in a fummery Way of Proceeding, or otherwife as to the fame Court fhall feem meet, to order the fame to be laid out and invested in the public Funds, and to order Diftribution thereof, or Payment of the Dividends thereof, according to the refpective Eftate or Eftates, Title or Intereft of the Person or Persons making Claim thereunto, and to make fuch other Order in the Premifes as to the faid Court fhall feem juft and reasonable; and the Treasurer or Treasurers, Cashier or Cashiers of the Bank of *Scotland*, or *Royal Bank of Scotland*, who fhall receive fuch Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for fuch Sum or Sums of Money, mentioning and fpecifying for what and for whose Ufe the fame is or are received, to fuch Person or Persons as fhall pay any Sum or Sums of Money into the Bank as aforefaid.

Where any
Question fhall
arife touching
the Right to
fuch Money

XLV. And be it further enacted, That where any Question fhall arife touching the Title of any Person to any Money to be paid into the Bank in purfuance of this Act, for the Purchase of any Lands, Houfes or other Subjects, or of any Eftate, Right, or Intereft in any Lands, Houfes, or other Subjects to be purchased in purfuance thereof, the Person or Persons who fhall have been in the Poffeffion of fuch Lands, Houfes, or other Subjects at the Time of fuch Purchase, and all Persons claiming under fuch Person or Persons, or under the Poffeffion of fuch Person or Persons, fhall be deemed and taken to have been lawfully entitled to fuch Lands, Houfes or other Subjects, according to fuch Poffeffion, until the contrary fhall be fhewn to the Satisfaction of the faid Court of Seflion; and fuch Money and the Intereft thereof fhall be paid, applied, and difpofed of accordingly, unlefs it fhall be made appear to the faid Court that fuch Poffeffion was a wrongful Poffeffion, and that fome other Person or Persons was or were lawfully entitled to fuch Lands, Houfes, or other Subjects, or to fome Eftate or Intereft therein.

The Court
may order rea-
fonable Ex-
pences of Pur-
chafes to be
paid by Com-
mittee.

XLVI. Provided always, and be it further enacted, That where by reason of any Difability or Incapacity of the Person or Persons or Corporation entitled to any Lands, Houfes, or other Subjects to be purchased under the Authority of this Act, the Purchase Money for the fame fhall be required to be paid into the faid Banks, and to be applied in the Purchase of other Lands, Houfes, or other Subjects, to be fettled to the like Ufes in purfuance of this Act, it fhall be lawful for the faid Court to order the Expences of all Purchafes from Time to Time to be made in purfuance of this Act, or fo much of fuch Expences as the Court fhall deem reasonable, together with the neceffary Cofts and Charges of obtaining fuch Order to be paid by the faid Company of Proprietors, which fhall from Time to Time pay fuch Sums of Money for fuch Purpofes as the faid Court fhall direct.

XLVII. And

XLVII. And, in consideration of the great Charge and Expence which the said Company must incur and sustain in making and maintaining the said Railway and other Works hereby authorized to be made and maintained, be it further enacted, That it shall be lawful for the said Company from Time to Time, and at all Times hereafter, to ask, demand, take, recover, and receive, to and for the Use and Benefit of the said Company, for all Goods, Wares, and Merchandize, and other Things whatsoever, which shall be carried or conveyed upon any Part of the said Railway, such Rates and Duties as the said Company shall think fit, not exceeding the Sum of Three Pence per Ton Weight thereof per Mile.

Rates of
Tonnage.

XLVIII. And, for the better ascertaining the Tonnage of Stone, Timber, and other Goods, to be charged with the Payment of such Rates as aforesaid on the said Railway, be it further enacted, That Fifty Cubic Feet of Round and Forty Cubic Feet of Square Oak, Ash, Elm, or Beech Timber, and Fifty Cubic Feet of Fir or Deal, Balk, Poplar, Birch, or other Timber or Wood, not cut in Scantlings, shall, for the Purposes of this Act, be respectively deemed, rated, and estimated as and for One Ton Weight; and One hundred and Twelve Pounds Weight Avoirdupois of Coal, Coke, Culm, Lime, Sand, Slate, Tin, Freestone, Limestone, and all other Commodities, Goods, Wares, Merchandize, Matters, and Things, of whatever Kind or Description, shall, for the Purposes of this Act, be deemed, rated, or estimated as and for One hundred Weight; and Two thousand Two hundred and Forty Pounds Weight of all Commodities, Matters, and Things whatsoever, shall, for the Purposes of this Act, be deemed and taken to be One Ton; any Usage of rating or estimating the same to the contrary thereof notwithstanding.

What Quantities of Timber and light Goods shall be deemed a Ton.

XLIX. And be it further enacted, That in all Cases where there shall be a Fraction of a Ton, a Proportion of the said Rates shall be demanded and taken for such Fraction, according to the Number of Quarters of a Ton contained in such Fraction; and in all Cases where there shall be a Fraction of a Quarter of a Ton, such Fraction shall be deemed and considered as a whole Quarter of a Ton; and in all Cases where there shall be a Fraction of a Mile in the Distance which any Waggon or other Carriage shall pass upon the said Railway, a Proportion of the said Rates shall be demanded and taken for such Fraction, according to the Number of Quarters of a Mile contained in such Fraction; and in all Cases where there shall be a Fraction of a Quarter of a Mile, such Fraction shall, in ascertaining the said Rates, be deemed and considered as a whole Quarter of a Mile; and in order to ascertain such Distances the said Company shall cause the said Railway to be measured, and Stones or Posts with proper Inscriptions to be erected, and for ever maintained, on the Sides of the same at the Distance of One Quarter of a Mile from each other.

Directing how Fractions of Rates shall be paid.

L. And be it further enacted, That the Rates herein authorized to be demanded and taken shall be paid to such Person or Persons, at such Place or Places at or near the said Railway, in such Manner and under such Regulations as the said Company, at some General or Special General Assembly or Assemblies shall direct or appoint; and in case any Person or Persons shall refuse or neglect to pay such Rates, or any Part thereof, on Demand, to the Person or Persons appointed to receive the same by the said Company of Proprietors or their Committee, then and

Mode of Recovery of Rates.

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in every such Case it shall and may be lawful to and for the said Company to sue for the same by Action before the Court of Session, or it shall and may be lawful to and for the Person or Persons so appointed to collect such Rates, and he and they is and are hereby authorized to seize the Goods or other Things for or in respect whereof such Rates or any Part thereof ought to have been paid respectively, and the Waggon or other Carriage laden therewith, and detain the same until Payment shall be made, and also until Payment of all Arrears of any Rates which may be due from the Owner or Owners of such Waggon or other Carriages (as the Case may be) to the said Company, together with the reasonable Charges of such Seizure and Detention; and if such Goods or other Things, Waggon or Carriage shall not be redeemed within Five days next after the taking thereof, the same shall be appraised and sold as the Law directs in Cases of pouding or Distress for Rent.

Profits not to exceed 20 per Cent.

LI. Provided always, and be it enacted, That it shall and may be lawful to and for any Two Justices of the Peace in and for the said County of *Ayr*, after the Expiration of Three Years from the Completion of the said Works, and they are hereby authorized to require from the Clerk of the said Company of Proprietors by a Summons in Writing under their Hands and Seals, an Abstract of the Accounts of the said Company, which Abstract the said Clerk is hereby required to produce to such Justices within Thirty Days after the Receipt of such Summons, shewing the clear Profits made for such Three Years, to be made up, signed, and sworn to by the Clerk of the said Company; and the said Clerk, after making Oath to the Truth thereof, shall deliver the said Abstract to the said Justices or one of them, or such Person as they shall appoint, to be afterwards deposited with the Sheriff of the said County of *Ayr*, and the said Justices shall consider the same, and shall report what Dividends the said clear Profits shall have afforded to the said Company, or it shall and may be lawful to and for the said Justices to issue a Summons under their Hands and Seals to produce the several Books containing the Accounts of the Receipts and Disbursements of the said Company of Proprietors, all which Books the said Company of Proprietors shall and they are hereby required to produce within Thirty Days after the Receipt of such Summons; and in case it shall appear that such Profits shall have afforded more than *Twenty per Centum per Annum* upon an Average upon the Sums originally subscribed and paid up, then the said Company shall be bound at the First General Meeting, on being thereunto required by the said Justices to reduce the aforesaid Rates of Tonnage to such Sums as shall appear to the said Justices to be sufficient to afford out of such clear Profits Dividends not exceeding *Twenty per Centum per Annum* upon the capital Stock of the said Company that shall have been paid up; and in case at any subsequent Period of Two Years it shall appear to the said Justices that a less Profit than *Twenty per Centum per Annum* hath accrued to the Company upon the Average of the said Two Years, such Profits to be ascertained as hereinbefore directed, it shall be lawful for the said Company to increase the said Rates of Tonnage, not exceeding at any Time the original Rates hereby authorized to be taken, and the said Rates shall be reduced and increased in like Manner from Time to Time, but no Reduction or Increase shall take place oftener than once in Two Years.

LII. And

LII. And, for the better ascertaining and more easily collecting the said Rates, be it further enacted, That the Owner or Owners, or Person or Persons having the Care of any Waggon or other Carriage passing upon the said Railway, or any Part thereof, shall give an exact and true Account in Writing, signed by him or them, to the Collector or Collectors of the said Rates at the Place or Places where he or they shall attend for that Purpose, of what Quantity of Goods or other Things as aforesaid shall be in such Waggon or other Carriage respectively, and from whence brought, and where the same are intended to be unloaded or left; and in case any such Owner or Owners, Person or Persons, having the Care of such Waggon or other Carriage, shall neglect or refuse to give such Account to any such Collector demanding the same, or shall give a false Account, or shall deliver any Part of his Lading or Goods at any other Place or Places than what is or are mentioned in such Account, with Intent to avoid the Payment of the said Rates, or any Part of them, then and in every such Case every such Owner or Owners, Person or Persons so offending, shall forfeit and pay any Sum not exceeding Twenty Shillings for every Ton of Goods and other Things, and so in proportion for any less Quantity than a Ton which shall be in any such Waggon or other Carriage respectively, of which he, she, or they shall have so refused or neglected to give such Account, or which shall have been so fraudulently delivered out as aforesaid (as the Case shall be) over and above the respective Rates directed to be paid for the same by virtue of this Act.

Masters of Waggon to give Account in Writing of the Goods in Waggon.

LIII. And be it further enacted, That if any Difference shall arise between any Collector or Collectors of the said Rates and the Owner or Owners, or Person or Persons having the Charge of any Waggon or other Carriage, or the Owner of any Goods or other Things therein, then and in every such Case it shall be lawful for any such Collector or Collectors to stop and detain any such Waggon or other Carriage, and to weigh, measure, and gauge, or cause to be weighed, measured, or gauged, such Waggon or other Carriage, and all such Goods and other Things as shall be therein contained respectively; and in case the same shall upon such weighing, measuring, or gauging appear to be of greater Weight or Quantity than what is set forth and contained in the Account given thereof as aforesaid, then and in every such Case the Owner or Owners, or Person or Persons giving in such Account shall pay the Costs and Charges of such weighing, measuring, and gauging, all which said Costs and Charges upon Nonpayment thereof upon Demand shall and may be settled by any Justice of the Peace for the said County, and the same, when so settled, shall and may be recovered and levied by such Ways and Means and in such Manner as any Penalty or Forfeiture can or may be recovered and levied by virtue of this Act; but if such Goods and other Things shall be of the same or less Weight or Quantity than the same shall by such Account have been stated to be of, then and in every such Case the said Collector or Collectors shall pay the Costs and Charges of such weighing, measuring, and gauging, and also pay to such Owner or Owners, or Person or Persons, or to the Owner or Owners of such Goods or other Things a reasonable Satisfaction as Damages for such Detention, all which Costs and Charges and Satisfaction shall be settled by some Justice of the said County, and the same when so settled shall and may be recovered and levied by such Ways and Means and in such Manner as any Penalty or Forfeiture can or may be recovered and levied by virtue of this Act.

If any Difference, Collectors may weigh or measure Waggon.

LIV. And

Power to fix Rates of small Parcels.

LIV. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors from Time to Time to ascertain and fix the Price or Sum or Sums of Money to be charged or taken for the Carriage of any Parcel not exceeding Five hundred Pounds in weight upon the said Railway, or upon any Part or Parts thereof; and the said Company of Proprietors shall from Time to Time cause to be printed and affixed upon every public Tollhouse or Building on or near to the said Railway, in some conspicuous Place, a List or Account ascertaining and particularizing the Price or Sum or Sums of Money to be charged or taken for the Carriage of such Parcels as aforesaid upon the said Railway; and in case any Owner or Master, or other Person having the Care of any Waggon or other Carriage passing upon the said Railway, or upon any Part or Parts thereof, after such List or Account so ascertaining and particularizing the Price or Sum or Sums of Money at which every such Parcel shall be so carried and conveyed shall be so fixed as aforesaid, shall demand or take for the Carriage of any such Parcels as aforesaid more than the Price or Sum or Sums of Money in such List or Account ascertained and particularized for that Purpose, such Owner, Master, or other Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, at the Discretion of the Judge or Magistrate before whom such Person shall be convicted.

Passage or Railway to be free on Payment of Rates.

LV. And be it further enacted, That all Persons whomsoever shall have free Liberty to use with Horses, Cattle, and Carriages the Roads, Ways and Passages to be made by virtue of this Act, for the Purpose of conveying any Goods, Wares, Merchandize, and other Things to or from the said Railway and every Part thereof, without paying any Thing for the use of such Roads, Ways, and Passages, and also to pass upon and use the said Railway with Waggons or other Carriages properly constructed respectively as hereinafter mentioned, and to employ any Cranes, Warehouses, or Places belonging to the said Company for loading and unloading such Goods and other Things upon Payment of such Rates as shall be demanded by the said Company, not exceeding the respective Sums herein mentioned, and subject to the Rules, Orders, Bye Laws, and Regulations which shall be from Time to Time made by the said Company by virtue of the Powers herein granted.

No Waggons to pass on Railway unless constructed according to Regulations of the Company.

LVI. And be it further enacted, That no Person or Persons whomsoever shall pass upon any Part of the said Railway with any Waggon or other Carriage whatsoever, unless the same shall be constructed agreeably to the Orders and Regulations of the said Company, which Orders and Regulations shall be stuck upon a conspicuous Part of every Tollhouse erected upon such Railway for the collecting of the Rates by this Act imposed (except in crossing the same for the convenient Occupation of the adjacent Grounds, or in passing any public or private Carriage Road which may happen to cross the said Railway); and all such Orders and Regulations shall be affixed to some conspicuous Part of every Tollhouse for collecting the said Rates arising on the said Railway; and if any Person or Persons whomsoever shall pass upon any Part of the said Railway with any Waggon or other Carriage not constructed in the Manner hereinbefore directed (except as before excepted) he, she, or they so offending shall for every such Offence forfeit and pay any Sum not exceeding Ten Pounds, to be levied, recovered, and applied in such and the like Manner as any Penalty or Forfeiture can or may be levied, recovered, and applied by virtue of this Act.

VII. And

LVII. And for the better Regulation of the Owners of Waggon and other Carriages and others employed by or under them respectively, and for the more easy Detection of any Thing by them done contrary to the Directions of this Act, be it further enacted, That the Owner of every Waggon or other Carriage passing along the said Railway shall cause his or her Name and Place of Abode, and the Number of his or her Waggon or other Carriage to be entered with the Clerk to the said Company, and shall also cause such Name and Number to be painted in large white capital Letters and Figures on a black Ground, three Inches high at the least, and a proportional Breadth, on some conspicuous Part of the Outside of every such Waggon or other Carriage, and shall permit and suffer every such Waggon or other Carriage to be gauged or measured at the Expence of the said Company, whenever it shall be required by them or any Person or Persons appointed for that Purpose; provided that no such Waggon or other Carriage shall be gauged or measured more than Four Times in any one Year; and the Owner of every Waggon or other Carriage which shall pass on any Part of the said Railway without having such Name, Figures, and Index thereon as hereinbefore directed, and every Person who shall alter, erase, deface, or destroy the same, or any Part thereof, or who shall refuse to permit and suffer any such Waggon or Carriage to be gauged and measured, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Owners to
put their
Names on the
Waggon.

LVIII. And be it further enacted, That the Owner or Owners of every Waggon or other Carriage passing upon the said Railway, or any Part thereof, shall be, and he, she, and they is and are hereby made answerable for any wilful Damage, Spoil, or Mischief that shall be done by his, her, or their Waggon or other Carriage, or any of the Drivers or other Persons belonging to or employed in or about the same respectively, unto the Railway or other Works to be made by virtue of this Act, or by loading and unloading any Waggon or other Carriage, and for any wilful Trespass or Damage that shall or may be done to the Owner or Occupier of any Building, Lands, or Tenements, or other Property adjoining or lying near to the same, or any of them, or any other Trespass whatsoever, and the said Owner or Owners of such Waggon or other Carriage shall for every such wilful Damage, upon Conviction of such Person or Persons before any Justice of the Peace either by the Confession of the Party or Parties offending, or upon the Oath or Oaths of One or more credible Witness or Witnesses (which Oath or Oaths such Justice is hereby empowered and required to administer) pay to the Person or Persons injured the Damages to be ascertained by such Justice, provided that such Damage do not exceed the Sum of Five Pounds, and over and above such Damages shall also forfeit and pay to the Informer any Sum not exceeding Twenty Shillings, and all the Costs, Charges, and Expences attending such Conviction; which Damages, Penalties, and Costs shall be levied by Distress and Sale of the Goods and Chattels of the Owner or Owners of such Waggon or other Carriage, by Warrant or Warrants under the Hand of such Justice, and the Overplus (if any) after such Penalty, Damages, and the Costs and Charges of such Distress and Sale are deducted, shall be returned upon Demand to the Owner or Owners of such Goods and Chattels, or if the said Damages shall exceed the Sum of Five Pounds, then and in such Case the Owner or Owners of such Waggon or other Carriage shall and may be prosecuted for the same in the Court of Session, and if found guilty or a Verdict passed against him or

Owners of
Waggon an-
swerable for
Damages.

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her; or Judgment be given against him or her, the Pursuer in such Case shall recover his Damages thereby sustained, with full Costs of Suit.

Owners of Waggon
to have Recourse
on their Servants
for Damages.

LIX. Provided always, That in case the Owner or Owners of any Waggon or other Carriage as aforesaid shall be compelled to pay any Penalty, or to make Satisfaction for any Damage by reason of any wilful Neglect or Default done or committed by his, her, or their Servant, such Servant shall be liable to repay such Penalty or Satisfaction to such Owner or Owners, and in case of Nonpayment upon Demand thereof, and Oath made by such Owner or Owners of the Payment by him, her, or them of such Penalty or Satisfaction, and that the same hath not been repaid to him, her, or them, by such Servant, although demanded, (such Oath to be made before any one Justice of the Peace acting in and for the said County of *Ayr*;) the same Penalty and Satisfaction shall be levied by Warrant under the Hand of such Justice, by Distress and Sale of the Goods and Effects of such Servant, together with all Costs and Charges attending such Distress and Sale; and the said Penalty and Satisfaction, when recovered, shall be paid to such Owner or Owners, in Discharge of such Penalty or Satisfaction so by him or them paid for the wilful Act or Default of such Servant as aforesaid; and in case no sufficient Distress can be had, such Justice of the Peace shall and is hereby required to commit such Servant to the common Gaol or House of Correction for the said County, there to remain without Bail, for any Time not exceeding Three Calendar Months.

Company or
Committee to
regulate Pas-
sage of Wag-
gons.

LX. And be it further enacted, That if any Waggon or other Carriage shall be placed or suffered to remain in any Part of the said Railway or other Works so as to obstruct the Passage thereof, and the Person having the Care of such Waggon or other Carriage shall not, immediately upon Request made, remove such Waggon or other Carriage, then and in every such Case every such Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Shillings for every Hour such Obstruction shall continue after the making of such Request; and it shall be lawful for any Collector or other Officer belonging to the said Company to cause any such Waggon or other Carriage to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction, and to detain such Waggon or other Carriage and the Loading thereof, or any Part of such Loading, until the Charges occasioned by such Removal shall be paid and discharged.

Company to
make Gates,
Arches, &c.
under Direc-
tion of Jus-
tices.

LXI. And be it further enacted, That the said Company shall within Six Calendar Months next after any Part of the said Railway shall be laid out and formed, at their own Costs and Charges, make, erect, and set up, and from Time to Time maintain and support such and so many convenient Gates in and upon the said Railway, and also such Arches, Ditches, Drains, and Passages, over, under, or by the Side of the said Railway, of such Dimensions and in such Manner as any Two Justices of the Peace acting in and for the said County shall from Time to Time judge necessary and appoint, in case there shall be any Dispute about the same, for the Use of the Owners and Occupiers of the Lands and Grounds through which such Railway shall be made, or for protecting the said Lands and Grounds from Trespass, or the Cattle or other Property of the Owners or Occupiers thereof from straying or escaping, by reason of such Railway, or any other Matter or Thing to be done in pursuance of this

Act;

Act; and all such Gates, Arches, Ditches, Drains, and Passages, so to be made as aforesaid, shall from Time to Time and at all Times thereafter be supported, maintained, and kept in sufficient Repair and Condition by the said Company; and in case the said Company shall refuse and neglect to make, erect, or set up such Gates, Arches, Ditches, Drains, and Passages, as hereinbefore directed, or to maintain and support the same or any of them when erected, set up, and made, in Manner as aforesaid, for the Space of Six Calendar Months next after the Time to be appointed for those Purposes respectively by the said Justices, then and in every such Case it shall be lawful for all or any of the Owners or Occupiers of the said Lands or Hereditaments who shall find himself, herself, or themselves aggrieved by such Refusal or Neglect to make, erect, and set up all such Gates, Arches, Ditches, Drains, and Passages, or any of them, as the said Justices shall have before directed or appointed to be made, erected, and set up as aforesaid, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that in making and maintaining such Gates, Arches, Ditches, Drains, and Passages, or any of them as aforesaid, the said Railway, Buildings, and other Things hereby authorized to be made or erected by the said Company shall not be obstructed or injured for any longer Space of Time or in any other Manner than shall be necessary for the doing thereof, and all the reasonable Costs and Charges thereof (to be settled and allowed by the said Justices) shall be repaid to the respective Owners or Occupiers of the said Lands or Heritages, who shall have so erected and made, repaired or maintained such Gates, Arches, Ditches, Drains, and Passages, or any of them as aforesaid by the said Company within the Space of Two Calendar Months next after the same shall have been so settled and allowed, and an Account and Demand in Writing shall have been delivered and made thereof to and from the said Company; and in Default of Payment of the said Costs within the Time aforesaid, the said Justices shall and they are hereby required, by Warrant under their Hands, to levy the said Costs and Charges by Distress and Sale of any of the Goods and Effects of the Company, for the use of such Person or Persons who shall have so incurred such Costs and Charges, rendering to the said Company the Overplus (if any) after deducting the reasonable Charges of making such Distress and Sale, and such Costs and Charges shall be settled by the said Justices; and every and any of the said Owners and Occupiers, upon Refusal or Neglect of the said Company to pay the said Costs and Charges as aforesaid, shall and may also have such and the like Remedy against them for the Recovery thereof by Action of Law, to be commenced and prosecuted in such Manner as in other Cases is by this Act directed.

LXII. Provided always, and be it further enacted, That if it shall at any Time or Times appear to the Owner or Occupier, Owners or Occupiers of any Lands or other Heritages through which the said Railway shall be made, that the Gates, Arches, Ditches, Drains, and Passages, or any of them, which the said Two Justices shall have so directed or appointed to be made by the said Company, are insufficient either in their Number or Situation for the commodious Use and Occupation of their respective Lands or Heritages through which the said Railway shall pass, then and in every such Case it shall be lawful for any such Owner or Occupier, with the Content and Approbation of the said Company upon Request made to them or their Clerk or Treasurer for the Time being, or in case of their Refusal for the Space of Fourteen Days next after such Request, then

Owners of
Lands may
erect Gates,
&c. where
those made by
Company are
insufficient.

then with the Consent and Approbation of such Two Justices as aforesaid, to make, fix, and erect, at their own Costs and Charges, such other Gates, Arches, Ditches, Drains, and Passages, or any of them, of the same or the like Construction or Form with those made and erected by the said Company, in, upon, or near to the said Railway, in such Places as shall be found and adjudged most necessary and convenient for the better Use, Cultivation, Improvement, or Occupation of such Lands or other Heritages, and to repair and support the same at their own like proper Costs and Charges, as Occasion shall require, so that the Passage through or along the said Railway be not prevented or obstructed thereby for any longer Space of Time, or in any other Manner than the same would necessarily have been if such Gates, Arches, Ditches, Drains, and Passages had been made or erected by the said Company.

Owners and Occupiers to pass along Railway.

LX-III. Provided always, That it shall be lawful for the Owners and Occupiers of the respective Lands or Grounds through which the said Railway shall be made, and his and their Servants and Workmen, Cattle and Carriages, at all Times to pass and repass across such Part of the said Railway as shall be made in and upon their said Lands and Grounds respectively, such Owners or Occupiers not damaging or obstructing the same or the Passage thereof.

Company to fence Railways.

LXIV. Provided always nevertheless, and be it further enacted, That the said Company shall and they are hereby empowered and required, at their own proper Charges, after any Lands shall be taken for the Use of the said Railway, to divide and separate, and keep constantly divided and separated, the same from the Lands or Grounds adjoining to such Railway with good and sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences, and at their own Costs and Charges from Time to Time maintain and support the said Posts, Rails, Hedges, Ditches, Mounds, and other Fences so to be made as aforesaid, in case the Owner or Owners or Occupiers of such Lands or Grounds adjoining to such Railway, or any of them respectively shall at any Time desire the same to be fenced off, or in case the said Company shall think proper to fence off the same, instead of Gates being erected as aforesaid; and the said Company shall also make and maintain all necessary Gates and Stiles in all such Fences to be made as aforesaid, all such Gates being made to open towards such Lands and Grounds, and then and in every such Case the Powers, Provisions, Directions, and Regulations hereinbefore contained, with respect to Gates and other Works as aforesaid, shall extend and apply, and be applicable to the making and maintaining of such Fences as fully and effectually, to all Intents and Purposes, as if the said Powers, Provisions, Directions, and Regulations were now repeated and re-enacted with respect to such Fences.

Penalty on destroying the Works.

LXV. And be it further enacted, That if any Person shall wilfully, maliciously, and to the Prejudice of the said Undertaking, break, throw down, damage, destroy, steal, or take away any Part of the said Railway, or other Works to be erected and made by virtue of this Act, every Person offending, and being thereof lawfully convicted, shall be subject and liable to the like Pains and Penalties as in Cases of Felony; and the Court by or before whom such Person shall be tried and convicted shall have Power and Authority to cause such Person to be punished in like Manner

Manner as Felons are directed to be punished by the Laws of *Scotland*, or in Mitigation of such Punishment, such Courts may, if they shall think fit, award such Sentence as the Law directs in Cases of arbitrary Punishment.

LXVI. And be it further enacted, That if any Person or Persons shall knowingly and wilfully lay or place any Sort of Timber or Wood, or any Stones, Bricks, Tiles, Coals, Lime, Hay, Straw, Dung, Manure, Soil, Rubbish, or any other Matter or Thing whatsoever on any Part of the said Railway to the Prejudice thereof, every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, to be levied, recovered, and applied as other Penalties or Forfeitures are by this Act directed to be levied, recovered, and applied.

For preventing Nuisances and Obstructions.

LXVII. And be it further enacted, That all and every Person or Persons opening any Gate set across the said Railway, shall, and he or they is and are hereby required and directed, to soon as he or they and the Waggon or other Carriage shall have passed through the same, to shut and fasten the same; and every Person neglecting so to do shall forfeit and pay for every such Offence a Sum not exceeding Two Pounds, and such Penalty shall be levied and recovered in like Manner as any other Penalty can or may be levied and recovered by virtue of this Act; and one Moiety of such Penalty shall be paid to the Informer, and the other Moiety to the said Company of Proprietors.

Gates to be shut and fastened.

LXVIII. And be it further enacted, That it shall be lawful for the Owner or Owners of any Lands or Grounds near to, through, or by which the said Railway shall be made, to erect and use any Place or Places for loading and unloading Goods, Wares, Merchandize, and other Articles, Cranes, Weighbeams or Warehouses, in or upon his, her, or their respective own proper Lands, Grounds or Wastes adjoining, or near to the said Railway, with necessary Ways and Roads to the same, and may load or unload any Goods or other Things at such Warehouse or Places, and make and use proper and convenient Places for Waggons or other Carriages to turn in and pass each other, so that the making or using thereof respectively do not obstruct or prejudice the using of the said Railway.

Owners of Lands to erect Wharfs, &c. on their own Grounds.

LXIX. And be it further enacted, That if any such Owner or Owners shall not within the Space of Twelve Calendar Months next after Notice given in Writing to him, her, or them, or left at his, her, or their usual Place or Places of Abode, by or on the Behalf of the said Company, that any Part of such Lands, Grounds, or Wastes, is necessary or proper to be used for the Purpose of making and erecting Place or Places for loading and unloading Goods, Wares, Merchandize and other Articles, Cranes, Weighbeams, Warehouses and Buildings for the use of the said Undertaking, or for making or laying out necessary and convenient Roads for the Conveyance of Goods to and from the said Railway, make, erect, and lay out, and from Time to Time maintain and keep in good and substantial Repair such proper and sufficient Places, Warehouses, Buildings, Cranes, Weighbeams, and Roads for the Use of the said Railway, as the said Company of Proprietors or their Committee shall think necessary, on the respective Part or Parts of the Lands and Grounds described in such Notice, then and in such Case the said Company of Proprietors shall have full Power and Authority, without any Hindrance or

If the Owners refuse, the Company may erect such Warehouses, &c.

Restraint whatsoever, to make use of any such Lands, Grounds, or Wastes (not being the Ground whereon any House or other Building stands, or any Garden, Orchard, planted Walk, or any Avenue to any House) for making, erecting, or building proper and sufficient Places for loading and unloading Goods, Wares, Merchandize and other Articles, Cranes, Weighbeams, Warehouses, and Buildings, and making and laying out necessary and convenient Roads to and from the said Railway agreeably to such Notice to be delivered as aforesaid, they the said Company of Proprietors first making Satisfaction for the same in such Manner as is hereinbefore directed with respect to other Lands or Grounds which shall be taken or used by the said Company for the Purposes of this Act.

Goods remaining above a certain Time to pay additionally.

LXX. And be it further enacted, That if any Goods, Wares, Merchandize or Things whatsoever, which shall be carried and conveyed on the said Railway, shall be or remain upon any Place or Places for loading and unloading Goods, Wares, Merchandize and other Articles, or Warehouses belonging to the said Company of Proprietors, for above the Space of Twenty-four Hours, then and in such Case the said Company of Proprietors shall be entitled to receive such reasonable Rates or Allowance, over and above the Rates hereinbefore authorized to be taken, as shall be agreed upon between the said Company of Proprietors, or their Agent or Agents, or such other Person or Persons and the Owner or Owners of any such Goods, Wares, Merchandize or Things; and the Justices of the Peace at the Quarter Sessions to be holden for the said County, are hereby authorized and empowered to make such Regulations from Time to Time as they may think fit, for limiting and ascertaining the Rates for the depositing or warehousing of such Goods, Wares, Merchandize or other Articles, at such Place or Places, Warehouse or Warehouses.

For making Recompence for Damage not provided for.

LXXI. And be it further enacted, That if at any Time or Times hereafter any Person or Persons shall sustain any Damage in his, her, or their Lands, Tenements, Hereditaments, or Property, by reason of the Execution of any of the Powers hereby given, and for which no Remedy is hereinbefore provided, then and in every such Case the Recompence or Satisfaction for such Damage shall from Time to Time be settled and ascertained in such Manner as herein directed, in respect to the Recompence or Satisfaction to be made for any Damage sustained by executing any of the Powers of this Act.

Proprietors of Railway not to pay Toll for Horses or Carriages crossing Roads.

LXXII. Provided always, and be it further enacted, That the said Company of Proprietors shall not be liable to pay to the Trustees of the Public Turnpike Roads any Toll whatever, for any Horse or Carriage passing along the said Railway across such Parts of the said Roads where the same is intended to be carried for the Purposes of the said Undertaking.

Recovery of Forfeitures and Penalties.

LXXIII. And be it further enacted, That all Penalties or Forfeitures for Offences inflicted by this Act, or which shall be inflicted by any Rule, Bye Law, or Order made by the said Company of Proprietors in pursuance thereof (the Manner of levying and recovering whereof is not hereinbefore particularly directed) shall, in case of Nonpayment thereof, on the Conviction of the Offender or Offenders before any Justice of the Peace for the said County of *Ayr*, or Place where the Offence shall be committed, either by the Confession of the Party or Parties, or by the Evidence

Evidence of credible Witnesses upon Oath (which Oath such Justice is hereby empowered to administer) or by such Proof as shall be competent by the Law of *Scotland* in such Cases, be levied and recovered by Distress and Sale of the Goods and Effects of the Party or Parties offending, by Warrant under the Hand of such Justice (which Warrant such Justice is hereby empowered and required to grant), and the Overplus (if any) of the Money arising by such Distress and Sale, after such Penalties or Forfeitures and the Charges of such Distress and Sale are recovered and deducted, shall be returned upon Demand to the Owner or Owners of such Goods and Effects; and in case sufficient Distress cannot be found, or such Penalties or Forfeitures shall not be forthwith paid, it shall be lawful for such Justice, by Warrant under his Hand, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction for the County or Place wherein the Offence shall be committed, there to remain without Bail for such Time as such Justice shall direct, not exceeding Three Calendar Months, unless such Penalties or Forfeitures and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied; and all such Penalties and Forfeitures, the Application whereof is not hereinbefore particularly directed, shall go and belong to the said Company, and be applied for the Purposes of this Act.

LXXIV. And be it further enacted, That where any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers on account of any Defect or want of Form in the Summons, Conviction, Warrant of Distress, or other Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers, *ab initio*, on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the Special Damages in an Action before the Court of Session.

Persons aggrieved by Irregularity in Distress to recover Special Damages.

LXXV. And be it further enacted, That any Person or Persons thinking himself, herself, or themselves aggrieved by any Order or Judgment made or given in pursuance of any Rule, Bye Law, or Order of the said Company, or by the Order or Determination of any Justice or Justices of the Peace, may, within Six Calendar Months after such Order or Determination shall have been made or given, appeal to the Justices of the Peace at any General Quarter Sessions to be held for the County or Place where such Cause of Appeal shall happen or arise, upon first giving Thirty Days' Notice at the least, in Writing, of such Intention to appeal, to the Parties interested in such Complaint, and the Justices shall in a summary Way hear and determine the said Appeals at such Sessions, or if they think proper may adjourn the Hearing thereof to the next General Court of Quarter Sessions of the Peace to be held for the said County or Place, and if they see Cause may mitigate any Penalty or Forfeiture, and may order any Money to be returned which shall have been levied in pursuance of such Rule, Bye Law, Order, or Determination, and may also order any Satisfaction to be made to the Party injured as they shall judge reasonable, and may also order such Costs to be paid to the Party aggrieved by the Party aggressing as they in their Judgement shall think just and reasonable; but no Proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for want of Form only, or be removed by Advocation

Appeals.

or

or by any other Process whatsoever; any Law or Statute to the contrary notwithstanding.

Form of
Conviction.

LXXVI. And, for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That every Justice of the Peace before whom any Person shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up according to the following Form; (*widelicet*)

“ **B**E it Remembered, That on the _____ Day of _____
 “ in the Year of our Lord _____ *A. B.* is
 “ convicted before me *C. D.* one of His Majesty’s Justices of the
 “ Peace for the County of _____ [*specifying the Offence, and the Time*
 “ *and Place when and where committed, as the Case may be*] contrary to
 “ an Act of Parliament passed in the Forty-eighth Year of the Reign
 “ of King GEORGE the Third, entituled, [*here set forth the Title of this*
 “ *Act*]. Given under my Hand, the Day and Year first above men-
 “ tioned.”

Limitation of
Actions.

LXXVII. And be it further enacted, That no Action or Suit shall be brought, commenced, or instituted against any Person or Persons for any Thing done in pursuance of this Act, or in Execution of any of the Powers or Authorities, or any of the Orders made, given, or directed in, by, or under this Act, until Thirty Days’ Notice in Writing, of an Intention to commence or institute such Action or Suit shall have been given to the Defender or Defenders, nor after a sufficient Satisfaction or Tender thereof hath been made to the Party or Parties aggrieved, nor after Three Calendar Months next after the Fact committed for which such Action or Suit shall be so brought, commenced, or prosecuted; or in case any Damage or Injury shall be followed up by or consist of a Continuation or connected Succession of Acts, then such Action or Suit shall be commenced or prosecuted within Three Calendar Months next after the doing or committing of such Damage shall cease, and not afterwards; and every such Action or Suit shall be brought before the Court of Session in *Scotland*; and the Defender or Defenders in such Action or Suit shall and may deny the Libel, and may plead that the same was done in pursuance and by Authority of this Act; and if the same shall appear so to be done, or if such Action and Suit shall be brought after the Time hereinbefore limited for bringing the same, or shall be brought without Thirty Days’ Notice thereof, or after a sufficient Satisfaction made or tendered as aforelaid, then and in every such Case the Defender or Defenders shall be assolizied, or if the Action or Suit shall be found irrelevant or be otherwise dismissed, or the Pursuer or Pursuers shall not prosecute the Action, or suffer the same to fall asleep, or if Judgment shall be given against the Pursuer or Pursuers, such Defender or Defenders shall have Treble Costs, and shall have such Remedy for recovering the same as any Defender or Defenders hath or have for Costs of Suit in any other Case by Law in *Scotland*.

Public Act.

LXXVIII. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.