



ANNO SEPTIMO

GEORGII IV. REGIS.

Cap. xcvi.

An Act for making and maintaining a Railway from *Edinburgh* to the South Side of the River *North Esk*, near *Dalkeith* and *Newbattle*, with Branches therefrom, all in the County of *Edinburgh*.
[26th May 1826.]

WHEREAS the making and maintaining a Railway from *Edinburgh* to the South Side of the River *North Esk*, near *Dalkeith* and *Newbattle*, with Branches from near *Wanton Walls* to *Fisher-row Harbour*, from at or near *Cairney* to *Cowpits*, all in the County of *Edinburgh*, with Inclined Planes and Wharfs where the same may be necessary for the Passage of Waggon or other Carriages, will be of great Benefit and Advantage to the Public, by facilitating the Conveyance of Coal, Corn, Stone, Agricultural Produce, Lime, and other Commodities, from the Interior of the County to the City of *Edinburgh*, and to the other Places to which the said Branches may lead, and also the Conveyance of Merchandise, Manure, and other Articles from the said City, and from the Sea-coast, to the Interior of the County of *Edinburgh*, and will thus materially assist the Agricultural Interest, as well as the general Communications of that Part of the Country: And whereas by Levels and Surveys lately taken and made of the Lines of the said proposed Railway, and of the Branches therefrom, the Practicability of making the said Railway and the Branches therefrom has been ascertained, and the several Persons herein-after named are desirous at their own Costs and Charges to make and

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maintain the said Railway and the Branches therefrom, and the necessary Works belonging to the same; but inasmuch as the same cannot be effected without the Aid and 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 His Grace *Walter Francis Duke of Buccleuch and Queensberry*, *John William Robert Marquis of Lothian*, *Francis Wemyss Charteris Earl of Wemyss and March*, *Archibald John Earl of Rosebery*, *Robert Viscount Melville*, *Sir John Hamilton Dalrymple of Cousland*, Baronet, *Sir John Hope of Craighall*, Baronet, *Sir Hugh Innes of Lochalsh*, Baronet, *Sir Robert Keith Dick of Prestonfield*, Baronet, *Admiral Sir Philip Charles Henderson Durham of Fordel*, The Right Honourable *William Trotter Lord Provost of the City of Edinburgh*, The Corporation of the City of *Edinburgh*, The Magistrates of the Town of *Musselburgh*, *Thomas Adinston of Carcant*, *William Aitcheson of Drummorie*, *William Aitcheson Junior of Drummorie*, *James Aitcheson at Saint Clement's Wells*, *Robert Alexander Manager of the Insurance Company of Scotland*, *James Alexander at Dalkeith*, *Warren Hastings Anderson at Ormiston Hall*, *James Anderson, Great King Street, Edinburgh*, *John Archibald at Musselburgh*, *James Baxter at Portobello*, *Carlyle Bell Writer to the Signet*, *Miss Jemima Hunter Blair, Walker Street, Edinburgh*, *John Waugh Brougham Wine Merchant, Edinburgh*, *Captain Samuel Brown Royal Navy*, *Henry Francis Cadell of Cockenzie*, *Thomas Durham Calderwood of Polton*, *Edward Walton Chapman at Newcastle-on-Tyne*, *James Gibson Craig of Riccarton*, *Writer to the Signet*, *Thomas Cranstoun of Dewar*, *Writer to the Signet*, *William Creelman at Portobello*, *John Cuninghame of Duloch*, *Advocate*, *Thomas Davidson at Irvine*, and others, Trustees of the late Major *James Davidson at Portobello*, *James Dewar Junior of Vogrie*, *Francis Walker Drummond of Hawthornden*, *Writer to the Signet*, *Doctor Andrew Duncan Senior, M.D.*, *Robert Dundas of Arniston*, *Robert Adam Dundas Esquire*, *Miss Mary Elphinston, Shandwick Place, Edinburgh*, *John Finlayson Assistant Clerk at the Signet Office Edinburgh*, *Lieutenant Colonel David Forbes, Seventy-eighth Regiment*, *Simon Fraser of Ford*, *Andrew Gray Writer to the Signet*, *Alexander Greenhill Advocate*, *John Grieve at Sheriffhall*, *John Grieve Junior at Sheriffhall*, *John Haldan Solicitor at Law, Edinburgh*, *Alexander Hay of Hardengreen Writer to the Signet*, *Alexander Henderson of Eildon Hall*, *Adam Hislop at Dalkeith*, *John Home Writer to the Signet*, *James Hope, Pleasance, Edinburgh*, *James Hunter of Thurston*, *Robert King, Coal Merchant, Edinburgh*, *Thomas Kinnear of Chesterhall*, *James Lockhart Coal Merchant, Edinburgh*, *Sutherland Mackenzie Manager of the Scottish Union Insurance Company*, *James Maclaren at Dalkeith*, *Thomas Mansfield Accountant, Edinburgh*, *Miss Janet Mansfield, York Place, Edinburgh*, *Alexander Majoribanks Junior, Pitt Street, Edinburgh*, *Gilbert Laing Meason of Lindertis*, *James Moncrieff Melville Writer to the Signet*, *James Milne at Gorebridge*, *Charles Grenville Stuart Monteath of Closeburn*, *John Orr Writer, Edinburgh*, *Miss Charlotte Plenderleath, Coate's Crescent, Edinburgh*, *William Pringle Deputy Clerk of Session*, *James M'Gill Rae at Dalkeith*, *Robert Wardlaw*

Wardlaw Ramsay of *Tillycoultry*, *Thomas Richardson* Writer to the Signet, *James Scott* Accountant, *Edinburgh*, *James Smail* Writer in *Edinburgh*, *John Spottiswoode* of *Spottiswoode*, *James Stuart* Younger of *Dunearn*, Writer to the Signet, *James Sutherland*, *Broughton Street*, *Edinburgh*, *Archibald Swinton* Writer to the Signet, *David Thomson* Writer to the Signet, *Robert Thomson*, *Leopold Place*, *Edinburgh*, *Peter Torrance* at *Longerwood*, *Archibald Torrance* at *Newton Grange*, *Andrew Wauchope* of *Niddrie Marishall*, *William Wemyss* at *Cuttlehill*, *John Williamson* at *Newbattle* Coal Works, *Thomas Guthrie Wright* Writer to the Signet, and all and every other Persons and Person, Bodies Politic or Corporate, who shall hereafter become a Subscriber or Subscribers to the said Undertaking, and their several and respective Successors, Executors, Administrators, and Assigns, shall be and hereby are united into a Company for making, completing, and maintaining the said Railway and Branches thereof, and other Works, according to the Rules, Orders, and Directions herein-after mentioned, and shall for that Purpose be One Body Politic and Corporate, by the Name and Style of *The Edinburgh and Dalkeith Railway Company*, and by that Name shall have perpetual Succession, and shall have a Common Seal, and by that Name shall and may sue and be sued; and that the said Company of Proprietors shall have Power and Authority at all Times, from and after the passing of this Act, to purchase and hold Lands and Heritages to them and their Successors and Disponees, for the Use of the said Undertaking and Works, and also to sell or dispose of the said Lands and Heritages again, without incurring any Penalties, Forfeitures, or Disabilities; and the said Company shall be and are hereby authorized and empowered, by themselves, their Deputies, Agents, Officers, Workmen, and Servants, to make, complete, and maintain a Railway, to be called *The Edinburgh and Dalkeith Railway*, passable for Waggon and other Carriages, from *Edinburgh* to the South Side of the River *North Esk* near *Dalkeith* and *Newbattle*, with Branches from near *Wanton Walls* to *Fisher-row Harbour*, and from at or near *Cairney* to *Cowpits*, all in the County of *Edinburgh*, with Inclined Planes, Wharfs, and Depôts, where the same may be necessary; and for the Purposes aforesaid the said Company of Proprietors, their Deputies, Servants, Agents, Surveyors, and Workmen, are hereby authorized and empowered to enter into and upon the Lands and Grounds of or belonging to 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, ascertain, and appropriate for the Purposes herein-before and herein-after mentioned such Parts thereof as they shall think necessary and proper for making the said Railway and Branches thereof, Depôts or Wharfs, with Roads of Communication to and from the same, and all other Works, Matters, and Conveniences hereby authorized to be made; and also to bore, dig, cut, trench, sough, get, remove, take, carry away, lay, use, and manufacture any Earth, Clay, Stone, Soil, Rubbish, Trees (leaving such Trees for the Owner or Owners thereof), 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 and Branches thereof, or other Works, out of the Lands or Grounds of

Their Style
and Powers.

of or belonging to any Person or Persons, Bodies Politic, Corporate, or Collegiate, adjoining thereto, and which may be requisite or necessary for making, carrying on, continuing, maintaining, or repairing the said Railway and Branches thereof, or other Works, or which may hinder, prevent, or obstruct the making, using, or completing, extending or maintaining the same respectively, according to the Intent and Meaning of this Act; also to make, build, alter, erect, and set up, in, over, under, or upon the said Railway and the Branches thereof and other Works, or to alter or widen, such and so many Bridges, Piers, Arches, Tunnels, Posts, Ropes, and Chains, and Toll Houses, where and in such Manner as the said Company of Proprietors shall think necessary and convenient for the Purposes of the said Undertaking; and also to make, maintain, repair, and alter any Fences or Passages over, under, or through the same; and also to make and set out proper Places for Waggon and other Carriages to turn, lie, or pass each other, as they the said Company of Proprietors shall think convenient; and to construct, erect, alter, widen, and keep in repair any Piers, Arches, and other Works in, upon, and across any Rivers or Brooks, for the making, effecting, preserving, improving, completing, using, maintaining, and repairing of the said Railway and Branches thereof and other Works; and to construct, erect, make, and do all other Matters and Things which they shall think convenient or necessary for the making, effecting, altering, preserving, improving, completing, and using of the said Railway and Branches, 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 of Proprietors, 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 herein-after mentioned to the Owners or Proprietors of and all Persons interested in any Lands and other Heritages 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 of Proprietors, 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 are herein-after mentioned and contained.

Where Railways cross Roads, the Flanch of the Rail not to rise above the Level of the Road.

II. Provided always, and be it enacted, That where the said Railway or Branches thereof shall cross or pass along any Turnpike Roads, or public Paths or Highways, the Ledge or Flanch of such Railways for the Purpose of guiding the Wheels of the Carriages shall not rise above the Level of the Road, nor shall the same be more than Three Fourths of an Inch below the Level of the said Road.

Regulations as to Ascent of Bridges and Height of adjoining Fences.

III. Provided always, and be it further enacted, That in all Places where it may be necessary to erect or build any Bridge or Bridges on any Public Carriage Road, or to cut or bank, in order to allow the Passage of any of the said Railway or Branches thereof under, above,

above, across, or along such Road, the Ascent of every such Bridge, Cut, or Bank, for the Purpose of such Roads, shall not be more than One Foot in Thirteen Feet above the Plane of such Road or Roads, and that a good and sufficient Fence shall be made on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of the Bridge.

IV. Provided always, and be it enacted, That nothing herein contained shall authorize or empower the said Company of Proprietors, or any Person or Persons acting by or under their Authority, to take, use, injure, or damage, for the Purposes of the said Railway or Branches thereof, or other Works, or for any other the Purposes aforesaid, any House or other Building which was erected or built on or before the First Day of *January* in the present Year One thousand eight hundred and twenty-six, or any Land or Ground which was then set apart and used as or for a Garden, Orchard, Yard, Park, Paddock, planted Walk, or Avenue to a House, without the Consent in Writing of the Owners and Occupiers thereof, and Persons interested therein respectively, excepting always the Premises specified in the Schedule hereto annexed.

Houses and Gardens not to be injured, except such as are mentioned, &c.

V. Provided always, and be it enacted, That in making the said Railway through the King's Park the Line thereof shall be carried along and close to the Boundary Wall between the King's Park and the Properties of Sir *Robert Keith Dick* Baronet and the Trustees of the late Miss *Magdalene Doig*.

Regulations in passing through the King's Park.

VI. And be it enacted, That the said Branch of the Railway from at or near *Cairney* to *Cowpits* shall not be made through the Property of the Earl of *Wemyss* and *March*, without the Consent in Writing of the said Earl or his Heirs and Successors first had and obtained thereto.

Consent to be obtained for making Branch from Cairney to Cowpits.

VII. And be it further enacted, That in making the said Railway through the Lands, Grounds, or other Premises belonging to Sir *Robert Keith Dick* of *Prestonfield*, Baronet, the same shall be fenced by the said Company on each Side by Boundary Walls, Fences, and Mounds, of such several Heights and Dimensions and Construction as shall be agreed upon by and between the said Company and the said Sir *Robert Keith Dick*; and the Breadth of the said Railway through the said Lands, Grounds, and other Premises shall in no Place exceed Twenty-five Feet clear within such Boundary Walls; and the said Company shall make such Bridges and other Communications, by Gates, Doors, or otherwise, across the said Railway, for the Convenience of the said Sir *Robert Keith Dick* and the Proprietors for the Time of the said Lands, Grounds, and other Premises, as shall have been or shall be agreed upon by and between the said Company and the said Sir *Robert Keith Dick*; and the said Company shall carry the Drainage Water of such Part of the said Railway as shall be upon the said Lands, Grounds, or other Premises, into the present Runs of Water which the said Railway will cross, and in such a Manner as not in any way to injure or damage the Lands, Grounds, and other Premises on

Regulations in passing through the Property of Sir Robert Keith Dick, Baronet.

either Side of the said Railway; and the said Company shall at all Times keep such Boundary Walls, Fences, Bridges, Gates, Doors, and all Culverts, Drains, or other Works for draining the said Railway, in complete Repair; and it shall be lawful for the said Sir *Robert Keith Dick*, and his Heirs and Successors in the said Lands, Grounds, and other Premises, and they are hereby authorized and empowered, to make such Drains as they may deem requisite for the same under the said Railway; provided always, that such Drains be properly constructed at the Expence of the said Sir *Robert Keith Dick* and his foresaids, so as not, either in the making thereof or otherwise, to injure or obstruct the said Railway, and that the same shall be constructed by the Directions and under the Superintendence of Two Engineers, the one to be chosen by the said Company, and the other by the said Sir *Robert Keith Dick* or his Heirs or Successors as aforesaid.

Further Regulations.

VIII. And be it enacted, That the said Company, in making that Part of the said Railway which will be upon the said Lands, Grounds, or other Premises of the said Sir *Robert Keith Dick*, shall complete the same, together with the Boundary Walls, Bridges, Culverts, Embankments, and other Works connected therewith, within the Space of Eighteen Months from the Time when the said Company shall begin to execute any Part of the Works upon the said Lands, Grounds, and other Premises; and in case the said Railway and other Works connected therewith shall not, so far as situated on the said Lands, Grounds, and other Premises, be completed within the said Space of Eighteen Months, the said Company shall for every Calendar Month during which the same shall remain uncompleted after the Expiration of the said Eighteen Months pay to the said Sir *Robert Keith Dick*, or his Heirs and Successors in the said Lands, Grounds, and other Premises, the Sum of Twenty Pounds; and in making the said Railway through the said Lands, Grounds, and other Premises, it shall not be lawful for the Workmen of the said Company in going to or returning from their Work to pass through any of the Lands, Grounds, or other Premises belonging to the said Sir *Robert Keith Dick*, but such Workmen shall have Access to the said Railway, and to the Ground upon which the same is to be formed, only at each End of the same, or by any Public Path which may enter the same at any other Point or Points; and during the Time the said Railway shall be making through the said Lands, Grounds, and Premises, and until the same shall have been inclosed with Walls as aforesaid, the said Company shall keep the Ground taken for the Purposes of the said Railway fenced and railed off by a substantial Railing or other Fence; and if it shall be necessary for the making of the said Railway to fence in temporarily a greater Space of Ground than the said Twenty-five Feet of Breadth allowed for the same through the said Lands, Grounds, or other Premises, the said Company shall pay to the said Sir *Robert Keith Dick* or his Heirs or Successors the full Rent and Damage for the Occupation of so much of such Ground as shall exceed the said Breadth of Twenty-five Feet; and until the said Part of the said Railway shall be completed, and the necessary Bridges of Communication shall be made across it, the said Sir *Robert Keith Dick*, and his Heirs and Successors in the
Estate

Estate of *Prestonfield*, Tenants and Servants, shall have all necessary Access to all Parts of his said Lands, Grounds, and Premises at *Prestonfield*, across the Line of the said Railway, at such Places as he and they may find convenient.

IX. And be it enacted, That the said Company shall erect and maintain at each End of that Part of the said Railway which passes through the Lands, Grounds, and Premises of the said Sir *Robert Keith Dick*, Iron Gates across the said Railway to keep out all Intruders, with a Lodge for a Porter or Keeper of such Gates at each End of such Part of the said Railway; (provided always, that such Lodges shall not be erected on the Property of the said Sir *Robert Keith Dick* without his special Consent and Authority;) and after the said Part of the said Railway shall be completed, it shall not be lawful for any Person, other than a Member, Officer, or Servant of the said Company, or a Person attending the Horses or other Animals drawing the Waggon on the said Railway, or Persons employed by the said Company to inspect, examine, or repair the said Railway, or the Bridges or Culverts or other Works connected therewith, or the Walls or Fences inclosing the same, to pass along that Part of the said Railway which is situated within the Lands and Grounds of the said Sir *Robert Keith Dick*; neither shall it be lawful for the said Company (without the Consent in Writing of the said Sir *Robert Keith Dick*, or of his Heirs and Successors in the said Estate of *Prestonfield*,) to use upon such Part of the said Railway any Locomotive or Self-moving Steam Engine; and the said Company shall and they are hereby required, after such Part of the said Railway shall have been completed, to maintain at each End thereof a Porter or Keeper, who shall, except for the Purpose of allowing the Passage of Waggon or of Persons so entitled as aforesaid along the said Railway, at all Times keep such Iron Gates shut, and shall prevent all Carriages and Persons not entitled as aforesaid from passing along such Part of the said Railway.

Gates to be put upon each End of Railway on Property of Sir Robert Keith Dick.

X. And be it enacted, That it shall not be lawful for the said Company, without the Consent in Writing of the said Sir *Robert Keith Dick*, or of his Heirs or Successors in the said Estate of *Prestonfield*, to make upon any Part of the said Lands, Grounds, or other Premises, the Property of the said Sir *Robert Keith Dick*, any Coal Yard, Wharf, or other Receptacle or Place of Deposit for Goods, Wares, or Merchandise; nor to erect any Building or Works of any Kind thereon, excepting the said Railway, and the Boundary Walls, Bridges, Culverts, and Gates, and other necessary Works connected therewith; nor to erect any Steam Engine, or to make any Place for the Conversion of Coal into Coke by burning, nor any similar Nuisance, nearer to the House of *Prestonfield* than Eight hundred Yards in any Direction; nor to carry the Waste Water or Drainage from any fixed Steam Engine to be erected by the said Company into any Part of the said Lands, Grounds, and other Premises aforesaid.

No Wharfs, &c. to be made on Property of Sir Robert Keith Dick, without his Consent.

XI. And be it enacted, That in order to compensate the said Sir *Robert Keith Dick* for carrying the said Railway through his Property, the said Company shall and they are hereby required, in addition

Compensation to Sir Robert Keith Dick.

dition to the Value of the Ground to be occupied by the said Railway (to be ascertained and paid in Manner herein-after mentioned), to pay to the said Sir *Robert Keith Dick*, and his Heirs and Successors in the Estate of *Prestonfield*, an Annual Rent in Name of Way-leave, beginning the first Half-yearly Payment at the Term of *Whitsunday*, or *Martinmas*, which shall happen after the Expiration of One Year from the Time when the said Company shall begin to make any Part of the said Railway upon the Lands, Grounds, and other Premises belonging to the said Sir *Robert Keith Dick*, and shall continue to be made Half-yearly thereafter until the Line of that Part of the said Railway which passes through the said Lands, Grounds, and other Premises shall be abandoned in Manner after mentioned; *videlicet*, such annual Payment shall in no Year exceed the Sum of Nine hundred and ninety Pounds, nor shall it ever be less than Four hundred and ninety Pounds, but the Amount of such Annual Payment shall vary between the said Two Sums according to the Average Daily Amount of the Tonnage in each Year passing along any Part of the said Railway situated within the said Lands, Grounds, and Premises belonging to the said Sir *Robert Keith Dick*; that is to say, the said Annual Payment shall be Nine hundred and ninety Pounds unless it shall be proved by Production of the Books of the said Company, duly authenticated by the Clerk for the Time, or by other legal Evidence, that the Average Daily Amount of Tonnage of all Goods and Articles upon which a Tonnage or Transit Duty is chargeable or charged in virtue of this Act, (reckoning each Year from the Term of *Whitsunday* or *Martinmas*, at whichever of these Terms such Annual Payment shall happen to begin to be made in Manner before mentioned,) to be less in any Year than Nine hundred Tons but not less than Eight hundred Tons for each lawful Day during that Year, then and in that Case the said Annual Payment to be made to the said Sir *Robert Keith Dick*, his Heirs and Successors, shall for that Year be only Eight hundred and ninety Pounds; and if the Average Daily Amount of such Tonnage as aforesaid shall be proved in Manner before mentioned to be less in any Year than Eight hundred Tons but not less than Seven hundred Tons for each lawful Day during that Year, then and in that Case the Annual Payment so to be made as aforesaid shall for that Year be only Seven hundred and ninety Pounds; and if the Average Daily Tonnage shall in any Year be so proved to be less than Seven hundred Tons but not less than Six hundred Tons, then and in that Case the Annual Payment so to be made as aforesaid shall for that Year be only Six hundred and ninety Pounds; and if the Average Daily Tonnage shall in any Year be so proved to be less than Six hundred Tons but not less than Five hundred Tons, then and in that Case the Annual Payment so to be made as aforesaid shall for that Year be only Five hundred and ninety Pounds; and if the Average Daily Tonnage shall in any Year be so proved to be less than Five hundred Tons, then and in that Case the Annual Payment so to be made as aforesaid shall for that Year be only Four hundred and ninety Pounds; but however much such Average Daily Tonnage may be reduced below Five hundred Tons, the said Annual Payment so to be made as aforesaid shall in no Case be less than Four hundred and ninety Pounds during the Existence of the said Railway through

the Lands, Grounds, and Premises of Sir Robert Keith Dick as aforesaid.

XII. And be it enacted, That such Annual Payments shall be paid in Moieties Half-yearly, at the Terms of *Whitsunday* and *Martinmas*, and the First Half-yearly Payment in each Year shall always be Four hundred and ninety Pounds; and if the Annual Payment to be made in any Year shall, in manner before mentioned, be ascertained to be less than Nine hundred and ninety Pounds, the Diminution of the Payment below the Sum of Nine hundred and ninety Pounds shall be made from the Second Moiety or Half-yearly Payment; and the said Company, in case of Failure or Delay to make such Half-yearly Payments punctually, shall be and they are hereby required to pay to the said Sir Robert Keith Dick, and his Heirs or Successors in the Estate of *Prestonfield*, Interest at the Rate of Five *per Centum per Annum* for each Half-yearly Payment from the Time it became due until the same shall be paid.

Times and
Manner of
Payment.

XIII. And be it enacted, That if the said Company in making the said Railway through the Lands, Grounds, and other Premises belonging to the said Sir Robert Keith Dick, or in building the Boundary Walls on each Side thereof, shall do any Damage to the Surface of more of the said Lands, Grounds, and other Premises than the said Breadth of Twenty-five Feet for the said Railway, the said Company shall and they are hereby required to pay to the said Sir Robert Keith Dick, or his Heirs or Successors in the Estate of *Prestonfield*, the Amount of the Damage so done, which shall either be fixed by Two Arbitrators, One to be chosen by each Party, or by the Verdict of a Jury in manner herein-after mentioned.

Company to
pay Surface
Damage.

XIV. And be it enacted, That the said Company shall be and they are hereby authorized and empowered to purchase for the Purposes of the said Railway, from the said Sir Robert Keith Dick, his Heirs and Successors in the said Estate of *Prestonfield*, the small Piece of Ground which will be cut off by the said Railway from the rest of his Property at the North-west End thereof.

Company
empowered
to purchase
detached
Portion of
Sir Robert
Keith Dick's
Property.

XV. And be it enacted, That if at any Time hereafter the said Company shall abandon the Line of that Part of the Railway which passes through the Property of the said Sir Robert Keith Dick, they shall be entitled so to do after having given Twelve Months Notice to the said Sir Robert Keith Dick, his Heirs or Successors in the said Estate of *Prestonfield*, of their Intention so to do, and after having paid up all Arrears of the said Annual Payments to be made to the said Sir Robert Keith Dick and his said Heirs and Successors, and after having made Payment to him or them also of the Sum of One thousand eight hundred and thirty Pounds, in which case the said Company shall thenceforth be freed from the Payment of any further Annual Sum to the said Sir Robert Keith Dick, or his said Heirs or Successors; provided always, that in such Case the said Company shall not be entitled to make the said Railway on any other Part of the said Lands, Grounds, and Premises belonging to the said Sir Robert Keith Dick, and that the said Company shall also give up

Company
may, on cer-
tain Condi-
tions, aban-
don the Rail-
way through
Sir Robert
Keith Dick's
Property.

and restore the Use and Possession of the Ground so taken for making the said Railway to the said Sir *Robert Keith Dick*, or his said Heirs or Successors, and that the said Company shall also reconvey and redispone to the said Sir *Robert Keith Dick*, or his Heirs or Successors, the small Piece of Ground at the North-west End of the Property of the said Sir *Robert Keith Dick* (in case they shall have purchased the same in manner before mentioned), on receiving from the said Sir *Robert Keith Dick*, or his said Heirs or Successors, for such Reconveyance and Redisposition, the same Price which the said Company shall have paid for the said Piece of Ground ; and provided also, that the said Company shall either remove every Part of the said Railway, Bridges, Culverts, Boundary Walls, Gates, and other Works, and replace everything as far as possible in the same Manner as it was when they first began to make the said Part of the said Railway, or, at the Option of the said Sir *Robert Keith Dick*, or his said Heirs or Successors, they shall remove the said Railway and its Appurtenances for their own Use, and shall leave the Bridges, Culverts, Boundary Walls, and Gates, as they may be standing at the Time, to become thenceforth the absolute Property of the said Sir *Robert Keith Dick*, or of his said Heirs or Successors.

Compensation to Andrew Wauchope, Esquire, of Niddrie Marischall.

XVI. And be it further enacted, That in order to compensate *Andrew Wauchope* of *Niddrie Marischall*, Esquire, for carrying the said Railway through his Property, the said Company shall and they are hereby required (in addition to the Value of the Ground to be occupied by the said Railway, to be ascertained and paid in manner herein-after mentioned) to pay to the said *Andrew Wauchope* and his Heirs and Successors in the Lands and Estate of *Niddrie Marischall*, so long as the said Railway shall continue to be used through the said Lands, Grounds, or other Premises of the said *Andrew Wauchope*, the Sum of One Halfpenny *per Ton* upon all Goods and Articles upon which a Tonnage Duty is chargeable or charged in virtue of this Act, which shall pass along any Part of the said Railway situated within the said Lands and Estate of *Niddrie Marischall*, excepting the Coals and other Minerals, Corn, and other Articles the Produce of the said Lands and Estate, and Manure, Lime, or other Articles belonging to or for the Use of the said *Andrew Wauchope*, or his Heirs and Successors in the said Lands and Estate, or of their Tenants or Occupiers residing on the same ; and which Sum of One Halfpenny *per Ton* shall be payable by the said Company to the said *Andrew Wauchope*, and his said Heirs or Successors, Half-yearly, at the Terms of *Whitsunday* and *Martinmas*, beginning the first Payment thereof at the first Term of *Whitsunday* or *Martinmas* which shall happen after the Collection of Rates and Duties on the said Railway shall have begun to be made.

Andrew Wauchope and his Tenants to have Right of Way-leave on his own Property.

XVII. And be it further enacted, That the said *Andrew Wauchope* and his Heirs and Successors in the said Lands and Estate, and their Tenants or Occupiers residing on the same, shall be entitled to and have Right of Way-leave on the said Railway through the said Lands, Grounds, and other Premises of the said *Andrew Wauchope*, free of all Expence, for the Conveyance and Transport thereon of all Coals or other Minerals, Corn, or other Articles the Produce of the said Lands,

Lands, Grounds, or other Premises of the said *Andrew Wauchope*; and also for the Conveyance and Transport on the said Railway, free of all Expence as aforesaid, of Manure, Lime, or other Articles belonging to or for the Use of the said *Andrew Wauchope* and his Heirs and Successors in the said Lands and Estate, or of their Tenants or Occupiers residing on the same; and the said Company shall not be entitled to ask, demand, take, recover, or receive from him or them any Rate or Duty for the passing of the aforesaid Articles along that Part of the said Railway which shall pass through the said Lands, Grounds, or other Premises of the said *Andrew Wauchope*, but declaring that the said Tonnage Duty shall be payable by the said *Andrew Wauchope* and his Heirs and Successors in the said Lands and Estate, and his or their Tenants or Occupiers of any Parts of the said Railways.

XVIII. And be it enacted, That in making the said Railway through the Lands, Grounds, or other Premises belonging to the said *Andrew Wauchope*, the same shall be fenced by the said Company on each Side by Fences to the Satisfaction of the said *Andrew Wauchope*; and the said Company shall make such Bridges and other Communications, by Gates, Doors, or otherways, across the said Railway, for the Convenience, or for the better Use, Cultivation, Improvement or Occupation of the said Lands, Grounds, or other Premises of the said *Andrew Wauchope*, to the Satisfaction of him the said *Andrew Wauchope* or the Proprietor of the said Lands for the Time being; and the said Company shall carry the Drainage Water of such Part of the said Railway as shall be upon the said Lands, Grounds, or other Premises, into the present Runs of Water which the said Railway will cross, and in such a Manner as not in any way to injure or damage the Lands, Grounds and other Premises on either Side of the said Railway; and the said Company shall at all Times keep such Fences, Bridges, Gates, Doors, and all Culverts, Drains, or other Works for draining the said Railway, in complete Repair; and it shall be lawful for the said *Andrew Wauchope* and his said Heirs and Successors, and they are hereby authorized and empowered, to make such Drains as they may deem requisite for the same under the said Railway; provided always, that such Drains be made at the Expence of the said *Andrew Wauchope*, and his said Heirs and Successors, and be properly constructed, so as not, either in the making thereof or otherwise, to injure or obstruct the said Railway, and that the same shall be constructed by the Directions and under the Superintendence of Two Engineers, the one to be chosen by the said Company and the other by the said *Andrew Wauchope*, or his said Heirs and Successors.

Railway how
to be fenced
and drained
through the
Property of
Andrew
Wauchope
of Niddrie
Marischall.

XIX. And be it enacted, That if the said Company in making the said Railway through the Lands, Grounds, and other Premises belonging to the said *Andrew Wauchope*, or in making or erecting the Fences, shall do any Damage to any Part of the said Lands, Grounds, and other Premises, the said Company shall and they are hereby required to pay to the said *Andrew Wauchope*, or his said Heirs and Successors, the Amount of the Damage so done, which shall

Damages to
Property of
Andrew
Wauchope
of Niddrie
Marischall,
how to be
paid for.

shall be fixed by the Verdict of a Jury in manner herein-after mentioned.

Compensation to John Wauchope, Esquire, of Edmonstone.

XX. And be it enacted, That in order to compensate *John Wauchope* of *Edmonstone*, Esquire, for carrying the said Railway through his Property, the said Company shall and they are hereby required (in addition to the Value of the Ground to be occupied by the said Railway, to be ascertained and paid in manner herein-after mentioned) to pay to the said *John Wauchope*, within Six Months after the passing of this Act, the Sum of Six hundred and seventy Pounds, and also to pay to the said *John Wauchope*, and his Heirs and Successors in the Lands and Estate of *Edmonstone*, so long as the said Railway shall continue to be used through the said Lands, Grounds, or other Premises of the said *John Wauchope*, the Sum of One Halfpenny *per* Ton upon all Goods and Articles upon which a Tonnage Duty is chargeable or charged in virtue of this Act, which shall pass along any Part of the said Railway situated within the said Lands, Grounds, and other Premises of the said *John Wauchope*, excepting the Coals and other Minerals, Corn, and other Articles the Produce of the said Lands and Estate, and Manure, Lime, or other Articles belonging to or for the Use of the said *John Wauchope* or his Heirs and Successors in the said Lands and Estate, or of their Tenants or Occupiers residing on the same; and which Sum of One Halfpenny *per* Ton shall be payable by the said Company to the said *John Wauchope*, and his said Heirs and Successors, Half-yearly at the Terms of *Whitsunday* and *Martinmas*, beginning the first Payment thereof at the first Term of *Whitsunday* or *Martinmas* which shall happen after the Collection of Rates and Duties on the said Railway shall have been begun to be made.

John Wauchope of Edmonstone, and his Tenants, to have Right of Way-leave on his own Property.

XXI. And be it enacted, That the said *John Wauchope* and his Heirs and Successors in the said Lands and Estate, and their Tenants or Occupiers residing on the same, shall be entitled to and have Right of Way-leave on the said Railway through the said Lands, Grounds, and other Premises of the said *John Wauchope*, free of all Expence, for the Conveyance and Transport thereon of all Coals or other Minerals, Corn, or other Articles the Produce of the said Lands, Grounds, or other Premises of the said *John Wauchope*, and also for the Conveyance and Transport on the said Railway, free of all Expence as aforesaid, of Manure, Lime, or other Articles belonging to or for the Use of the said *John Wauchope*, and his Heirs and Successors in the said Lands and Estate, or of their Tenants or Occupiers residing on the same; and the said Company shall not be entitled to ask, demand, take, recover, or receive from him or them any Rate or Duty for the passing of the aforesaid Articles along that Part of the said Railway which shall pass through the said Lands, Grounds, or other Premises of the said *John Wauchope*, but declaring that the said Tonnage Duty shall be payable by the said *John Wauchope*, his Heirs and Successors in the said Lands and Estate, and his or their Tenants or Occupiers of any Part of the said Lands, on all other Parts of the said Railway.

XXII. And

XXII. And be it enacted, That in making the said Railway through the Lands, Grounds, or other Premises belonging to the said *John Wauchope*, the same shall be fenced by the said Company on each Side by Fences to the Satisfaction of the said *John Wauchope*; and the said Company shall make such Bridges and other Communications, by Gates, Doors, or otherways, across the said Railway, for the Convenience or for the better Use, Cultivation, Improvement, or Occupation of the said Lands, Grounds, or other Premises of the said *John Wauchope*, to the Satisfaction of him the said *John Wauchope*, or the Proprietor of the said Lands for the Time being; and the said Company shall carry the Drainage Water of such Part of the said Railway as shall be upon the said Lands, Grounds, or other Premises, into the present Runs of Water which the said Railway will cross, and in such a Manner as not in any way to injure or damage the Lands, Grounds, and other Premises on either Side of the said Railway; and the said Company shall at all Times keep such Fences, Bridges, Gates, Doors, and all Culverts, Drains, or other Works for draining the said Railway, in complete Repair; and it shall be lawful for the said *John Wauchope* and his said Heirs and Successors, and they are hereby authorized and empowered, to make such Drains as they may deem requisite for the same under the said Railway; provided always, that such Drains be made at the Expence of the said *John Wauchope* and his said Heirs and Successors, and be properly constructed, so as not, either in the making thereof or otherways, to injure or obstruct the said Railway, and that the same shall be constructed by the Directions and under the Superintendence of Two Engineers, the one to be chosen by the said Company and the other by the said *John Wauchope* or his said Heirs and Successors.

Railway how to be fenced and drained through the Property of John Wauchope of Edmonstone.

XXIII. And be it enacted, That if the said Company, in making the said Railway through the Lands, Grounds, and other Premises belonging to the said *John Wauchope*, or in making the Fences, shall do any Damage to any Part of the said Lands, Grounds, and other Premises, the said Company shall and they are hereby required to pay to the said *John Wauchope*, or his said Heirs and Successors, the Amount of the Damage so done, which shall be fixed by the Verdict of a Jury in manner herein-after mentioned.

Damage to Property of John Wauchope of Edmonstone, how to be paid for.

XXIV. And whereas a Map or Plan of the Lines of the said Railway, and Branches thereof, with a Book of Reference thereto, describing the same, has been deposited with the Clerk of the Peace for the County of *Edinburgh*; be it therefore enacted, That the said Map or Plan, and Book of Reference thereto, shall remain deposited with the said Clerk of the Peace for the County of *Edinburgh*, to which Map or Plan and Book of Reference all Persons shall have Liberty to resort at all seasonable Times, and to examine and make Extracts from or Copies of the same, paying to the said Clerk for every Inspection the Sum of Two Shillings and Sixpence, and for Copies of or Extracts from the said Book of Reference, after the Rate of Sixpence for every Seventy-two Words; and the said Map or Plan and Book of Reference, or true Copies thereof, shall be and

Plan and Book of Reference.

[Local.]

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are

are hereby declared to be good Evidence in all Courts of Law or elsewhere.

Not to deviate from Lands in Schedule.

XXV. Provided always, and be it further enacted, That it shall not be lawful for the said Company to make the said Railway through the Lands of any other Person, or by any other Line, than the Lands and Line described in and by the Schedule hereunto annexed; any thing in this Act or in the said Plan or Book of Reference to the contrary notwithstanding.

Not to deviate more than 100 Yards from the Line laid down in Plan.

XXVI. And be it further enacted, That the said Company of Proprietors, in making the said Railway and Branches thereof, shall not deviate more than shall be necessary for that Purpose, nor in any Instance more than One hundred Yards from the Course or Direction delineated in the said Map or Plan, and set forth in the said Book of Reference.

Land Owners omitted in Book of Reference not to obstruct making the Railway, &c.

XXVII. Provided always, and be it further enacted, That the said Company of Proprietors may make the said Railway and Branches thereof, and other Works, into, through, across, or over the Lands or Grounds of any Person or Persons who is or are or may be the Owner or Owners of Land over which the same is set out and described in the said Map or Plan as aforesaid, although the Name or Names of such Person or Persons may happen to be omitted in the said Book of Reference, in case it shall appear to any Two or more Justices of the Peace for the County of *Edinburgh*, and be certified by Writing under their Hands, that such Error or Omission proceeded from Mistake.

Power to purchase Land, &c. for Wharfs, &c.

XXVIII. And whereas it may be necessary for the said Company for the Purpose of making Wharfs or Places of Resort; be it therefore enacted, That the said Company shall have full Power and Liberty to purchase or rent any Parcel or Parcels of Land or Ground, not exceeding Thirty Imperial Acres in the whole, for the Purpose of making Wharfs or Places of Resort for the Use of the said Railway and Branches thereof.

Breadth of the Land to be taken.

XXIX. And be it further enacted, That the Lands and Grounds to be taken or used for the Purposes of this Act shall not exceed Twenty Yards in Breadth, exclusive of the Fences, except in such Places where it shall be judged necessary for Waggons or other Carriages to turn, lie, or pass each other, or for raising Embankments for crossing the Valleys, or in deep Cuttings, and in those Places only such Breadth of Land as shall be absolutely necessary, or where any Warehouses, Cranes, or Weighbeams may be erected, or where any Places may be set out or appropriated for the Reception or Delivery of Goods, Minerals, Wares, and Merchandize which shall be conveyed on the said Railway or Branches thereof, and not above One hundred Yards in Breadth in any Place, without the Consent in Writing of the Owners of the Lands or Heritages adjoining to the said Railways.

XXX. Pro-

XXX. Provided also, and be it enacted, That it shall and may be lawful for the said Company, and they are hereby authorized and empowered, to make, erect, set up, and maintain, at or near each Inclined Plane which shall be made on the said Railway, or on any Branch of the same, by virtue of this Act, such Steam Engine or other proper Machine as they shall think necessary or expedient for facilitating the Transport, Conveyance, and Carriage of Goods, Minerals, Wares, Merchandize, Matters, and Things upon and along the said Railway or Branches thereof, and the Inclined Planes connected therewith, and for these Purposes to purchase or rent from any Body Politic, Corporate, or Collegiate, or from any Person or Persons who shall be willing to sell or let the same, such Lands, Grounds, or Heritages as may be necessary for the Purposes aforesaid, not exceeding One Acre in Extent for any One such Steam Engine or other Machine, and also, with the Consent in Writing of the Owner or Owners of the Lands in or through which the same shall be made, to make such and so many Wells, Tanks, Watercourses, Drains, and other Works as the said Company shall deem requisite or convenient for supplying such Steam Engines or other Machines with Water.

Power
to erect
Steam En-
gines, &c.

XXXI. And be it further enacted, That the said Company of Proprietors, and all Persons employed by them in erecting or setting up any Engine or Engines, commonly called Steam Engines, shall use the most approved Method to consume and burn the Smoke arising therefrom, so as to prevent the same occasioning any Nuisance whatsoever; and if the said Company of Proprietors, or any Person or Persons employed by them, shall set up or use any Steam Engine, without burning or consuming the Smoke upon the Principle aforesaid, they shall forfeit and pay for every such Neglect or Default the Sum of Fifty Pounds, to be recovered, with full Costs of Suit, by Action in the Court of Session in *Scotland* in either Division thereof; and such Steam Engine shall and may be abated as a Nuisance.

Steam En-
gines to con-
sume their
own Smoke.

XXXII. And be it further enacted, That after any Lands, Grounds, or Heritages shall be set out and ascertained for making the said Railway and Branches and other Works, or any Part or Parts thereof, and for providing and constructing the Wharfs, and other Works and Conveniences herein-before 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, Life-renters, Husbands, Tutors and Curators, or others, Guardians, Trustees for charitable and other Purposes, Executors and Administrators, and all other Trustees and Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of the Persons under their Charge, whether Minors, Issue unborn, Lunatics, Idiots, Married Women, or other Person or Persons, and to and for all Married Women who 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 such Lands, Grounds, or Heritages as last aforesaid, which shall be so set out and ascertained for the Purposes aforesaid, to contract for, sell, let, or feu and convey the same and

Bodies Poli-
tic, &c. em-
powered to
sell and con-
vey Lands.

of Ground respectively, shall require the said Company of Proprietors to take and purchase the same, but not otherwise.

XXXIV. And be it further enacted, That the Rights and Titles to be granted in manner above mentioned to the said Company of Proprietors to the Premises therein described shall not in any Measure affect or diminish the Right of the Superiority of the same, but notwithstanding the said Conveyances, the Rights of Superiority shall remain as before entire in the Persons granting the said Conveyances, and the Grounds so conveyed to the said Company of Proprietors shall not be liable for any Duties or Casualties to the Superiors.

Superiority
not to be
diminished.

XXXV. And be it further enacted, That all and every Body or Bodies Politic, Corporate, or Collegiate, Trustees, and other Person or Persons herein-before 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, or upon which the said Railway, Branches thereof, or other Works hereby authorized shall be made, may accept and receive Satisfaction for the Value of such Lands or Heritages, and for the Damages to be sustained by making and completing the said Works, in gross Sums; and in case the said Company of Proprietors, and the Parties interested in such Lands or other Heritages cannot agree as to the Amount or Value of such Satisfaction, the same shall be ascertained and settled in such Manner, and subject to such Verdict of a Jury, if required, as is herein-after directed.

Satisfaction
to be made
to Owners.

XXXVI. And be it further enacted, That in case of any Difference of Opinion between the said Company of Proprietors or their Agents, and any Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Liferenters, Husbands, Tutors, Curators, Guardians, Trustees, or other Person or Persons interested in or entitled to any Lands or Heritages, relative to the Price or Value, Damages or Recompence to be given for any Lands or Heritages to be taken or used for the Purposes of this Act, and in case such Price or Value, Damages or Recompence, cannot be settled, adjusted, and agreed for by and between the said Company of Proprietors or their Agents, and such Proprietors of and Persons interested in the said Lands or Heritages as aforesaid; or if any such Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Liferenters, Husbands, Tutors, Curators, Guardian or Guardians, Trustee or Trustees, or any other Person or Persons interested or entitled as aforesaid, shall refuse to receive, upon due Tender thereof made, such Purchase Money or such Recompence as shall be offered to be paid by such Company of Proprietors, or shall, upon Notice in Writing given to the principal Officer or Officers of such Bodies Politic, Corporate, or Collegiate, or to such Heirs of Entail, Liferenters, Husbands, Tutors, Curators, Guardian or Guardians, Trustee or Trustees, Person or Persons respectively, or left at the last or usual Place or Places of his, her, or their Abode, or with the Tenant or Tenants, Occupier or Occupiers of such Lands or Heritages, for the Space of Fourteen Days next after such Notice, neglect or refuse to treat, or shall not agree with the said Company of Proprietors, or by reason of Absence shall

For settling
Differences
in case of
Disagree-
ment as to
Price of
Lands, &c.

[*Local.*]

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be

Jury to be
summoned
by Sheriffs,
&c.

Sheriffs may
summon
Witnesses
and examine
them upon
Oath.

be prevented from treating, or through Disability 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 in Possession of, or to the Interest which they claim therein; then and in every such Case the said Company of Proprietors, or the said Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Liferenters, Husbands, Tutors, Curators, Guardian or Guardians, Trustee or Trustees, or other Person or Persons interested in or entitled to such Lands or Heritages, shall be and they are hereby respectively empowered and required from Time to Time to make Application in Writing to the Sheriffs Depute or Substitute of the said Shire of *Edinburgh*, to proceed therein as herein-after mentioned; and the said Sheriffs Depute or Substitute are thereupon accordingly hereby required to impanel, summon, and return a Jury of Twenty-four sufficient and indifferent Men, qualified to be returned upon Justiciary Trials in *Scotland*, to meet at such Time and Place as in such Warrant or Warrants shall be appointed, not being less than Nine or more than Twenty Days after such Application or Applications shall be served upon the said Sheriffs Depute or Substitute; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed as aforesaid, the said Sheriffs Depute or Substitute respectively shall return other indifferent Men of the Standers-by, or that can speedily be procured to attend that Service (being so qualified as aforesaid), to make up the said Jury to the Number of Twelve; and all Parties concerned may have their lawful Challenges or Exceptions against any of the said Jurymen; and the said Sheriffs Depute or Substitute are hereby empowered to summon and call before them all and every Person and Persons who shall be thought necessary to be examined as a Witness or Witnesses touching the Matter in question by or before any Jury or Juries as aforesaid; and the said Sheriffs Depute or Substitute may order and authorize the said Jury, or any Three or more of them, to view the Place or Places or Matters in controversy; 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 Sheriffs Depute or Substitute are hereby empowered to administer,) shall inquire of, assess, and ascertain the Sum of Money to be paid for the Purchase of such Lands or Heritages, 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 Sheriffs Depute or Substitute shall give Judgment for such Purchase Monies or Recompence to be assessed by such Juries; which said Verdict, and the Judgment thereupon pronounced as aforesaid, shall be signed by the said Sheriffs Depute or Substitute, and shall be binding and conclusive to all Intents and Purposes against all Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Liferenters, Husbands, Tutors, Curators, and all other Persons whomsoever, without being subject to Suspension, Advocation, or Reduction, or to any Question or Review; 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 Manner wilfully neglect his Duty contrary to the true Intent and Meaning of this Act; or if any Person so summoned to give Evidence,

Evidence, after having been paid or tendered a reasonable Sum for his or her Costs, Charges, and Expences, 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 Sheriffs Depute or Substitute, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds for the Benefit of the Jury in whose Behalf such Person was so summoned.

XXXVII. And be it further enacted, That all the Expences of causing and procuring such Satisfaction, Recompence, or Compensation to be assessed and awarded as aforesaid, and of assessing and awarding the same, shall be settled by the Sheriff Depute or Substitute for the County or Place in which such Assessment or Award shall be made, not interested in the Matter in question, who is hereby authorized and required to settle the same at a Time and Place to be by him appointed, after summoning the Parties interested therein to attend him for that Purpose; and such Expences shall be paid as herein-after is mentioned; that is to say, if a Verdict shall be given for a greater Sum as a Satisfaction for the absolute Sale of any Lands, Heritages, or any Share or Shares, Estate or Estates, Interest or Interests therein or Charge or Charges thereon, or as a Compensation or Recompence for any Damage done or to be done to any Land as aforesaid respectively than shall have been previously offered by or on behalf of the said Company, or if a Verdict shall be given for any Sum or Sums of Money as a Compensation for any Damages when the Dispute is about Damages only, and where no Compensation shall have been previously offered by or on the Behalf of the said Company, or in case by reason of Absence or other Impediment or Disability there shall not be found any Person or Persons legally capacitated to contract with and make Conveyance to or receive Compensation from the said Company, then such Expences shall be paid by the said Company; and in case such Costs and Expences shall not be paid to the Party entitled to the same within Ten Days after the same shall be demanded, then the same shall and may be levied by Distress and Sale of any Goods and Effects vested in the said Company or of their Treasurer, under a Warrant to be issued for that Purpose by any Justice of the Peace for the County or Place for which the same shall lie, which Warrant any such Justice is hereby authorized and required to issue under his Hand, on Application made to him for that Purpose by the Party entitled to receive such Costs and Expences; and if any Verdict shall be given for the same or for a less Sum of Money than shall have been previously offered by or on behalf of the said Company, or for Damages only, one Moiety of the said Expences shall be paid by the said Company, and may be recovered in manner aforesaid, and the other Moiety thereof shall be paid by the Body or Bodies Politic, Corporate, or Collegiate, Person or Persons, entitled to claim such Satisfaction, Recompence, or Compensation; and the said Company are hereby authorized and empowered to deduct and retain the said Moiety of the said Expences out of the Sum or Sums of Money so to be assessed or awarded as aforesaid, or out of any Part thereof; and the Payment or Tender of the Remainder of all such Sum or Sums of Money shall be deemed and taken, to all Intents and Purposes, to be a Payment or Tender of the whole

whole Sum or Sums so assessed or awarded as aforesaid ; and in case no Damages shall be given by any Verdict where the Dispute is for Damages only, such Expences shall be paid by the Body or Bodies Politic, Corporate, or Collegiate, Person or Persons claiming Damages, and shall be recovered by the said Company in the same Manner as is herein-after provided for the Recovery of any Penalty or Forfeiture incurred by or under this Act.

Persons requesting a Jury to enter into a Bond to prosecute.

XXXVIII. And be it further enacted, That all and every Person or Persons making Application for or requesting such Jury shall enter into a Bond with sufficient Sureties to the Clerk for the Time being of the said Company of Proprietors, in the Penalty of One hundred Pounds, or in such other Penalty as the said Company of Proprietors shall appoint, not exceeding the Sum of One hundred Pounds, to prosecute such his, her, or their Application, and to bear and pay his, her, or their Proportion of the Costs and Expences of summoning such Jury and taking such Inquest, in the Proportion and Manner herein-before mentioned.

Compensation Money to be apportioned.

XXXIX. And be it further enacted, That the said Juries shall and they are hereby respectively empowered to settle what Shares and Proportions of the Purchase Money or Compensation for Damages, which shall be agreed, determined, and adjusted or assessed in manner as aforesaid, shall be allowed to any Tenant or other Person or Persons having a particular Estate, Term, or Interest in the Premises, for such his, her, or their Interest or respective Interests therein : Provided always, that the said Sheriffs Depute or Substitute, or any of them, shall not be obliged by virtue of this Act to receive or take notice of any Application or Applications to be made by any Person or Persons whomsoever, for any Damage or Injury by him, her, or them sustained or supposed to be sustained, in consequence of the Execution of any of the Powers of this Act, unless Notice in Writing hath been or shall be given in relation thereto, by or on behalf of such Person or Persons, to the said Company of Proprietors, within the Space of Six Calendar Months next after the Time such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have ceased.

Notice of Injury to be given to the Proprietors before Application to the Sheriffs, &c.

Verdict of Value of Lands and Damages to be ascertained separately.

XL. And be it further enacted, That the said Juries respectively shall award all Determinations 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 Heritages, 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 Heritages, and the Money assessed or adjudged for such Damages as aforesaid, separately and apart from each other.

Jury to be under the same Regulations as in

XLI. And be it further enacted, That every such Jury and Juryman as aforesaid shall be under and subject to the same Regulations, Pains, and Penalties as if such Jury or Juryman had been returned to pass upon

upon any Justiciary Trial in *Scotland*; and that all and every Person and Persons who, in any Examination to be taken by virtue of this Act, shall wilfully and corruptly give false Evidence before any such Jury as aforesaid, shall and may be prosecuted for the same, and upon Conviction thereof shall be subject to such Punishment and Disqualifications as any Person or Persons can or may be subject to for wilful and corrupt Perjury by the Laws or Statutes of that Part of the Realm within which the Offence shall be tried.

the Courts of Law, and Persons guilty of Perjury may be prosecuted.

XLII. And be it further enacted, That all the Verdicts of the Juries, and the Judgments of the said Sheriffs Depute or Substitute thereon as aforesaid, shall be transmitted to and be kept by the Clerk of the Peace for the said County of *Edinburgh*, and shall be deemed Records to all Intents and Purposes; 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 One Shilling and no more, and to take Copies thereof or Extracts therefrom, paying for every Copy or Extract after the Rate of Sixpence for every One hundred Words.

Verdict to be recorded.

XLIII. And in order that the said Company of Proprietors may not be impeded in the Prosecution of the said Undertaking by means of any such Proceedings before any such Jury, be it further enacted, That either upon Payment or legal Tender of such Sum or Sums of Money by the said Company of Proprietors, or upon Payment of the said Sum or Sums of Money into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company, within One Calendar Month after the same shall have been agreed for, assessed, or awarded, it shall be lawful for the said Company of Proprietors, and their Agents, Workmen, and Servants, immediately to enter upon the Lands and Heritages respectively, and immediately upon or after such Payment shall be made as aforesaid for the Lands and other Heritages to be purchased for the Purposes of this Act such Lands and other Heritages, together with the yearly Profits thereof, and all the Estate, Use, Trust, and Interest of any Person or Persons therein, shall from thenceforth be vested in and become the sole Property of the said Company of Proprietors and their Successors, to and for the Purposes of this Act, for ever; and such Payment, Tender, Investment, or Deposit 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 of the Widow of any such Person, and all entailed Estates and other Estates of every other Person whomsoever therein: Provided nevertheless, that before such Payment as aforesaid shall have been made, 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 any Person or Persons entitled to such Payment, for the Purpose of making the said Railway or Branches or other Works, without the Consent in Writing of such Person or Persons respectively.

Upon Payment, Tender, &c. the Works not to be impeded.

Company
not to claim
Mines, &c.
under Land
purchased.

XLIV. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to give to the said Company of Proprietors any Mines of Minerals or of Coals, or any Stone or Slate under any Land taken or purchased by the said Company under the Provisions of this Act, but all such Mines, Minerals, Coals, Stone, or Slate shall be deemed to be excepted out of such Purchase, and may be worked by the Owners or Lessees thereof, under the said Lands or any Railways or Wharfs of the said Company, as if this Act had not passed, but so as nevertheless not to prejudice or to injure such Railways, Wharfs, or other Works hereby authorized and directed to be made.

Application
of Compen-
sation Money
when ex-
ceeding
200*l*.

XLV. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands or Heritages purchased, taken, or used for the Purposes of this Act, which shall belong to any Corporation, Married Woman, Infant, Lunatic, or Person or Persons under any other Disability or Incapacity, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed, be paid, under the Direction and by the Authority of the Court of Session, into the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company, and without Fee or Reward, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court of Session in either Division thereof, as the Case may be, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands or Heritages, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands or Heritages, or affecting other Lands or Heritages standing settled therewith to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be so laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Lands or Heritages, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner, as the Lands or Heritages which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing and undetermined, and capable of taking effect; and in the mean time and until such Purchase shall be made the Interest or annual Produce of such Money shall from Time to Time be paid, by Order of the said Court of Session, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands and Heritages so hereby directed to be purchased, in case such Purchase or Settlement were made.

Application
where less
than 200*l*.

XLVI. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands or Heritages purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall amount to or exceed the Sum of Twenty Pounds, then

and in all such Cases the same shall (at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands or Heritages so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands,) be paid into One of the said Banks, and shall be ordered to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by the said Company of Proprietors, (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties,) in order that such Principal Money, and the Dividends or Interest arising thereon, may be applied in any Manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Session.

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

Application where less than 20l.

XLVIII. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands or Heritages to be purchased by virtue of this Act for the Purposes aforesaid 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 Company of Proprietors, or in case the Person or Persons to whom any such Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands or Heritages be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Company of Proprietors, or any Three or more of them, to order the Sum and Sums of Money so awarded as aforesaid to be paid into the Bank of Scotland, or Royal Bank of Scotland, or Bank of the British Linen Company, in manner as before directed, to the Credit of the Parties interested in the said Lands or Heritages, (describing them if they are known, and if they are not known, then generally to the Credit of the Parties interested in the said Lands or Heritages, without any Description of them,) subject to the Order, Control, and Disposition of the said Court of Session; which said Court, in either Division thereof, on the Application of any Person or Persons making claim to such Sum or Sums of Money or any Part thereof, by Petition, shall be and are hereby empowered, in a summary Way of proceeding or otherwise, as to the said Court shall seem meet, to order Distribution thereof, or Payment of the Interest, Dividends, or Produce thereof, according to the respective Estate or Estates,

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

Estates, Title or Interest of such Person or Persons making claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable ; and the Cashier or Cashiers of the Bank of *Scotland*, or Royal Bank of *Scotland*, or Bank of the *British* Linen Company respectively, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into such Banks as aforesaid.

Where any Question shall arise touching the Title to the Money to be paid, the Person in Possession of the Land, &c. at the Time of such Purchase shall be deemed entitled.

XLIX. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into any of such Banks as aforesaid, in pursuance of this Act, for the Purchase of any Lands or Heritages, or of any Estate, Right, or Interest in any Lands or Heritages to be purchased in pursuance thereof, or to the Dividends or Interest of any of such Money, the Person or Persons who shall have been in Possession of the Lands or Heritages at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands or Heritages according to such Possession, until the contrary shall be shown to the Satisfaction of the said Court of Session, and the Dividends and Produce of such Money, and the Principal Sums, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful one, and that some other Person or Persons was or were lawfully entitled to such Lands or Heritages, or to some Estate or Interest therein.

The Court may order reasonable Expences of Purchases to be paid.

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

For paying off heritable Debts, &c. on Lands used by the Company.

LI. And be it further enacted, That in case any Lands or Heritages to be taken or used for the Purposes of this Act shall happen to be burthened with any heritable Debt to any Person or Persons, it shall be lawful for the said Company of Proprietors, upon Application being made to them by such heritable Creditors, and the said Company of Proprietors are hereby authorized and required, to pay such Sum or Sums of Money, after the same shall have been so agreed for and adjusted or assessed in manner aforesaid for such Lands

Lands burthened with heritable Debts, in Part of the Principal Money that shall be due on such heritable Debts, unto such heritable Creditor: Provided always, that upon Receipt of such Sum or Sums such heritable Creditors shall acknowledge the Receipt of such Sum or Sums of Money by an Indorsement to be made upon the Security for such heritable Debts, and signed by such heritable Creditors in the Presence of One or more credible Witness or Witnesses, in satisfaction of so much of the Principal Money due upon such heritable Debts, or otherwise by such other Receipt or Discharge or Acknowledgement for such Payment as shall by the Law of *Scotland* be good and effectual to the Debtor.

LII. And whereas, by the Means of Purchases which the said Company of Proprietors are empowered and required to make by virtue of this Act, they may happen to be seised of more Land or Ground than will be necessary for effecting the Purposes of this Act; be it therefore enacted, That it shall be lawful for the said Company of Proprietors to sell and dispose of any Piece or Pieces of such Land or Ground, either together or in Parcels, as they shall find most convenient and advantageous, to such Person or Persons as shall be willing to contract for and purchase the same: Provided always, that the said Company of Proprietors, before they shall sell and dispose of any such Piece or Pieces of Land or Ground, shall first offer to resell the same to the Owner of the adjoining Land or Ground; and in case such Person or Persons respectively shall not then and thereupon agree or shall refuse to purchase or re-purchase the same respectively, a Deposition to be made and sworn before One of His Majesty's Justices of the Peace for the County of *Edinburgh* by some Person or Persons not interested in the said Piece or Pieces of Land or Ground, stating that such Offer was made by or on the 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, shall in all Courts whatever 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 such Offer was made (as the Case may be); and in case such Person or Persons shall be desirous of purchasing or re-purchasing the same, and he, she, or they, and the said Company of Proprietors, shall differ and not agree with respect to the Price thereof, in such Case the Price or Prices thereof shall be ascertained by a Jury in manner herein-before directed with respect to the disputed Value of Premises to be purchased by the said Company of Proprietors in pursuance of this Act, and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as herein-before directed with respect to such Purchase made by the said Company of Proprietors, *mutatis mutandis*; and the Money to arise by the Sale or Sales which may be made by the said Company of Proprietors of such Piece or Pieces of Land or Ground as aforesaid shall be applied to the Purposes of this Act, and the Purchaser or Purchasers thereof shall not be answerable or accountable for the Misapplication or Nonapplication of such Money.

Requiring the Company of Proprietors to give the first Offer of Land not wanted for the Purposes of the Act to the Owner of the adjoining Land.

Railway and
Branches
not to be
made till
whole Sums
necessary
subscribed.

LIII. And whereas the probable Expence of making the said Railway and Branches thereof, and other Works hereby authorized to be made, will amount to the respective Sums following; the Sum of Fifty-seven thousand six hundred and ninety-five Pounds for the Main Line thereof; the Sum of Four thousand one hundred and thirty-six Pounds for the Branch from at or near *Wanton Walls* to *Fisher-row Harbour*; and the Sum of Eight thousand two hundred and ninety-four Pounds for the Branch from at or near *Cairney* to *Cowpits*, amounting in whole to the Sum of Seventy thousand one hundred and twenty-five Pounds; and the Sum of Fifty-six thousand one hundred and fifty Pounds, being more than Four Fifth Parts of such aggregate Expence, has been already subscribed by certain Persons under a Contract, binding themselves, their Heirs, Executors, Administrators, and Assigns, for the Payment of the several Sums subscribed by them respectively; be it further enacted, That the Main Line of the said Railway shall not be commenced till the Sum of Fifty-seven thousand six hundred and ninety-five Pounds be completely subscribed; the Branch from at or near *Wanton Walls*, till the said Sum of Four thousand one hundred and thirty-six Pounds shall be subscribed in like Manner; and the said Branch from at or near *Cairney* to *Cowpits*, till the said Sum of Eight thousand two hundred and ninety-four Pounds be subscribed in like Manner.

Division into
Shares.

LIV. And be it further enacted, That the said Sum of Seventy thousand one hundred and twenty-five Pounds, or so much thereof as shall be raised and contributed, shall be divided into Shares of Fifty Pounds each, and such respective Shares shall be numbered in regular Progression, and every such Share shall always be distinguished by the Number to be applied to the same; and no Person subscribing thereto or becoming a Proprietor of such Undertaking do become a Proprietor of less than One Share; and the said Shares shall be and are hereby vested in the several Persons so raising and contributing the same, and their several and respective Executors, Successors, and Assignees, 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 other Person or Persons, their several and respective Executors, Successors, and Assignees, who shall severally subscribe for One or more Share or Shares, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said Undertaking and other the Purposes of the said Subscription, shall be entitled to and receive at such Time and Times as the said Company of Proprietors shall at a General or Special Meeting, to be convened for that Purpose as directed on other Occasions, direct and appoint, 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, Person or Persons, having such Property in the said Undertaking as aforesaid, shall bear and pay a proportionate Sum towards carrying on the same, in manner herein directed and appointed.

LV. And be it further enacted, That it shall and may be lawful for the said Company of Proprietors to apply all or any Part of the Money so subscribed as aforesaid for making and completing the said Railways, and the Ways, Wharfs, and other Works and Conveniences belonging or requisite thereto.

Application
of the Money
subscribed.

LVI. And be it further enacted, That all and every the Shares and Proportions of all Bodies Politic, Corporate, or Collegiate, and all other Person or Persons, of and in the Undertaking or the Joint Stock 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
deemed Per-
sonal Estate.

LVII. And be it further enacted, That the several Persons who have subscribed or who shall hereafter subscribe to advance any Money for or towards making and maintaining the said Railway or Branches thereof, and other Works hereby authorized to be made, shall and they are hereby required to pay the Sum or Sums of Money by them respectively subscribed, or such Parts or Proportions thereof as shall from Time to Time be called for by the Company, under and by virtue of the Powers and Directions of this Act, at such Times and Places as shall be directed by the said Company of Proprietors or their Committee in manner herein-after mentioned; and in case any Person or Persons shall refuse or neglect to pay the same at the Time and in the Manner required for that Purpose, it shall and may be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law or Equity.

To compel
Payment of
Subscrip-
tions.

LVIII. And be it further enacted, That all the Money to be raised by the said Company of Proprietors by virtue of this Act is hereby directed and appointed to be laid out and applied, in the first place, for and towards the Payment, Discharge, and Satisfaction of all Costs, Charges, and Expences in applying for, obtaining, and passing this Act, and all the necessary Expences preparatory and relating thereto, and all the Residue and Remainder of such Money for and towards making, completing, and maintaining the said Railway and Branches thereof, Ways, Wharfs, and other Works, and other the Purposes of this Act, and to no other Use, Intent, or Purpose whatsoever.

Application
of Money to
be raised.

LIX. And for the better securing to the several Proprietors of the said Undertaking their respective Shares therein, be it further enacted, That the said Company of Proprietors shall and they are hereby required, at their First or some subsequent General Assembly, to cause the Names and proper Additions of the several Persons who shall be then entitled to the Shares in the said Undertaking, with the Number of the Shares, or the Amount of all the Subscriptions 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 to be kept by the Clerk of the said Company of Proprietors, and after such Entry made to cause their Common Seal to be affixed thereto, and to cause a Ticket or Instrument, with the Common Seal of the said Company of Proprietors affixed thereto, to be delivered to every such Subscriber upon Demand, specifying the Share.

Names of
Proprietors
to be entered,
and Tickets
of their
Shares de-
livered to
them.

Share or Shares to which he, she, or they is or are entitled in the said Undertaking, every such Proprietor paying the Clerk Two Shillings and Sixpence, and no more, for every such Ticket or Instrument ; and such Ticket or Instrument shall be admitted in all Courts whatsoever as Evidence of the Title of such Subscriber, his or her Executors, Successors, and Assignees, to the Share or Shares therein specified, but the Want of such Ticket or Instrument shall not hinder or prevent the Owner of any of the said Shares from selling or disposing thereof; and which said Ticket or Instrument may be in the Words or to the Effect following ; *videlicet*,

Form of
Ticket.

‘ *The Edinburgh and Dalkeith Railway Company.*

‘ Number

‘ THESE are to certify, That of is a Proprietor of
‘ the Share or Number being Share
‘ of the *Edinburgh and Dalkeith* Railway, subject to the Rules, Re-
‘ gulations, and Orders of the said Company of Proprietors ; and that
‘ the said his [or her] Executors, or Successors, and Assignees,
‘ is and are entitled to the Profits and Advantages of such Share.
‘ Given under the Common Seal of the said Company the
‘ Day of in the Year of our Lord

Subscribers
to be deemed
Proprietors,
and to have
Votes ac-
cording to
their Number
of Shares.

LX. And be it further enacted, That all and every Body or Bodies Politic or Corporate, or other Person or Persons, and his, her, or their Executors, Successors, and Assignees, who shall have subscribed for or shall become entitled to and be in the actual Possession of One or more Share or Shares in the said Undertaking, shall be deemed a Proprietor for every Share, and shall be entitled to vote for the same in manner following ; *viz.*, for One Share, or any Number of Shares less than Five, he, she, or they shall be entitled to One Vote ; for Five Shares, and any Number less than Ten Shares, he, she, or they shall be entitled to Two Votes ; for Ten Shares, and any Number less than Twenty, he, she, or they shall be entitled to Three Votes ; and for Twenty or more Shares he, she, or they shall be entitled to Four Votes, and no more, subject to the Restrictions herein-after mentioned, in the General and Special Assemblies of the said Company of Proprietors, to be held, as herein directed, for carrying on the said Undertaking, or relative thereto ; which Votes shall and may be given by him, her, or them, or by his, her, or their Proxy or Proxies (such Proxy or Proxies being a Proprietor or Proprietors of One or more Share or Shares in the said Undertaking), duly constituted under his, her, or their Hand or Hands, or Common Seal if a Corporation, or in Cases of Infancy, Idiocy, or Lunacy, under the Hand or Hands of his, her, or their Tutor or Tutors, Curator or Curators, Guardian or Guardians ; and that every such Vote by Proxy shall be as good and valid to all Intents and Purposes as if such Principal or Principals had voted in Person, and being an Infant had been of full Age ; the Appointment of which Proxy shall and may be made in the Words or to the Effect following (varying the same so as to meet each particular Case) ; *videlicet*,

' I , One of the Proprietors [*or We, A. B. and C. D.,* Guardians Form of the
 ' of One of the Proprietors] of the *Edinburgh and Dal-* Appoint-
 ' *keith* Railway, do hereby nominate, constitute, and appoint ment of a
 ' to be my [*or his or her*] Proxy, in my [*or his or her*] Absence to Proxy.
 ' vote and give my [*or his or her*] Assent or Dissent to any Business,
 ' Matter, or Thing relating to the said Undertaking which shall be
 ' mentioned or proposed at any Meeting of the Proprietors of the
 ' said Railway, or any of them, in such Manner as he the said
 ' shall think proper, according to his Opinion and Judgment,
 ' for the Benefit of the said Undertaking, or any thing appertaining
 ' thereto. In witness whereof I [*or we*] have hereunto set my Hand
 ' [*or our Hands*] the Day of in the Year of
 ' our Lord

And that every Election of Committees and Officers, and every All Ques-
 Question, Matter, and Thing whatsoever, which shall be proposed, tions to be
 discussed, or considered in any General or Special Assembly of the decided by
 said Company of Proprietors to be held by virtue of this Act, shall the Majority
 be finally determined by the Majority of Votes and Proxies then of Votes.
 present computing as aforesaid; and that at every such Assembly
 One of the Proprietors present shall be appointed President or
 Chairman, who shall not only have such Vote or Votes as a Proprietor
 as aforesaid, but shall also in case of an equal Division have the
 decisive or casting Vote: Provided always nevertheless, that no Per-
 son shall have more than Four Votes in his or her own Right.

LXI. And be it further enacted, That the several Rates authorized Rates to be a
 to be demanded and taken by virtue of this Act shall be a Security Security for
 for each and every Sum and Sums of Money so to be borrowed as the Money
 aforesaid, with Interest, to the Person or Persons who shall from borrowed.
 Time to Time be entitled to such Securities; and all Persons to
 whom any such Securities as aforesaid shall be given shall be equally
 entitled to a Claim or Lien on the said Rates, in proportion to
 the respective Sums of Money advanced and lent by them re-
 spectively on the Credit of the said Rates, without any Prefer-
 ence by reason of the Priority of the Date of any such Notes:
 Provided always, that in case the said Sum of Seventy thousand Power to
 one hundred and twenty-five Pounds, herein-before authorized to borrow
 be raised, shall be found insufficient for making and completing the 20,000*l*.
 said Railways and other Works hereby authorized to be made, and
 defraying all necessary Charges and Expences relating thereto, it
 shall be lawful for the said Company of Proprietors, by an Order
 of any General Assembly of the said Company of Proprietors, to
 borrow and take up at Interest all or any Part of the Sum
 of Twenty thousand Pounds on the Credit of the said Under-
 taking, as to them shall seem meet and convenient; and the said
 Company of Proprietors, or the Committee of the said Company
 of Proprietors, after an Order of any General Assembly, are hereby
 authorized and empowered 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 the
 same to be paid out of such Rates,) as a Security for any such Sum

[*Local.*]

29 U

or

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 Securities or Assignments shall be made under the Common Seal of the said Company of Proprietors, in the Words or to the Effect following; (that is to say,)

Form of
Assignment.

Number
BY virtue of an Act made in the Year of the
Reign of King *George* the Fourth, intituled [*here set forth the Title of this Act*], We, the *Edinburgh* and *Dalkeith* Railway Company, incorporated by and under the said Act, in consideration of the Sum of to us in hand paid by
of do assign unto the said
his [*or her*] Executors, Successors, and Assignees, the said Undertaking, and all and singular the Rates arising by virtue of this Act, and all the Estate, Right, Title, and Interest of and in the same, to hold unto the said his
[*or her*] Executors, Successors, and Assignees, until the said Sum of together with Interest for the
same after the Rate of for every
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 Security 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 Sum in such Assignments mentioned to be advanced, without any Preference by reason of Priority of any such Assignments, or on any 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 of Proprietors, which said Book or Books shall and may be perused at all seasonable Times by any of the Proprietors or Creditors of the said Undertaking, or other Persons interested therein, without Fee or Reward; and all and every Person or Persons to whom any such Security or Securities, 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,

Form of
Transfer.

[*or We*] of
I in consideration of the Sum of
paid by of do
hereby transfer a certain Security, Number, made
by the *Edinburgh* and *Dalkeith* Railway Company, 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

his [or her] Executors, Successors, and Assignees. Dated this
 Day of in the Year of our Lord

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

LXII. And be it further enacted, That the Interest of the Money which shall be borrowed as aforesaid shall be paid half-yearly to the Persons severally entitled thereto, in preference to any Interest or Dividends due and payable by virtue of this Act to the said Company of Proprietors or any of them, and shall from Time to Time be fully paid and discharged or provided for before the yearly or other Interest or Dividends due to the said Company of Proprietors or any of them shall be paid, made, or 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, the same shall and may be sued for and recovered, with Costs, from the said Company of Proprietors, by Action in the Court of Session in *Scotland*.

Interest of Money borrowed to be paid in preference to the Dividends, and may be sued for at Law.

LXIII. Provided always, and be it enacted, That nothing herein contained shall extend to charge or make liable any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who is, are, or shall be the Proprietor or Proprietors of the Stock of the said Company, or his, her, or their Estate, heritable or moveable, real or personal, with any Debt or Demand whatever, due or to become due by or from the said Company, beyond the Extent of his, her, or their Capital Stock, or Share or Shares in the Stock of the said Company, any Law, Custom, or Usage to the contrary thereof notwithstanding: Provided always, that no Person to whom any such Security 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 of Proprietors, for or on account of his or her having lent or advanced any Sum or Sums on the Credit of such Security or Assignment.

No Person answerable for more than his Stock.

Assignees not to vote on account of having lent Money.

LXIV. And be it further enacted, That the First General Meeting of the said Company of Proprietors for putting this Act in execution shall be held at *Edinburgh* on the Third *Wednesday* next after the passing of this Act, at the Hour of Eleven in the Forenoon, and the Second and every other General Meeting shall be held on such Day and at such

First and other General Assemblies.

Committee
to be elected.

such Place as the said Proprietors at the next preceding General Meeting shall appoint, all such Meetings being at the Hour of Eleven in the Forenoon; and the said Company of Proprietors at such respective General Meetings, together with such Proxies as shall be then present, shall choose and elect, out of such of the said Proprietors as at the Time of such Election shall respectively be possessed, in their own Right, of Stock to the Amount of Ten Shares at the least in the said Undertaking, One Committee to manage the Affairs of the said Company of Proprietors as herein directed, and to consist of Nine or more Persons, Three of whom shall at all Meetings of the Committee be a Quorum; but if any Person elected to be of such Committee shall cease to hold the Number of Ten Shares, or shall become Bankrupt, such Proprietor shall cease to be of such Committee, and another Proprietor qualified as aforesaid shall be nominated by the remaining Members of the Committee, to continue in Office till the next General Meeting of the said Company of Proprietors.

Power to
remove
Officers;

and to make
Bye Laws.

LXV. And be it further enacted, That the said Company of Proprietors shall have Power and Authority, at any General Meeting, to remove and displace any Person or Persons who shall have been chosen a Member or Members of the said Committee, or any Officer or Officers under them (to be appointed under the Powers herein-after mentioned), and to choose and elect others in case of Death or other Vacancy, and to revoke, alter, amend, or change any of the Rules or Directions which may have been prescribed and laid down by virtue of this Act with regard to their Proceedings amongst themselves, as they shall think proper; the Method of calling a General or Special Meeting, and their Time and Place of meeting and voting, and appointing Committees, only excepted; and shall also have Power and Authority to make such new Rules, Bye Laws, and Orders for the good Government of the said Company of Proprietors, their Agents and Workmen, for making, maintaining, and using the said Railway and Branches thereof, and other Works, and all other Conveniences, Matters, and Things that shall be made for the same, and also for and concerning all such Goods, Carriages, Minerals, and Commodities as shall be conveyed thereon, and also for the well governing of all Persons who shall be employed in the conveying of any Minerals, Goods, Wares, and Merchandize, and other Articles and Things, upon any Part of the said Railways or other Works; and from Time to Time to alter and repeal, and again to renew, the said Bye Laws, Orders, and Regulations, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same as to the major Part of such General Meetings shall seem meet, not exceeding the Sum of Five Pounds for any one Offence, such Fines and Forfeitures to be levied and recovered by such Ways and Means as are herein mentioned; which said Rules, Bye Laws, and Orders, being reduced into Writing under the Common Seal of the said Company of Proprietors, shall be painted in a legible Manner on Boards, and affixed upon the several Toll Houses to be erected on the said Railways and Wharfs, and to cause such Boards and Painting to be renewed from Time to Time, when destroyed, obliterated, or defaced; and such Rules, Bye Laws, and

and Orders 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 they be not repugnant to the Laws of *Scotland*, or any Directions in this Act contained.

LXVI. And be it enacted, That every such General Meeting of the said Company 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, Receivers, or Collectors of the Rates, and other Officers by them appointed, or by any Person or Persons whomsoever employed by or concerned for or under them in and about the said Railways and other Works thereto belonging; but no Vote or Votes by Proxy shall be given, or have any Power in or as to the Audit and Settlement of Accounts; and the said Company of Proprietors shall have Power to adjourn themselves from Time to Time, to such Place or Places within the City or County of *Edinburgh*, as shall at any such General Meetings be thought proper and convenient.

Power to
call for Ac-
counts, &c.

LXVII. And be it further enacted, That if any Person or Persons shall wilfully pull down, obliterate, deface, or destroy any Board whereon is painted any Rule, Bye Law, or Order, or other Public Notice, either directed or authorized to be erected, put up, or affixed in virtue of this Act, every such Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, and shall also pay the Expences of replacing the Damage done by such Person or Persons.

Penalty on
pulling down
Notices.

LXVIII. Provided always, and be it further enacted, That if at any such General Meeting there shall not be Persons present who shall be possessed of or entitled unto at least Two hundred Shares or Subscriptions of Fifty Pounds or upwards in the said Undertaking, either as Principals or Proxies, no Choice of a Committee, nor any Removal or Appointment of a Person or Persons in the Room of such of the Members of the said Committee who shall die, or decline or become incapable to act, shall be made at that Time; but in such Case there shall be another Meeting of the said Company of Proprietors at the same Place upon that Day Fortnight; and if a sufficient Number of Proprietors as Principals or by Proxies shall not then attend, the said General Meeting shall stand adjourned to the same Place on the *Wednesday* 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 Meeting, every Proprietor who shall not attend such Second Meeting in Person or by Proxy shall forfeit to the said Company of Proprietries, for every Share or Subscription of Fifty Pounds which he or she shall possess in the said Undertaking, the Sum of Two Shillings, to be deducted out of his or her next succeeding Payment of Interest or Dividends of the Profits

General
Meetings for
choosing
Committees
to consist
of Persons
having 200
Shares.

[*Local.*]

29 X

of

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 as aforesaid within Two Years next after the making of such Default, then the Payment of the said Forfeiture of Two Shillings may be recovered and enforced by the Ways and Means herein appointed for the Recovery of any other of the Penalties or Forfeitures imposed by this Act.

Meetings of
Proprietors
may be spe-
cially con-
vened.

LXIX. 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 Meeting of the said Company of Proprietors is necessary to be held, it shall be lawful for any Six or more of the said Proprietors, who may each of them be possessed of or entitled unto Ten Shares or Subscriptions of Fifty Pounds each or upwards at the least in the said Undertaking, to cause Ten Days Notice at the least to be given thereof in some Newspaper or Newspapers usually circulating in the County of *Edinburgh*, specifying in such Notice the Reason and Intention of requesting such Special General Meeting, and the Time when and Place where the same shall be held ; and the said Proprietors are hereby authorized to meet pursuant thereto, and such of them as shall be present shall proceed to the Execution of the Powers by this Act given to the said Company of Proprietors 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 Meeting, shall be as valid with respect to the Matters specified in such Notice as if the same had been done at a General Meeting at the Time herein-before appointed for holding the same.

Officers to
the Com-
pany to be
appointed.

LXX. And be it further enacted, That it shall be lawful for the said Company of Proprietors at any General Meeting assembled, and they are hereby required, 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 such Treasurer and other Officer having the Care or Custody of any Money to be raised or received by virtue of this Act for the due Execution of his Office, as the said Company of Proprietors shall think proper, and from Time to Time to remove and again to replace any such Treasurer, Clerk, and other Officers, or any of them ; and such Clerk shall attend the General Meetings and Assemblies of the said Company of Proprietors, 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 all the Acts, Proceedings, and Transactions of the said Company of Proprietors, and of the said Committee, by virtue of and under the Authority of this Act ; and that every Proprietor of the said Undertaking shall and may, at all convenient Times, have recourse to and peruse and inspect the same, and also the Book or Books to be kept by the Clerk of the said Commissioners, *gratis*, and may demand and have Copies thereof, or any Part thereof, paying Sixpence for every
Seventy-

Seventy-two Words so to be copied; and if any such Clerk shall refuse to permit any of the said Proprietors to inspect or peruse any such Books at all convenient Times and Seasons, or refuse to make any such Copy or Copies within Five Days after Demand made thereof at the Rate aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, for the Benefit of the said Undertaking; and whenever any such Treasurer or Clerk shall die, or be removed from or quit the Service of the said Company of Proprietors, it shall be lawful for the Committee of such Proprietors for the Time being, or a Majority of them, to appoint some other fit Person or Persons to be Treasurer or Clerk in the Place of him or them so dying, being removed, or quitting the said Service, until the then next General Meeting of the said Company of Proprietors, when such Appointment shall be confirmed, or another Treasurer or Clerk shall be nominated and appointed in his or their Stead.

LXXI. Provided always, and be it further enacted, That it shall not be lawful for the said Company of Proprietors to appoint the Person who may be appointed to act as their Clerk or Clerks in the Execution of this Act, or the Partner or Partners of any such Clerk or Clerks, or any Person or Persons in the Employ of such Clerk or Clerks, or of his or their Partner or Partners, the Treasurer for the Purposes of this Act, or to appoint the Person who may be appointed Treasurer, or the Partner or Partners of any such Treasurer, or any Person or Persons in the Employ of any such Treasurer or of his or their Partner or Partners, the Clerk or Clerks to the said Company; and if any Person or Persons shall act in both the Capacities of Clerk and Treasurer for the Purposes of this Act, or if any Person or Persons, being the Partner or Partners of any such Clerk or Clerks or other Person in the Service or Employ of any such Clerk or Clerks, or of his or their Partner or Partners, shall act as Treasurer, or being the Partner or Partners of any such Treasurer, or in the Service or Employ of any such Treasurer or of his or their Partner or Partners, shall act as Clerk in the Execution of this Act, every Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person or Persons who shall sue for the same, to be recovered, together with full Costs of Suit, in any Court competent in *Scotland*.

Same Person
not to be
Clerk and
Treasurer.

LXXII. And be it further enacted, That the Committee for the Time being of the said Company of Proprietors shall have Power from Time to Time to make such Call or Calls for Money from the Proprietors of the said Undertaking, to defray the Expences of and to carry on the same, as they shall from Time to Time find necessary for those Purposes, so that no such Call do exceed the Sum of Ten Pounds *per Centum* upon each Share; and so as no Call be made but at the Distance of One Calendar Month at the least from each other; which Monies so called for shall be paid to such Person or Persons and in such Manner as the said Committee shall from Time to Time appoint and direct, for the Use of the said Undertaking; and such Committee shall, until the next General Assembly to be holden in manner as aforesaid, meet at such Times and at such Places, and from Time to Time adjourn themselves to such other Time or Times,
as

Powers of
the Com-
mittee for
making Calls.

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 a Majority of Votes; but no Member of such Committee, although he may be a Proprietor of many Shares in the said Undertaking, shall have more than One Vote in the said Committee, except the President or Chairman, who in case of an equal Division shall always have a Second or Casting Vote; and the said Committee shall have Power and Authority to direct and manage all the Affairs of the said Company, as well in buying and purchasing Lands and Heritages, and Materials for the Use of the said Undertaking and Works, as in employing, ordering, and directing the Works and Workmen, and in placing and displacing Under Officers, Clerks, Servants, Agents, and Workmen, and in making all Contracts and Bargains touching the said Undertaking, so that no Purchase, Bargain, or other Matter be done or transacted without the Concurrence of a Majority of the said Committee as aforesaid then assembled.

For enforcing the
Payment of
Calls.

LXXIII. And be it further enacted, That every Owner or Owners of One or more Share or Shares in the said Undertaking shall pay his, her, or their Shares and Proportions of the Monies to be called for as aforesaid, not exceeding the Sum aforesaid for every Share, at such Time and Place as aforesaid, of which One Calendar Month's Notice at the least shall be given by publishing the same in some one such Newspaper as aforesaid, or by giving Notice in Writing to such Proprietor, or leaving the same at his or her usual or last Place of Abode, or in such Manner as the said Company of Proprietors shall at any General Assembly direct and appoint; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for at the Time or Place appointed as aforesaid, it shall be lawful for the said Company of Proprietors, if such Person or Persons shall reside within *England* or *Ireland*, to sue for and recover the same in any of His Majesty's Courts of Record at *Westminster* or *Dublin*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, or more than One Imparlane, shall be allowed; and if such Person or Persons shall reside within *Scotland*, by Action in the Court of Session, or any other competent Court; and if any Person or Persons shall refuse or neglect to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for after the first Call as aforesaid, at the Time and Place so appointed as aforesaid, he, she, or they so neglecting or refusing shall forfeit any Sum not exceeding Two Pounds Ten Shillings for every One hundred Pounds of his, her, or their respective Share or Shares in the said Undertaking; and in case such Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money so to be called for as aforesaid for the Space of Three Calendar Months after the Time appointed for Payment thereof as aforesaid, and at the Place so to be appointed for the Payment thereof as aforesaid, then he, she, or they so neglecting or refusing shall forfeit his, her, or their respective Share or Shares in the said Undertaking, and all the Profit and

Benefit

Benefit thereof, and all Money advanced by him; her, or them; and all such Forfeitures shall be sold at a Public Sale by the said Company of Proprietors for the most Money that they can get for the same; and the Money produced by the Sale of any such Share or Shares shall, in the first place, be applied for the Payment of all Arrears of Calls on such Shares respectively, and the legal Interest thereon, and the Expences attending the Sale or Sales, and the Remainder of the Money produced by the Sale or Sales of such Share or Shares respectively shall be paid, on Demand, to the Person or Persons to whom such Share or Shares shall have belonged, or to the legal Representative or Representatives of such Person or Persons, and the Produce shall be equally divided amongst the rest of the said Company of Proprietors, in proportion to their respective Shares and Interests in the said Undertaking: Provided always, that no Advantage shall be taken of the Forfeiture of the Share or Shares in the said Undertaking until Notice shall be given by the Clerk or Treasurer of the said Company of Proprietors to the Owner or Owners thereof, or Notice in Writing left at his or their usual or last Place of Abode, nor unless the same shall be declared to be forfeited at some General Assembly of the said Company of Proprietors which shall be held after the End of Two Calendar Months after the Forfeiture shall happen to be made, 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 have been 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 forfeiting on the said Undertaking: Provided always, that it shall be lawful to and in the Power of the said Company of Proprietors at such General Assembly as aforesaid, instead of declaring any Share or Shares to be forfeited, to sue for and recover the Sum or Sums of Money subscribed by any Person or Persons, and called for as aforesaid, in any Court of Law or Equity: Provided always, that no Person shall be qualified to be elected, nor serve or act as a Member of the said Committee, who shall hold any Place of Profit, or be concerned or interested in any Contract or Contracts under the said Company, or shall be a Dealer either directly or indirectly in any Article, Matter, or Thing used by the said Company.

Subscribers to have Notice before their Shares are forfeited.

Disqualification of Members of Committee.

LXXIV. And be it further enacted, That in any Action brought by the said Company of Proprietors against any Owner or Owners of any Share or Shares in the said Undertaking, to recover any Sum or Sums of Money due or payable to the said Company of Proprietors for or by reason of any Call or Calls made by virtue of this Act, it shall be sufficient for the said Company of Proprietors to declare and allege that the Defendant or Defendants, Defender or Defenders, being a Proprietor or Proprietors of such and so many Share or Shares in the said Undertaking, is or are indebted to the said Company of Proprietors 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 and so many

Directing the Proceedings in the Actions for Calls.

[Local.]

29 Y

Share

Share or Shares belonging to the said Defendant or Defendants, or Defender or Defenders (as the Case may happen to be), whereby an Action hath accrued to the said Company of Proprietors by virtue of this Act, without setting forth the special Matter; and on the Trial of such Action it shall only be necessary to prove that the Defendant or Defendants, Defender or Defenders, 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 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 of Proprietors shall thereupon be entitled to recover what shall appear due, unless it shall appear that any such Call exceeded the Sum of Ten Pounds, for every Sum of One hundred Pounds, or was made within the Distance of One Calendar Month from the last preceding Call, or without Notice given as aforesaid.

Proprietors
in arrear
not to vote.

LXXV. Provided also, and be it further enacted, That no Proprietor in arrear for any Call shall at any Meeting be allowed to vote or give his Voice in the Agitation of any Question respecting the Concerns of the said Proprietors, either personally or by Proxy, until such Time as he shall have paid to the Treasurer all such Arrears as may be due from him in respect of such Calls.

Committee
may appoint
Sub-Committees, with
Power to
make Contracts, &c.

LXXVI. And be it further enacted, That it shall be lawful for the said Committee to nominate and appoint out of their own Body One or more Sub-Committee or Sub-Committees (every such Sub-Committee to consist of Three or more Persons), who shall have full Power and Authority to enter into and make any such Contracts or Agreements on behalf of the said Company of Proprietors as aforesaid, and to hire and employ any Agents, Workmen, or Servants in and about the said Undertaking, and to do, execute, and perform all other Matters and Things whatsoever in and about the said Undertaking which the said Committee are themselves herein-before authorized to do, or such of them as the said Committee shall think proper to entrust to the Care and Management of any such Sub-Committee or Sub-Committees, save and except nevertheless the appointing of Clerks, Collectors, Engineers, Surveyors, and other principal Officers, and the auditing and settling of the Accounts of the Treasurer or Treasurers, Clerks, Collectors, Engineers, Surveyors, and other principal Officers, and making of Calls for Money upon the Proprietors of the said Undertaking; and that it shall be lawful for the said Committee for the Time being to order and direct such Compensation or Recompence to be made to the Sub-Committee or Sub-Committees from Time to Time as they shall think reasonable; and it shall be lawful for the said Committee, by an Order or Resolution for that Purpose, to break up and dissolve any such Sub-Committee or Sub-Committees, or to remove and displace any Member or Members thereof, and to appoint some other or others in his or their Place and Stead, when and as often as such Committee shall think proper and expedient; and such Sub-Committees shall have full Power and Authority to meet from Time to Time, and adjourn

And Committee may
dissolve Sub-Committees.

from Place to Place, as they shall think proper and as Occasion shall require, for effectuating the Purposes aforesaid; and all Powers and Authorities hereby vested, or which shall by the said Committee be vested in any such Sub-Committee or Sub-Committees within the Intent and Meaning of this Act, and may be exercised by the major Part of the Members present at their respective Meetings, the whole Number present not being less than Three; and at all Meetings of such Sub-Committees respectively One of the Members present shall be appointed President or Chairman, and all Questions shall be decided by the Majority of Votes, and the President or Chairman shall have the casting Vote in case of an equal Division, although he may have given One Vote: Provided always, that no Person shall be qualified to be elected, nor to serve or act as a Member of any such Sub-Committee, who shall hold any Place of Profit, or be concerned or interested in any Contract or Contracts under the said Company, or shall be a Dealer, either directly or indirectly, in any Articles, Matters, or Things used by the said Company.

Powers of Sub-Committee may be exercised by a Majority.

At Meetings of Sub-Committees Chairman to be appointed.

LXXVII. 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 Control 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 Assembly, such Orders and Directions not being contrary to any express Directions or Provisions in this Act contained.

Committee to be under Control of General Assemblies.

LXXVIII. And be it further enacted, That proper Books of Account, and other Matters relating to the said Undertaking, shall be kept, and that all such Books and other Matters shall be deposited and kept, under the Direction of the Committee for the Time being, at such Place or Places as the said Company of Proprietors shall from Time to Time direct; and every Proprietor of Ten or more Shares, for One Month after the Annual General Meeting, shall have free Access to the same for his, her, or their Inspection, without Fee or Reward.

Books of Account to be kept.

LXXIX. And be it further enacted, That every Officer and other Person who shall be appointed by virtue of this Act shall from Time to Time, when thereunto required by the said Company by Notice in Writing to him or them respectively given, or left at his or their usual Place of Abode, or within Seven Days next afterwards, make out and deliver to the said Company, or to such Person or Persons as they shall appoint to inspect and examine the same, a true and perfect Account in Writing under his or their Hand of all Monies which shall have been by him or her had, collected, or received, and how and to whom and for what Purpose the same and every Part thereof hath been disposed of, together with the Vouchers and Receipts for such Payments; and every such Officer or Person shall and is hereby required to pay all such Monies as upon the Balance of such Accounts shall appear to be owing from him or her to the said Company to such Person or Persons as the said Company shall appoint to receive the same; and if any Officer or Person shall neglect or refuse to render

Penalty as to Officers not lodging Accounts.

and

and deliver such Accounts as aforesaid, or to produce and deliver up the Vouchers and Receipts relating to the same, or to pay the Balance thereof when thereunto required, in manner and within the Time aforesaid, or shall neglect or refuse on such Requisition as aforesaid to deliver up to the said Company, or to such Person or Persons as they shall appoint, all Books, Papers, Writings, Matters, and Things in his or their Custody or Power relating to the Execution of this Act, or which they shall have disposed of without the Consent of the said Company, then and in every such Case, Complaint being made to the said Company where such Neglect or Refusal shall happen, or by any other Person or Persons on their Behalf, of any Neglect or Refusal, to any Justice of the Peace for the County where the Officers or Persons so neglecting or refusing shall live or reside, such Justice is hereby authorized and required, by Warrant under his Hand, to cause such Officer or Person to be brought before him, and upon his or her appearing, or not being to be found, to hear and determine the Matter of such Complaint in a summary Way, and to settle the said Account, if produced, in such Manner as the said Company might have done; and if upon the Confession of the Officer or Person against whom such Complaint shall be made, or by Oath or Oaths of any Witness or Witnesses, or upon the said Account if produced, it shall appear to such Justice that any of the Monies which shall have been collected or received shall be in the Hands of or owing from such Officer or Person to the said Company, the said Justice may and is hereby authorized, upon Nonpayment thereof within such Time as such Justice shall direct, by Warrant under his Hand, to cause such Money to be levied by Distress and Sale of the Goods and Effects of such Officer or Person respectively; and if no Goods or Effects can be found sufficient to answer and satisfy the said Monies, and the Charges of taking, making, keeping, and selling such Distress, or if such Officer or Person shall not appear (without having sufficient Excuse) before the said Justice at the Time and Place appointed for that Purpose, or if appearing shall refuse to make out and deliver to the said Justice such Account in Writing as aforesaid, or to produce and deliver up to the said Justice the several Vouchers and Receipts relating to such Account, or to deliver up to him all such Books, Papers, Writings, Matters, and Things as aforesaid, to be by him delivered over to the said Company; then and in any of the Cases aforesaid the said Justice is hereby authorized and required by Warrant under his Hand to commit such Officer or other Person to the Common Gaol or House of Correction for the County, Burgh, or Place where he or she shall live or reside, there to remain without Bail until he or she shall have delivered in and settled such Account as aforesaid, and shall have delivered up the Vouchers and Receipts relating thereto, and shall have paid all the Monies which shall appear to be in the Hands of or owing from him or her to the said Company, and the reasonable Charges of such Distress and Sale (if any) as shall in that respect have been made, or until he or she shall have compounded with the said Company for such Money and Charges, and paid the Composition Money to the said Company, or to such Person or Persons as they shall appoint to receive the same, and which Composition the said Company are hereby empowered to make, and shall have delivered

livered up as aforesaid such Books, Papers, Writings, Tools, Matters, and Things as aforesaid, or have given to the said Company Satisfaction in respect thereof; provided always, that no Person who shall be committed for Want of sufficient Distress only shall be detained in Prison for any longer Time than Six Calendar Months.

LXXX. And be it further enacted, That it shall be lawful for the several Proprietors of the said Undertaking, and his, her, or their respective Executors or Administrators, from and after Payment made of the Sum of Ten Pounds *per Centum* by him, her, or them upon his, her, or their Share or Shares in the said Subscription, but not before, 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 that the Form of Conveyance for such Sales shall be in the following Words, or to the like Effect (varying the Names and Descriptions of the contracting Parties as the Case may require):

‘ I in consideration of paid to me by
‘ do hereby bargain, sell, and transfer unto the said
‘ Share [*or Shares, as the Case may be,*] of the Under-
‘ taking called *The Edinburgh and Dalkeith Railway*, to hold to him
‘ the said his Executors, Successors, and Assignees,
‘ subject to the same Rules, Orders, and Restrictions, and on the
‘ same Conditions, as I held the same immediately before the Exe-
‘ cution hereof; and I the said 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 .’

Form of
Conveyance.

And on every such Sale the said Deed of Conveyance, executed by the Seller or Sellers and the Purchaser or Purchasers of such Share or Shares, shall be kept by the Clerk of the said Company, who shall deliver an attested Copy thereof to such Purchaser or Purchasers at his, her, or their Expence when required, and shall enter in a Book to be kept for that Purpose a Memorial of such Transfer and Sale, to be kept for the Use of the said Company of Proprietors, and testify or indorse 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 or Memorial of such Transfer or Sale accordingly; and unless 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 or Shares paid unto him, her, or them, or any Vote as a Proprietor or Proprietors of the said Undertaking.

LXXXI. 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, although Ten Pounds *per Centum* shall have been paid thereon, upon the Penalty of forfeiting his, her, or their respective Share or Shares therein to

After a Call
no Share to
be sold until
after the Call
be answered.

[*Local.*]

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the

the said Company of Proprietors, 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 the 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 Assembly in manner before directed.

For granting
new Deeds
when old
ones are de-
stroyed or
worn out.

LXXXII. And be it further enacted, That if any of the Deeds for or respecting the Shares of the Company of Proprietors aforesaid shall be worn out or damaged, then, upon the same being brought and shown at some General Assembly of the said Company of Proprietors, such Deeds may be cancelled and destroyed, and other similar Deeds given under the Seal of the said Company of Proprietors to the Person or Persons in whom the Property of such Deeds and the Shares therein mentioned shall be at that Time vested; or in case such Deeds shall be burnt or totally destroyed, then, upon due Proof thereof, like Deeds shall be given to the Person or Persons who was or were the Owner or Owners of or entitled to such Deeds so burnt or destroyed; and a due Entry or Transfer of such Deed or Deeds (if any such have been made) shall be entered by the Clerk to the said Company of Proprietors in manner herein directed.

Proof to be
given of
Title to
Shares ac-
quired by
Marriage, or
by Will, or
Letters of
Administra-
tion.

LXXXIII. And whereas much Inconvenience may arise by the frequent Transfer of Shares in the said Undertaking by the Marriage and Death of Proprietors, and it may be difficult to ascertain to whom the Dividends 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 by virtue of his, her, or their Marriage or Marriages shall be entitled to receive the same, if such Person or Persons shall reside in *England* or *Ireland*, an Affidavit containing a Copy of the Register of such Marriage shall be made, and sworn to by some credible Person before a Judge in One of His Majesty's Courts of Record at *Westminster* or *Dublin*, or before a Master or Master Extraordinary in Chancery, or Two of His Majesty's Justices of the Peace; or if such Person or Persons shall reside in *Scotland*, a Deposition shall be made as to the Fact of such Marriage before Two of His Majesty's Justices of the Peace, by some credible Person, upon a Certificate of such Marriage given by the Minister officiating thereat, or other Person competent to certify the same; and such Affidavit and Deposition respectively shall be transmitted to the Clerk of the said Company of Proprietors for the Time being, who shall file the same, and make an Entry thereof in a Book or Books which shall be kept by him for the entering of Transfers 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 by virtue of any Bequest or Will, or of any Letters of Administration, or confirmed Testament in *Scotland*, shall be entitled to receive the same, the said Will, or the Probate Copy thereof, or such Letters of Administration, or confirmed Testament, shall be produced and shown to the Clerk of the said Company of Proprietors, or an Affidavit contain-
ing

ing a Copy of so much of such Will as shall relate to the Share or Shares of the Testator or Testatrix, or a Copy of the said Letters of Administration or confirmed Testament, shall be made and sworn by the Executor or Executors of such Will, or by the Administrator or Administrators of the Estate and Effects of the Proprietors deceased, or to whom Administration or Confirmation shall be granted, before a Judge of one of His Majesty's Courts of Record at *Westminster* or *Dublin*, a Master or Master Extraordinary in Chancery, or Two of His Majesty's Justices of the Peace in *England*, or before Two of His Majesty's Justices of the Peace in *Scotland*, and shall be transmitted to the Clerk of the said Company of Proprietors, who shall file and enter the same in manner aforesaid.

LXXXIV. And be it further enacted, That when the said Railway shall be completed, or as soon after as a competent Judgment can be formed of the Profits which may accrue therefrom, the said Company shall and they are hereby empowered and directed to make and declare such Dividend or Dividends on the Stock of the said Company, to be paid out of the Profits of the said Railway, as shall be settled and approved by any General Meeting of the said Company.

Company to
pay Divi-
dends on
Stock.

LXXXV. And in consideration of the great Charge and Expence which the Company of Proprietors for executing this Act must incur and sustain in making and maintaining the said Railway and Branches thereof, and other Works hereby authorized to be made and maintained; be it further enacted, That it shall and may be lawful for the said Company of Proprietors 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 of Proprietors, for the Tonnage and Conveyance of all Minerals, Goods, Wares, Merchandize, and other Things which shall be carried or conveyed upon the said Railway and Branches, or upon any Part thereof, the Rates and Duties herein-after mentioned; that is to say,

Rates of
Tonnage.

For all Stone for the Repairs of any Turnpike Roads or Bridges, except the Turnpike Roads and Bridges within the *Dalkeith* District of Roads of the County of *Edinburgh*, or other public Streets, Roads, or Highways, such Sum as the said Company of Proprietors shall from Time to Time direct and appoint, not exceeding the Sum of Four-pence *per Ton per Mile*:

For all Coal, Coke, Culm, and for all Stone (excepting Stone for the building or repair of Bridges on the Turnpike Roads within the *Dalkeith* District), Cinders, Chalk, Marle, Sand, Lime, Clay, Ashes, Peat, Limestone, Pitching and Paving Stone, (not being for the Repair of any Turnpike Roads, or other public Streets, Roads, or Highways,) Ironstone or other Ore, and other Minerals, and Bricks, Tiles, Slates, and all gross and unmanufactured Articles, and Building Materials, and for all Sorts of Manure, and all Sorts of Grain, Flour, Meal, Potatoes, Hay, and Straw, which shall be borne or carried along the said Railways, such Sum and Sums of Money respectively as the said Company of Proprietors shall from Time to Time direct and appoint to be taken for the

Tonnage

Tonnage of any or either of the said Kind of Goods, not exceeding Four-pence *per Ton per Mile* :

For every Carriage conveying Passengers, or Goods or Parcels not exceeding Five Hundred Weight, such Sum and Sums of Money respectively as the said Company of Proprietors shall from Time to Time direct and appoint to be taken, not exceeding Sixpence *per Ton per Mile* :

And for all other Goods, Commodities, Wares, and Merchandizes whatsoever carried on the said Railways, such Sum or Sums as the said Company of Proprietors shall from Time to Time direct or appoint, not exceeding Sixpence *per Ton per Mile* :

For all Goods, Commodities, Wares, and Merchandizes, Articles, Matters, and Things whatsoever, which shall pass the Railway Bridge to be erected over the River *North Esk* at *Eskbank*, in addition to all other Rates and Duties, such Sum as the said Company of Proprietors shall from Time to Time direct and appoint, not exceeding the Sum of Four-pence *per Ton*, until the Sums raised at such Railway Bridge shall exceed the original Costs of such Bridge and of the annual Expence of maintaining and repairing the same, and of Interest at Five Pounds *per Centum per Annum* upon such Outlay, after which the said Company of Proprietors shall be entitled only to levy at such Railway Bridge such a Sum as shall be necessary for the annual Maintenance and Repair of such Bridge :

For all Goods, Commodities, Wares, and Merchandizes, Articles, Matters, and Things whatsoever, which shall pass the Railway Bridge to be erected at or near *Cowpits* over the River *Esk*, in addition to all other Rates and Duties, such Sum as the said Company of Proprietors shall from Time to Time direct and appoint, not exceeding the Sum of Four-pence *per Ton*, until the Sums raised at such Railway Bridge shall exceed the original Cost of such Bridge, and of the annual Expence of maintaining and repairing the same, and of Interest at Five Pounds *per Centum per Annum* upon such Outlay, after which the said Company of Proprietors shall be entitled only to levy at such Railway Bridge such a Sum as shall be necessary for the annual Maintenance and Repair of such Bridge :

For all the Articles, Matters, and Things which shall pass the Inclined Planes upon the said Railways by means of a stationary Steam Engine or other Machinery, in addition to all other Rates and Duties, such Sum as the said Company of Proprietors shall from Time to Time direct and appoint, not exceeding the Sum of One Shilling *per Ton* for each such Inclined Plane, provided that not more than Two Inclined Planes are erected and used upon the said Railways betwixt the City of *Edinburgh* and Village of *Hunter's Hall* :

And for Wharfage on all Coal carried to *Fisher-row*, in addition to all other Rates and Duties, such Sum as the said Company of Proprietors shall appoint, not exceeding the Sum of One Penny *per Ton* :

Provided always, that no Rate or Duty shall be levied or taken for any Materials or Articles intended for the making, repairing, or improving the said Railways, or any of the Works connected therewith.

LXXXVI. 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 *Edinburgh*, after the Expiration of Twelve Calendar Months from the Completion of the said Bridges respectively, and they are hereby authorized, to require from the Clerk of the said Company of Proprietors, by a Summons in Writing under their Hands, an Abstract of the Account of the whole Expence and Cost of making the said Bridges respectively, together with an Estimate of the probable annual Expence of keeping the same in repair for Three Years after the Expiration of the said Twelve Calendar Months; which Abstract and Estimate the said Clerk is hereby required to produce to such Justices within Twenty Days after the Receipt of such Summons, to be made up, signed, and sworn to by the said Clerk; and the said Clerk, after making Oath to the Truth thereof, (which Oath any such Justice is hereby empowered to administer,) shall deliver the said Abstract and Estimate to the said Justices or One of them, or such Person as they shall appoint, to be afterwards deposited with the Sheriff Clerk of the said County of *Edinburgh*; and the said Justices shall consider the same, and shall report as to the Amount of such Expences, and shall declare what Rate may be leviable for the Three following Years at the said Bridges respectively, to provide for the Maintenance and Repair thereof, and to yield the said annual Profits, not exceeding as aforesaid; or it shall and may be lawful to and for the said Justices to issue a Summons under their Hands to produce the several Books containing the Accounts of the Receipt 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 Twenty Days after the Receipt of such Summons; and in case it shall appear that the Rates and Duties levied at such Bridges respectively exceed the actual Outlay in making the said Bridges respectively, and Interest thereon, and the Expence of Repair and proportional Profits thereon, as compared with the Profits drawn for the rest of the said Railway, then the said Company shall be bound at their next General Meeting, on being thereunto required by the said Justices, to reduce the aforesaid Rates and Duties on the said Bridges respectively to such a Sum as shall appear to the said Justices to be sufficient to make good such original Cost and Interest thereon, and the Expences of Repair, and the said Profits in proportion to the Profits on the rest of the said Railway; and in case, at any subsequent Period of Three Years, it shall appear to the said Justices that a less proportional Profit than that derived from the rest of the said Railway hath accrued to the Company from the said Bridges respectively, after Payment of the original Cost and Interest thereon, and of the annual Expence of Repairs thereof, upon the Average of the said Three Years, such Profits to be ascertained as herein-before directed, it shall be lawful for the said Company to increase the said Rates of Tonnage at the said Bridges respectively, 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 Three Years.

Power to
Justices to
call for Ac-
counts, &c.
in regard to
the Railway
Bridge.

Declaration
as to Frac-
tions of a Ton
and of a
Mile.

LXXXVII. And be it further enacted, That in all Cases where there shall be a Fraction of a Ton a Proportion of the same Rates shall be demanded and taken for such Fraction according to the Number of Quarters of a Ton contained in such Fraction; if 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, Cart, or other Carriage shall pass upon the said Railways, the Tonnage which shall be demanded and taken shall be after the Rate of the Number of Quarters of a Mile which the said Waggon, Cart, or other Carriage shall have passed, and when there shall be a Fraction of a Quarter of a Mile such Fraction shall be deemed and considered as a Quarter of a Mile; and in order to ascertain and calculate with greater Precision and Facility the Distance for which Tonnage shall be demanded and taken upon the said Railways, the said Company of Proprietors shall cause the said Railways to be measured, and Stones or other conspicuous Marks to be set up and for ever maintained, at the Distance of One Quarter of a Mile from each other, with proper Inscriptions; and whenever any Waggon shall have passed such Stones or Marks, or the Place where the same shall have been set up, such Waggon shall be deemed to have passed One or more Quarters of a Mile along the said Railways, and Tonnage for such Distance shall be due and payable, although the Distance actually travelled be less than is thus computed.

Tables to be
put up at
Toll Gates.

LXXXVIII. And be it further enacted, That the said Company or their said Committee shall and they are hereby required to put up or cause to be put up, and afterwards to be continued, Mile Stones; and also to put up or cause to be put up, and afterwards to be continued, at every Toll Gate, a Table painted in distinct and legible Black Letters on a Board with a White Ground, containing at the Top thereof the Name of the Gate at which the same shall be put up, and also a List of all the Rates of Tonnage payable at every such Gate, distinguishing the several Rates to be paid by virtue of this Act; and to renew such Boards whenever any of the Letters or Figures thereof shall be worn out, defaced, or obliterated: Provided always, that it shall not be lawful for the said Company to demand or take, or cause to be demanded or taken, any Rates for or in respect of any Goods, Wares, or Merchandize, or other Things, but for and during such Time as the said Board so painted as aforesaid shall remain affixed at such Toll Gate.

Toll Collec-
tor to affix
his Name on
Toll Gate.

LXXXIX. And be it further enacted, That every Toll Collector shall and he is hereby required to place his Christian and Surname, painted on a Board in legible Characters, in the Front or some other conspicuous Part of the Toll House or Toll Gate immediately on his coming on Duty, each of the Letters of such Name or Names to be at least Two Inches in Length and of a Breadth in proportion, and painted either in White Letters on a Black Ground, or Black Letters on a White Ground, and shall continue the same so placed during the whole Time he shall be upon Duty; and if any Collector of the same Tolls shall not place such Board as aforesaid, and keep the same there during the Time he shall be such Collector as aforesaid, or shall

shall demand or take a greater or less Rate or Toll from any Person than he shall be authorized to do by virtue of the Powers of this Act, or of the Orders or Resolutions of the said Company made in pursuance thereof, or shall refuse to permit or suffer, or shall in anywise hinder any Person or Persons from reading the Inscriptions on the Boards so affixed and placed as aforesaid, or either of them, or shall refuse to tell his Christian and Surname to any Person or Persons who shall demand the same on having paid the said Rates or Tolls or any of them, or shall in answer to such Demand give a false Name or Names, or upon the legal Rate or Toll being paid or tendered shall necessarily detain or wilfully hinder or obstruct any Person or Persons from passing through any Toll Gate, or shall make use of any scurrilous or abusive Language to any Treasurer, Clerk, Surveyor, or other Officer, or any Person or Persons attending any Cart, Waggon, or Carriage, or otherwise legally passing along the said Railway or Branches, then and in every such Case any such Toll Collector shall forfeit and pay any Sum not exceeding Ten Pounds.

XC. And be it further enacted, That it shall be lawful for the said Company of Proprietors from Time to Time, and as often as they shall think fit, to lessen, reduce, and vary all or any of the Rates, Tolls, and Duties granted by this Act, for or in respect of all or any of the Articles or Things herein-before specified or mentioned, which shall be conveyed upon all or any of the said Railways, or any Part thereof respectively, and again to raise, advance, and vary the same, so as not at any Time to exceed the respective Amounts herein-before set forth and authorized to be collected.

Power to
reduce the
Tolls.

XCI. Provided always, and be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors and their Successors from Time to Time, at any General Meeting of the said Company to be held as herein-before is directed, with the Consent of the major Part of the said Company of Proprietors assembled at any such Meeting to be held as herein-before directed, to fix the Price or Prices or Sum or Sums of Money to be charged or taken for the Carriage of any Parcel (not exceeding Five Hundred Weight), such Rate not exceeding One Penny *per* Mile *per* Hundred Weight, upon the said Railways or any Part thereof respectively, and from Time to Time to repeal, alter, or vary the said Rates, as to them shall seem meet, fitting, and reasonable; and that the said Company of Proprietors shall from Time to Time affix and stick up, or cause to be affixed and stuck up, upon every public Wharf, and upon every Stop Gate or Toll House on the said Railways, upon some conspicuous Part thereof, in large and legible Characters, an Account or List of the several Rates of Tonnage which the said Company of Proprietors shall from Time to Time so direct and appoint, and of the Price or Prices, Sum and Sums of Money, so allowed to be taken for the Carriage of all and every such Parcel and Parcels, not exceeding Five Hundred Weight as aforesaid, upon the said Railways or any Part thereof; and in case any Owner or Master, or other Person belonging to any Waggon or other Carriage passing upon the said Railways, or any Collector of the Rates, Tolls, or Duties aforesaid,

Company
empowered
to regulate
and fix the
Price of
small Parcels
not exceed-
ing 5 Cwt.

Persons de-
manding
more subject
to Penalty.

aforesaid, shall, after such Account or List shall be affixed and stuck up as aforesaid, demand and take more than the Price or Sum or Sums of Money therein specified and ascertained, such Owner, Master, Collector, or other Person as aforesaid shall forfeit any Sum not exceeding Five Pounds; and such Bye Laws shall be valid and binding in all Cases upon all Persons whomsoever.

Disputes
about the
Amount of
Tolls.

XCII. Provided always, and be it further enacted, That if any Dispute shall arise concerning the Amount of the Rates, Tolls, or Duties due, or the Charges occasioned by any Distress, it shall be lawful for the Collector or Person distraining to detain such Distress, or the Money arising from the Sale thereof (as the Case may happen), until the Amount of the Rates, Tolls, or Duties due, and the Charges of seizing, distraining, keeping, or selling such Distress (as the Case shall happen), shall be ascertained by One or more Justice or Justices of the Peace for the said County of *Edinburgh*; who, upon Application made to him or them for that Purpose, shall examine the said Matter upon Oath of the Parties or other Witness or Witnesses, and determine the Amount of the Rates, Tolls, or Duties due; and it shall be lawful for such Justice to assess and award such Costs to be paid by either of the Parties to the other of them as he shall think just and reasonable; and in case of Nonpayment thereof on Demand such Costs shall be levied by Distress and Sale of the Goods and Effects of the Party liable to pay the same, by Warrant under the Hand of such Justice.

Penalty on
fraudulent
Claim of
Exemption
from Rates.

XCIII. Provided also, and be it further enacted, That if any Person or Persons shall claim a Right to carry or convey any Articles on the said Railways exempt from or on Payment of the lower Rates, Tolls, or Duties before mentioned, who shall not be entitled thereto, or shall use or dispose of any of the Articles liable to Exemption, or only to the Payment of such lower Rates, Tolls, Duties, or Pontage, for any other Purpose than those in respect of which such Articles are hereby exempted, or made liable only to such lower Rates, Tolls, or Duties, and shall be thereof convicted before any Justice of the Peace, every Person so offending shall for every such Offence forfeit and pay to the said Company of Proprietors or their Successors any Sum not exceeding Five Pounds, to be levied by Distress and Sale of his and their Goods and Effects.

Recovery of
Rates.

XCIV. 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 and Branches thereof, in such Manner and under such Regulations as the said Company of Proprietors at some General or Special Assembly or Assemblies shall direct or appoint; and in case of Denial or Neglect of Payment of any such Rates, or any Part thereof, on Demand, to the Person or Persons appointed to receive the same as aforesaid, the said Company of Proprietors may sue for the same by Action in any Court competent in *Scotland*, or the Person or Persons to whom the Rates ought to have been paid may, and he or they is and are hereby authorized to seize the Goods, Beasts, or other Things for or in respect whereof any such Rates ought to have been paid, or any Part thereof,

thereof, and the Waggon or other Carriage laden with such Goods or other Things, and retain the same until such Payment shall be made, together with the reasonable Charges for such Seizure and Detention; and if such Beasts or Goods shall not be redeemed within Three Days next after the taking thereof, the same shall be appraised and sold, returning the Overplus (if any there be), upon Demand, to the Owners thereof, after such Rates, and the reasonable Charges of distraining, keeping, and selling the same, shall be deducted and paid.

XCV. And be it further enacted, That it shall be lawful for the said Company of Proprietors, and they are hereby authorized and empowered, at any of their General Assemblies, by Writing under their Common Seal, at any Time or Times to let to farm the Rates hereby made payable, or any Part or Parts thereof, upon the Whole or any Part or Parts of the said Railway or Branches thereof, unto any Person or Persons, for any Term or Time they shall think proper, not exceeding Five Years from the Commencement of any Lease; and every such Lease shall be valid and effectual; and the Lessee or Lessees thereof, and also such Person or Persons as such Lessee or Lessees shall appoint to collect and receive the Rates so let, shall during the Continuance of every such Lease be deemed Collectors of the Rates so let, but for the proper Use of such Lessee or Lessees, and shall have the same Power and Authority for collecting and recovering the same as if they had been appointed for that Purpose by the said Company of Proprietors; provided public Notice of the Intention to let the said Rates or any Part thereof be given in Writing by the said Committee, or any One or more of them, or the Clerk to the said Company of Proprietors, by Advertisement published in such Newspaper, or by Notice to such Proprietors as aforesaid, at least Twenty-one Days prior to any such General Assembly at which the said Rates or any Part thereof are proposed to be let as aforesaid.

Company
empowered
to lease the
Rates.

XCVI. And be it further enacted, That in case all or any of the Tolls or Duties arising by virtue of this Act shall be let to farm to any Person or Persons in any Manner whatsoever, and the Lessee or Lessees, Farmer or Farmers thereof, shall neglect or refuse to perform the Terms and Conditions on which the same shall be so let; or in case the Rent or Rents agreed to be paid by such Lessee or Lessees, Farmer or Farmers, or any Part or Instalment thereof, shall be in arrear or unpaid for the Space of Thirty Days next after any of the Days on which the same ought to be paid, pursuant to the Lease, Agreement, or Contract for letting the same Tolls or Duties; or in case any temporary or other Collector of the said Tolls and Duties shall be discharged from his Office by virtue of this Act, or shall die, abscond, or absent himself, and any such Collector who shall be so discharged, or the Wife, Widow, or any of the Children or Family or other Representatives of any Collector who shall die, abscond, absent himself, or be discharged, or any other Person or Persons, shall refuse to deliver up the Possession of any Toll House or Toll Houses, Weighing Machine or Weighing Machines, or other Building or Buildings, with the Gardens and other Appurtenances thereto

For Reco-
very of Pos-
session of
Toll Houses,
&c.

[*Local.*]

30 B

respectively

respectively belonging, to be erected, built, constructed, or set up by virtue of this Act, for the Space of Thirty Days after Demand thereof made in Writing, given or left at such Toll House, Weighing Machine, or Building, or at any one of such Toll Houses, Weighing Machines, or Buildings, which shall be or have been in the Possession or Occupation of such Collector or other Person or Persons, such Demand in Writing to be signed by any Two or more of the Committee of Management of the said intended Railways (although not assembled at a Meeting), or by the Clerk or Treasurer for the Time being of the said Company of Proprietors; or in case any such Lease, Agreement, or Contract shall in any other Manner become void; then and in any of the said Cases it shall be lawful for any Two or more Justices of the Peace of the said County of *Edinburgh*, upon Application made by the said Committee or any Two or more of them, or by the Clerk or Treasurer for the Time being of the said Company of Proprietors, by Warrant under their respective Hands, to order any Constable or other Peace Officer, with such Assistance as shall be necessary, to enter upon and take Possession of every or any such Toll House, Weighing Machine, or other Building, with the Garden and all other the Appurtenances thereto belonging, and to remove and put such Lessee or Lessees, Farmer or Farmers, or other the Person or Persons who shall be found therein, together with his, her, or their Goods, from and out of the same and the Possession thereof, and from the Collection of such Tolls and Duties, and to put the said Company of Proprietors, or any Three of them, or their new Lessee, Farmer, or Collector, Lessees, Farmers, or Collectors, into the Possession thereof; and thereupon it shall be lawful for the said Committee, or any Two or more of them, if they shall see fit, to vacate and determine the Lease, Contract, or Agreement (if any) which was previously subsisting, and the same shall accordingly be utterly void to all Intents and Purposes, (save as to the Covenants and Agreements for Payment of the Rent or Rents thereby reserved, or other unperformed or broken Obligations, Covenants, or Agreements on the Lessee's Part,) as if such Lease, Contract, or Agreement had never been made; and it shall be lawful for the said Committee, or any Two or more of them, in every such Case, again to let to farm the said Tolls and Duties to any other Person or Persons, or cause them to be collected in such and the same Manner as if no former Lease, Contract, or Agreement had been made relative thereto.

Owners of
Waggons,
&c. to give
an Account
in Writing
of Lading.

XCVII. And for the better ascertaining and more easily collecting the said Rates, be it further enacted, That the Owner or Owners, Person or Persons having the Care of any Waggon or other Carriage passing upon the said Railways or any Part thereof respectively, shall give an exact and true Account in Writing signed by him or them to the Collectors of the said Rates, at the Place or Places where they shall attend for that Purpose, of what Quantity of Goods or other Things as aforesaid shall be in his, her, or their Waggon or other Carriage, and from whence brought, and where the same are intended to be unloaded or left; and in case any Person shall neglect or refuse to give such Account, or to produce the Bill of Lading 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

is or are mentioned in such Account, with Intent to avoid the Payment of the said Rates or any Part of them, he shall forfeit and pay any Sum not exceeding Ten 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, of which such Account shall be so refused to be given, or which shall be fraudulently delivered out as aforesaid, as the Case shall happen to be, over and above the respective Rates directed by this Act to be paid for the same.

XCVIII. And for the better ascertaining the Tonnage of Goods and other Things to be charged with the Payment of such Rates as aforesaid, be it further enacted and declared, That One hundred and twelve Pounds Avoirdupois shall for the Purposes of this Act be deemed, rated, or estimated as and for One Hundred Weight.

Weight of
Tonnage,
&c. ascer-
tained.

XCIX. And be it further enacted, That if any Difference shall arise between any Collector of the said Rates and the Owner or Person having the Charge of any Waggon or other Carriage, or the Owner of any Goods or other Things, it shall be lawful for any such Collector to stop and detain any such Waggon or other Carriage, and to weigh, measure, or gauge 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 the Owner or Person giving in such Account shall pay the Costs and Charges of such weighing, measuring, and gauging; all which said Costs and Charges, upon Refusal of Payment thereof upon Demand, shall and may be recovered and levied by such Ways and Means and in such Manner as the said Rates are hereby appointed to be recovered and levied; but if such Goods or other Things shall appear to be of the same or less Weight or Quantity than the same shall by such Account appear to be of, then the said Collector shall pay the Costs and Charges of such weighing, measuring, and gauging, and also pay to such Owner or Person, or to the Owner or Owners of such Goods or other Things, such Damages as shall appear to have arisen from such Detention; and in default of immediate Payment thereof by the Collector, the same shall be recovered from the said Company of Proprietors by Distress and Sale of the Goods and Effects of the said Company or of their Collector.

If any Differ-
ence con-
cerning
Weight,
Collectors
may weigh
or measure
Waggons.

C. And be it further enacted, That all Persons whomsoever shall have free Liberty to pass upon and use the said Railways with Waggon or other Carriages properly constructed as herein-after mentioned, and to use the Wharfs hereby authorized to be made, and also the Locomotive Engines and Inclined Planes hereby authorized to be made, upon Payment only of such Rates as are authorized to be received by this Act; provided the said Waggon or other Carriages shall not, without the Licence and Consent of the said Company or their General Committee, pass upon the said Railways at any other Times than between the Hours of Four in the Morning and Eight in the Evening during the Months of *May, June, July, August, and September,*

Passage on
the Railway
to be free
upon Pay-
ment of
Rates.

September, and between the Hours of Six in the Morning and Seven in the Evening during the Months of October, November, December, January, February, March, and April.

Allowing the Owners of Lands to make Branches to communicate therewith.

CI. And be it further enacted, That nothing herein contained shall extend to prevent any Body Politic, Corporate, or Collegiate, or any Owner or Occupier of any Lands or Grounds, from laying down, either upon their own Lands or upon the Lands of other Persons, with the Consent of such other Persons, any collateral Branch or Branches from their respective Lands or Grounds, to communicate with the said Railways, nor for making at their own Expence such Openings in the Ledges or Flanches of the said Railways as may be necessary and convenient for effecting such Communication; and the said Company shall not receive any Tonnage for the passing of any Waggon, Carriages, Goods, or other Things along such Branch or Branches; nor shall the said Company of Proprietors be entitled to receive, directly or indirectly, for the passing of any Waggon, Carriages, Goods, or other Things, from such Branch or Branches along the Railways hereby empowered to be made, any Tonnage or Duties higher or exceeding the Rates of Tonnage or Duties exigible and actually exacted at the Time on other similar Articles passing along the Railways hereby empowered to be made.

Strangers not to travel on Horseback, &c. on Railways.

CII. And be it further enacted, That if any Person or Persons, save and except the Committee of the said Company of Proprietors, their Agents or Servants, or others in company with them, or the Owners and Occupiers of the respective Lands or Grounds through which the said Railways shall be made, and his and their Servants and Workmen, shall ride, lead, or drive, or cause to be rode, led, or driven, upon or along such Railways or any Part thereof, any Horse, Mule, or Ass, or shall lead or drive, or cause to be led or driven thereon, any Cow or other Neat Cattle, Sheep, Swine, or any other Beast or Animal (except in crossing and passing along the same for the necessary Occupation of the respective Farms through which the same Railways may be laid), he, she, or they shall forfeit and pay to the said Company of Proprietors any Sum not exceeding Forty Shillings.

Locomotive Steam Engines may be used on the Railways.

CIII. And be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors, or any Person or Persons authorized or permitted by them, to make and erect such and so many Locomotive or Self-moving Engines as the said Company of Proprietors shall from Time to Time think proper and expedient, and to use and employ the same in and upon the said Railways, save and except in and upon such Part and Parts thereof as are hereinbefore excepted, for the Purpose of facilitating the Transport, Conveyance, and Carriage of Goods, Merchandise, and other Articles and Things upon and along the same, and for the Conveyance of Passengers upon and along the same.

No Waggon to pass on the Railway except properly constructed.

CIV. And be it further enacted, That no Person shall pass upon any Part of the said Railways with any Waggon or other Carriage whatsoever, unless the same shall be constructed according to the Orders and Regulations of the said Company of Proprietors, which Orders

Orders and Regulations shall be affixed upon a conspicuous Part of every Toll House erected on such Railways for collecting the Rates of Tonnage by this Act imposed (except in crossing or passing along the same for the convenient Occupation of the adjacent Grounds, and in passing any public or private Carriage Road which may happen to cross the said Railways); and that if any Person or Persons shall pass upon any Part of the said Railways with any Cart, Waggon, or Carriage not constructed in manner by this Act directed (except as before excepted), he, she, or they so offending shall for every such Offence forfeit and pay any Sum not exceeding Ten Shillings to the said Company of Proprietors, together with the Expences of repairing any Damage done by using any such Cart, Waggon, or Carriage so improperly constructed.

CV. And for the better Regulation of the Owners of Waggons 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 every Owner of every Waggon or other Carriage passing along the said Railways shall cause his or her Name and Place of Abode, and the Number of his or her Waggon or other Carriage, to be printed in large White Capital Letters and Figures on a Black Ground, Two Inches high at the least, and of 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 of Proprietors, 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 Six Times in any One Year; and every Owner of any Waggon or other Carriage which shall pass on any Part of the said Railways without having such Name and Figures thereon as herein-before 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 the same 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 outside
of their
Waggons.

CVI. And be it further enacted, That the Owner or Owners of every Waggon or other Carriage passing upon the said Railways shall be and is and are hereby made answerable for any Damage, Spoil, or Mischief that shall be done by his, her, or their Waggon or other Carriage, or any of his, her, or their Waggoners, or other Persons belonging to or employed by him, her, or them in or about the same respectively, unto the Railway, the Branches thereof, or other Works to be made by virtue of this Act, or by loading or unloading any Waggon or other Carriage, and for any Trespass or Damage that shall or may be done to the Owners or Occupiers of any Buildings, Lands, 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 Damage, upon Conviction of such Person or Persons before any Justice of the Peace, either by the Confession of the

Owners of
Waggons
answerable
for Da-
mages.

[*Local.*]

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Party

Owners to
recover back
from their
Servants any
Sums paid
for their
Neglect or
Default.

Party or Parties offending or upon the Oath 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 Damages do not exceed the Sum of Five Pounds, and also shall, over and above such Damages, forfeit and pay to the Informer any Sum not exceeding Ten Shillings, and all Costs, Charges, and Expences attending such Conviction; which Damages, Penalties, and Costs shall be levied by Distress and Sale of the Goods and Effects 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 Effects; 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 any Court competent in *Scotland*; and if a Verdict pass against him or her, or Judgment be given against him or her, the Pursuer in such Case shall recover his Damages thereby sustained, with full Expences: 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 or Servants, such Servant or Servants 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 paid to him, her, or them by such Servant or Servants although demanded (such Oath to be made before any Justice of the Peace), the same Penalty and Satisfaction shall be levied by Warrant 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 and Satisfaction so by him paid for the wilful Act or Default of such Servant or Servants as aforesaid; and in case no sufficient Distress can be had, such Justice of the Peace shall and he is hereby required to commit such Servant to the Common Gaol or House of Correction for the County where the Offence may be committed, there to remain for any Time not exceeding One Calendar Month.

Penalty on
leaving
Waggons,
&c.

CVII. And be it further enacted, That if any Waggon or other Carriage shall be placed or suffered to remain on any Part of the said Railways 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, he shall forfeit for every such Offence any Sum not exceeding Forty Shillings for every Hour such Obstruction shall continue after the making of such Request; and it shall be lawful for any Agent or Officer to the said Company of Proprietors to cause any such Waggon or other Carriage to be unloaded if necessary, and

and to be removed in such Manner as shall be proper for preventing such Obstruction, and detain such Waggon or other Carriage, and the Loading thereof, until the Charges occasioned by such Removal shall be paid; and if such Payment shall not be made within the Space of Three Days, then and in every such Case it shall be lawful for the said Company of Proprietors to sell and dispose of such Waggon or other Carriage, with the Loading thereof, rendering to the former Owner of such Waggon or other Carriage the Overplus, after such Expences and the Charges of such Sale shall be deducted.

CVIII. And be it further enacted, That if any Person shall suffer the Loading of any Waggon or Carriage using the said Railway to lie over the Sides of such Waggon or other Carriage, or shall overload any such Waggon or other Carriage so as to obstruct the passing of any other Waggon or other Carriage, and shall not immediately upon Notice to him given for that Purpose remove such Obstruction, or if any Person shall throw any Gravel, Stones, Rubbish, or other Matter or Thing into or upon any Part of the said Railways or other Works to be made by virtue of this Act, every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Penalty on
Persons ob-
structing the
using of the
Works;

CIX. And be it further enacted, That if any Person shall wilfully, maliciously, and to the Prejudice of the said Undertaking, cut, break, throw down, destroy, steal, or take away any Part of the said Railways or other Works to be erected and made by virtue of this Act, every Person so offending, and being thereof lawfully convicted, shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds, besides the Expence of repairing the Damage so done to the said Railways or other Works as aforesaid.

or damaging
Railway, &c.

CX. And be it further enacted, That the said Company of Proprietors shall, at their own proper Costs and Charges, after any Part of the said Railways 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 Railways, and also all Bridges, Arches, Culverts, Ditches, Drains, and Passages over and by the Side of the said Railways, of such Dimensions and in such Manner as the said Company of Proprietors shall at any of their Meetings from Time to Time judge necessary and appoint, for the Use of the Owners and Occupiers of the Lands and Grounds through which such Railways 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 thereout by reason of such Railways, or any other Matter or Thing to be done in pursuance of this Act; and all such Gates, Bridges, 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 of Proprietors; and in case the said Company of Proprietors shall refuse or neglect to make, erect, and set up such Gates, Bridges, Arches, Ditches, Drains, and Passages as herein-before directed, or to maintain and support the same, or any

Company
empowered
to make and
erect Gates,
&c.

of

of them, when erected, set up, and made, in manner as aforesaid, for the Space of Thirty Days next after being thereto required by the Owners or Occupiers of the contiguous Lands and Grounds, then and in every such Case it shall be lawful for every or any of the Owners or Occupiers of the said Lands or Heritages who shall find himself, herself, or themselves aggrieved by such Neglect or Refusal, to make, erect, and set up all such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that in making and maintaining such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid, the said Railways and other Things hereby authorized to be made or erected by the said Company of Proprietors 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 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, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid, by the said Company of Proprietors, within the Space of Ten Days next after the same shall have been so completed or repaired, and an Account and Demand in Writing shall have been delivered and made thereof to and from the said Company of Proprietors, by Delivery of such Account and Demand to the Treasurer or Clerk of the said Company of Proprietors for the Time being; and in default of Payment of the said Costs and Charges within the Time aforesaid, any One Justice of the Peace of the said County of *Edinburgh* shall be and he is hereby required; upon the Application of such Owners or Occupiers, by Warrant under his Hand, to levy the said Costs and Charges by Distress and Sale of any of the Goods and Effects of the said Company of Proprietors, for the Use of such Person or Persons who shall have so incurred such Costs and Charges, rendering to the said Company of Proprietors the Overplus (if any) after deducting the reasonable Charges of making such Distress and Sale, to be settled by such Justice; and every or any of the said Owners or Occupiers, upon Refusal or Neglect of the said Company of Proprietors to pay the said Costs and Charges as aforesaid, shall and may also have such and the like Remedy against them or any of them for the Recovery thereof by Action at Law, to be commenced and prosecuted in such Manner as in other Cases is by this Act directed.

Owners of
Lands em-
powered to
erect Gates,
&c. on In-
sufficiency of
those erected
by the Com-
pany.

CXI. Provided always, and be it further enacted, That if the Owners or Occupiers of any Lands or Heritages through which the said Railways shall be made, in the Case aforesaid, do or shall at any Time or Times hereafter apprehend that any of the Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages respectively made by the said Company of Proprietors are insufficient either in their Number or Situation for the commodious Use and Occupation of the respective Lands or Heritages through which the said Railways shall pass, then and so often, or in any such Case, it shall be lawful for any such Owners or Occupiers, with the Consent and Approbation of the said Company of Proprietors upon Request made to them, or their Clerk

or Treasurer for the Time being, or in case of their Refusal for the Space of Twenty Days next after such Request made, then to make, fix, and erect, at their own Costs and Charges, any such other Gates, Bridges, Arches, Culverts, Ditches, Drains, or Passages in, upon, or near to the said Railways, 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 Heritages, and to repair and support the same at their own like Costs and Charges, as Occasion shall require, so that the Passage through or along the said Railways 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, Bridges, Arches, Culverts, Ditches, Drains, and Passages had been made or erected by the said Company of Proprietors: Provided always, that it shall be lawful for the Owners and Occupiers of the respective Lands or Grounds through which the said Railways shall be made, and his and their Servants and Workmen, Cattle and Carriages, at all Times to pass and repass over, upon, and across such Part of the said Railways as shall be made in and upon or immediately adjoining to their said Lands or Grounds respectively, not damaging or obstructing the same or the Passage thereof, nor using Railway Carriages thereon, without paying any Rates or Duties for such Passage.

Owners and Occupiers to pass along Railways.

CXII. Provided always, nevertheless, and be it further enacted, That the said Company of Proprietors shall and they are hereby empowered and required, at their own proper Charges, after any Land shall be taken for the Use of the said Railways, to divide and separate, and keep constantly divided and separated, the same from the Lands or Grounds adjoining to such Railways with good and sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences, and at their own Costs and Charges from Time to Time to 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 of such Lands and Grounds adjoining to such Railways, or any of them respectively, shall at any Time desire the same to be fenced off, or in case the said Company of Proprietors shall think proper to fence off the same instead of Gates being erected as aforesaid; and the said Company of Proprietors 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; then and in every such Case the Powers, Provisions, Directions, and Regulations hereinbefore contained with respect to the 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.

For fencing off Railways through private Lands.

CXIII. Provided always, and be it enacted, That where Fences shall be made by the said Company of Proprietors, the same shall be made on the Lands of the adjacent Owners of Land, and not upon the Space allowed for the Breadth of the said Railways and other Works.

Fences not to be made on the Space allowed for the Railway.

Owners of inclosed Lands may require the Expence of making new Fences to be paid to them.

CXIV. And be it enacted, That if the Owners of inclosed Lands or Grounds taken for the Use of the said Railways shall so require it, the said Company of Proprietors are hereby required, over and above the Value of the Land occupied by the said Railways, to pay to the respective Owners of such inclosed Lands as aforesaid such Sums of Money as the said Company of Proprietors shall judge reasonable, for the Purpose of making and erecting proper and sufficient Fences on the Sides of the said Railways for the whole Length of the inclosed Lands or Grounds of such Owners, over and along which the said Railways shall be made ; and if the Sum offered by the said Company of Proprietors shall not be deemed sufficient, or be refused to be accepted by such Owner or Owners of inclosed Lands or Grounds, then and in that Case the Amount of the Sum or Sums to be paid to such Owner or Owners shall be ascertained by a Jury in the same Manner and with the like Effect as is herein-before directed in the Case of the Disagreement of the said Company of Proprietors and the Owners of Lands taken for the Purposes of this Act, touching the Price or Value of such Land : Provided also, that in the Case of Money so paid for erecting Fences to such Owners of inclosed Lands or Grounds, such Owners shall and they are hereby required to make and erect such Fences in a good and sufficient Manner within Three Months after such Money shall have been paid to them by the said Company of Proprietors ; and if such Fences shall not be so made within such Time, it shall and may be lawful for the said Company of Proprietors to make and erect such Fences, at the Expence of such Owner or Owners to whom such Money shall have been so paid, to be levied and recovered from such Owner or Owners in the same Manner as is herein-after directed with regard to the Recovery of Penalties or Forfeitures ; and in every such Case the Powers, Provisions, Directions, and Regulations herein-before contained with respect to the 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 herein repeated and re-enacted with respect to such Fences.

Gates to be shut and fastened after Waggon shall have passed through, on Penalty of 5*l*.

CXV. And be it further enacted, That all and every Person or Persons opening any Gate set up across the said Railways, or if more than One Person shall closely and immediately follow each other, then the last of such Persons, shall, and he and they is and are hereby directed and required, so 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 Five Pounds, to be levied and recovered as herein-after mentioned ; and the Money arising by such Forfeiture or Forfeitures shall be applied in the Manner following, (that is to say,) Half thereof shall be paid to the Informer, and the other Half to the Poor of the Parish where such Offence shall be committed ; any thing herein contained to the contrary notwithstanding.

To prevent Wharfingers giving any Preference.

CXVI. And be it further enacted, That if any Wharfinger or other Servant belonging to the said Company of Proprietors shall give any

any Preference or show any Partiality to any Person or Persons in loading or unloading any Goods, Wares, or Merchandizes at any of the Wharfs, Warehouses, Weighbeams, Cranes, and other Machines belonging to the said Company of Proprietors, and shall be thereof convicted before One or more of His Majesty's Justices of the Peace, every Person so offending shall forfeit and pay for every Offence any Sum not exceeding the Sum of Five Pounds.

CXVII. Provided always, and be it enacted, That in apportioning the Ground which may be purchased by the said Company for Places of Deposit of Coal, Lime, and Stone, at or near to the City of *Edinburgh*, among the Proprietors of Collieries and Quarries, the Proprietor of the Colliery or Quarry nearest to the City of *Edinburgh* shall be entitled to have such Part of the said Ground as shall be nearest to the said City allotted to him or her for his or her Place of Deposit of Coal, Lime, or Stone, and the Proprietor of the Colliery or Quarry which shall be the second nearest to the said City shall be entitled to have the next nearest Part of the said Ground allotted to him or her for his or her Place of Deposit of Coal, Lime, or Stone, and so each Proprietor of Collieries or Quarries in the Order of their Proximity to the said City; and where any such Proprietor of any Colliery or Quarry shall be entitled to any such Allotment of Ground, he or she shall have his or her whole Allotment of Ground for all the Coal, Lime, and Stone he or she may transport by the said Railways in one Place, notwithstanding that some of his or her Collieries or Quarries may be more remote than the Collieries or Quarries of other Persons to whom he may have a Preference in the first instance.

Apportionment of Places of Deposit near *Edinburgh*.

CXVIII. 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 Railways shall be made, to erect and use any Wharfs, Cranes, Weighbeams, or Warehouses in or upon his, her, or their respective Lands or Grounds adjoining or near to the said Railways, and to unload any Goods or other Things upon such Wharfs, or upon the Banks and Grounds lying between the same and the said Railways, and also to make and use proper and convenient Places for Waggons, Carts, and other Carriages to lie and turn in and pass each other, so that the making or using thereof do not obstruct or prejudice the Passage of the said Railways; and that all Rates or Tolls which shall be paid for the Use of such Wharfs, Cranes, Weighbeams, and Warehouses respectively shall be and the same are hereby accordingly vested in the Owner or Owners of such Lands or Grounds who shall make and erect the same as aforesaid, and his, her, and their Representatives.

Owners of Lands may erect Wharfs on their own Lands.

CXIX. And be it further enacted, That if any such Owner or Owners shall not, within the Space of Six Calendar Months next after the 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 behalf of the said Company of Proprietors, that any Part of such Lands or Grounds is necessary or proper to be used by them for the Purpose of erecting and making Wharfs, Warehouses, and Buildings for the Use of the said

But if they refuse when required by the Company of Proprietors, the Company may erect the same.

said Railways, make, erect, and lay out, and from Time to Time maintain and keep in good and substantial Repair, such proper and sufficient Wharfs, Warehouses, and Buildings, for the Use of the said Railways, on the respective Part or Parts of the Lands and Grounds described in such Notice, then and in every or any such Case the said Company of Proprietors shall have full Power and Authority, without any Hinderance or Restraint whatsoever, to make use of such Lands or Grounds (not being the Ground whereon any House or other Building stands, or any Garden, Orchard, Yard, Park, Paddock, planted Walk or any Avenue to any House,) for erecting and building proper and sufficient Wharfs, Warehouses, and Buildings respectively, agreeably to such Notice as aforesaid; they the said Company of Proprietors first making Satisfaction for the same in such Manner as is herein-before directed with respect to any other Lands or Grounds which shall be taken or used by the said Company of Proprietors for the Purposes of this Act; and then and in such Case all Rates or Tolls which shall be paid for the Use and Benefit of such last-mentioned Wharfs, Cranes, Weighbeams, and Warehouses respectively shall be and the same are hereby accordingly vested in the said Company of Proprietors and their Successors.

Penalty on
Persons
taking in or
unloading
Goods, unless
at a public
Wharf.

CXX. And be it further enacted, That if any Person or Persons working or employed in working any Waggon or other Carriage upon the said Railways shall load, unload, or take into any such Waggon or other Carriage any Goods, Wares, Merchandizes, or Commodities whatsoever liable to pay any of the Tolls, Rates, or Duties herein-before mentioned, for the Purpose of evading the said Tolls, Rates, or Duties, or any of them, at any other Place or Places than at the Wharfs or Quays hereby authorized to be made, such Person or Persons shall forfeit a Sum not exceeding Five Pounds.

Rates of
Wharfage.

CXXI. And be it further enacted, That no more than the Sum of One Penny *per* Ton shall be demanded or taken by any such Land Owner or Owners who shall make, erect, or build any such Wharfs in pursuance of the Notice to be given by or on behalf of the said Company of Proprietors to such Owner or Owners for that Purpose as aforesaid, or by the said Company of Proprietors, under the Power herein-before for that Purpose contained (as the Case may be), for the Wharfage of any Coals, Culm, Lime, Limestone, Clay, Iron, Tin Plates, Iron Stone, Lead Ore or any other Ore, Timber, Stone, Bricks, Tiles, Slates, Gravel, Hay, Straw, Corn in the Straw, or Manure, nor more than One Halfpenny *per* Ton for the Wharfage of any other Goods, Wares, Merchandizes, or Things whatsoever, where the same shall be respectively placed and remain upon any such Wharfs, and shall not continue thereupon for a longer Space of Time than Six Days, except Coals, Culm, Lime, Limestone, Clay, Iron, Tin Plates, Iron Stone, Lead Ore or other Ore, Timber, Stone, Bricks, Tiles, Slates, Gravel, Hay, Straw, Corn in the Straw, and Manure, which may remain thereupon for One Calendar Month, upon Payment of One Farthing *per* Ton: Provided nevertheless, that in case any of the said Articles shall be left and remain in and upon any such Wharfs for the Space

of Six Days over and above the Time hereby limited for the same respectively, then the Owner or Owners of such Articles shall pay the Proprietors of such Wharfs One Penny *per* Ton for such Six Days, and One Halfpenny *per* Ton for every further Day which such Articles shall remain upon such Wharfs after the Expiration of the said Six Days : Provided always, that it shall be lawful for the said Company of Proprietors to erect, repair, and use any Cranes or Weighing Machines upon any such Wharfs last mentioned for the more convenient loading and unloading and weighing of any such Minerals, or other Goods, Wares, Merchandizes, or Commodities, in case the Proprietors of such Wharfs shall neglect or refuse to make and erect the same for the Space of Two Calendar Months after they shall have received Notice in Writing for that Purpose from the said Company of Proprietors, or when so erected neglect or refuse to keep the same in repair ; any thing in this Act contained to the contrary thereof notwithstanding.

CXXII. And be it further enacted, That nothing herein contained shall authorize or empower the said Company of Proprietors, or any other Person or Persons, to make use of any Wharfs, Cranes, Weighbeams, or Warehouses which shall be set out, erected, or made by the Owner or Owners of any Lands or Grounds adjoining or near to the said Railways for his, her, or their own private Use only, or to set up, erect, or use any Cranes or Weighing Machines in or upon any such Wharfs, without the Consent of such Owner or Owners.

Regulations
respecting
private
Wharfs.

CXXIII. 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, Heritages, or Property by reason of the Execution of any of the Powers hereby given, and for which no Remedy is herein-before 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-before directed in respect to any other Recompence or Satisfaction herein-before mentioned.

For making
Recompence
for Damages
not herein-
before parti-
cularly pro-
vided for.

CXXIV. And be it further enacted, That in all Cases wherein it may be necessary or requisite for any Person or Persons, or Party or Parties, to serve any Notice or Notices or other legal Proceedings upon the said Company, Service thereof upon the Clerk of the said Company, or left at the Office of such Clerk, or at his last or usual Place of Abode, or at the Office of the said Company, or in case the same respectively shall not be found or known, then Service upon any Member of the said Committee, or left at his last or usual Place of Abode, upon any other Agent of or Officer employed by the said Company, or left at his last or usual Place of Abode, shall be deemed good and sufficient Service of the same respectively on the said Company.

Declaring
what shall be
good Service
of Notices
on the Com-
pany.

CXXV. Provided always, and be it further enacted, That in case the said intended Railways shall not have been completed and made within the Space of Six Years, to be computed from the passing of this Act, then from and after the Expiration of the said Term of

If Railways
not com-
pleted in
Six Years.
Powers to

[*Local.*]

30 *E.*

Six

cease, except as to such Part, if any, as shall be completed.

Six Years all the Powers, Authorities, and Privileges given by this Act shall cease and determine; save only and except as to so much (if any) of the said intended Railways and Works as shall have been declared and certified to have been completed within the said Term by the Justices of the Peace of the said County of *Edinburgh*, assembled at any Quarter Sessions of the Peace to be holden in and for the said County, at any Time before the Expiration of the said Term of Six Years, or within Six Calendar Months next after the Expiration thereof, upon the Evidence of One or more Witness or Witnesses upon Oath, to be produced before them for that Purpose.

Sums ordered to be paid by the Company to be levied by Distress, &c. in case of nonpayment.

CXXVI. And be it further enacted, That when and as often as any Sum or Sums of Money shall be directed or ordered to be paid by the said Company of Proprietors in pursuance of the Directions of this Act, and such Sum or Sums of Money shall not be paid or tendered, by or on behalf of the said Company, in manner herein-before directed, to the Party or Parties entitled to receive the same, within Ten Days after Demand in Writing shall have been made from the Clerk to the said Company of Proprietors or their Treasurer, then and in such Case such Sum or Sums of Money shall and may be levied and recovered by Distress and Sale of the Goods and Effects of the said Company of Proprietors by virtue of this Act, or of the Goods and Effects of their Treasurer for the Time being, under a Warrant to be issued for that Purpose under the Hands of any Two or more Justices of the Peace for the County or City of *Edinburgh*, which Warrant any such Justices are hereby authorized and required to grant under their Hands on Application made to them for that Purpose by the Party or Parties entitled to receive such Sum or Sums of Money; and in case any Overplus shall remain after Payment of such Sum or Sums of Money, and the Costs and Expences of such Distress and Sale, then and in such Case such Overplus shall be returned to the said Company of Proprietors, or to their Treasurer for the Time being, as the Case may be: Provided always, that it shall and may be lawful for such Treasurer to retain, out of any Monies which he shall have received or shall receive on account of or for behoof of the said Company of Proprietors, all such Damages, Costs, and Expences as he shall have sustained or been put unto by virtue of any Warrant as aforesaid.

Damages and Charges, in case of Dispute, to be settled by Justices.

CXXVII. And be it further enacted, That where by this Act any Damages or Charges are directed or authorized to be paid or recovered in addition to any Penalty or Penalties for any Offence or Offences, the Amount of such Damages or Charges, in case of Dispute respecting the same, shall be settled, ascertained, and determined by the Justice or Justices of the Peace by or before whom any Offender shall be convicted of any such Offence or Offences, who is hereby authorized and required, on Nonpayment thereof, to levy such Damages or Charges by Distress and Sale of the Offender's Goods and Effects, in manner directed by this Act for the levying of any Penalties or Forfeitures.

Recovery of Forfeitures.

CXXVIII. And be it further enacted, That all Penalties or Forfeitures for Offences against this Act, or any Rule, Bye Law, or Order

to be made by the Company of Proprietors or Committee as aforesaid, shall, upon Proof of the Offences before any Justice of the Peace for the said County of *Edinburgh*, either by the Confession of the Party or Parties or by the Oath of any credible Witness, 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 any such Justice is hereby empowered and required to grant); and the Overplus, 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 said County of *Edinburgh*, or other Place where the Matter of Complaint may arise, there to remain 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 such Penalties and Forfeitures, the Application whereof is not herein-before particularly directed, shall go and belong to the said Company of Proprietors, and be applied for the Purposes of this Act.

CXXIX. 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 on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor 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 to be brought for that special Purpose.

Distress shall not be deemed unlawful for Want of Form.

CXXX. And be it further enacted, That no Proceedings to be had and taken in pursuance of this Act shall be vacated for Want of Form, or be removed by Suspension or Advocation, or otherwise howsoever, into any of the Courts in *Scotland*, any Law or Statute to the contrary notwithstanding.

Proceedings not to be vacated for Want of Form.

CXXXI. And whereas Persons guilty of Offences against this Act may be transient Persons, unknown to the Collectors, Surveyors, and other Persons under this Act; be it further enacted, That it shall and may be lawful to and for the said Collectors and Surveyors and other Officers respectively to seize and detain any such unknown Person or Persons guilty of any Offence against this Act, and to convey him, her, or them before any One or more of the Justices of the Peace for the said County of *Edinburgh*, without any other Warrant or Authority than this Act for so doing; and such Justice or Justices of the Peace respectively is and are hereby empowered and directed to proceed immediately to the Conviction or Acquittal of such Offender or Offenders.

For securing transient Offenders.

CXXXII. And

Form of
Conviction.

CXXXII. And for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That all and every Justice or Justices of the Peace before whom any Person or Persons shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up in the following Form of Words, or in any other Form to the same Effect, as the Case shall happen; (*videlicet,*)

‘ County of } BE it remembered, That on the Day of
‘ Edinburgh. in the Year of our Lord
‘ is convicted before me One of His Majesty’s
‘ Justices of the Peace for the said County [*specifying the Offence,*
‘ *and Time and Place when and where the same was committed*]. Given
‘ under my Hand the Day and Year aforesaid.’

Appeal.

CXXXIII. 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 of Proprietors, or by the Order or Determination of any Justice or Justices of the Peace, may, within Two 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 holden for the County of *Edinburgh*, first giving Fourteen Days Notice at the least in Writing of such Intention to appeal to the Parties interested in such Complaint; and the said Justices shall in a summary Way hear and determine the said Appeal 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, 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 such further 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 Judgment shall think just and reasonable.

Limitation
of Actions.

CXXXIV. And be it further enacted, That no Action or Suit shall be brought, commenced, or prosecuted against any Person or Persons for any thing done or to be 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, unless One Calendar Month’s previous Notice in Writing shall be given by the Person or Persons intending to commence and prosecute such Action or Suit to the said Company of Proprietors, or to their Clerk or Treasurer for the Time being, nor unless such Action or Suit shall be brought or commenced within Three Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damage then within Three Calendar Months next after the doing or committing such Damages shall cease, and not afterwards, and shall be laid or brought in the County where the Question may arise, and not elsewhere; and the Defender or Defenders in such Action or Suit shall and may give this Act and the special Matter

Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if it shall appear to have been so done, or if such Action or Suit shall have been brought or commenced before or after the respective Times so limited for bringing or commencing the same, or shall be brought in any other County than as aforesaid, then and in every such Case the Jury shall find for the Defender or Defenders, or Judgment shall be given for the Defender or Defenders; and upon such Verdict, or if the Pursuer or Pursuers shall suffer a Discontinuance of his, her, or their Action or Suit after the Defender or Defenders shall have appeared, or if Judgment shall be given against the Pursuer or Pursuers, the Defender or Defenders shall have Treble Costs, and shall have such Remedy for the same as any Defender hath for Costs of Suit in any other Case by Law.

CXXXV. And be it further enacted, That this Act shall be deemed Public Act. 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.

SCHEDULE to which this Act refers.
Main Line.

No. on the Plan.	Owners Names.	Occupiers Names.	Description of Property.	Parish.	County.
1.	Andrew Duncan, M.D.	Himself	Garden	St. Cuthbert's	Edinburgh.
2.	William Johnston	Ditto	Ditto	Ditto	Do.
3.	Mrs. Jane Gibson	Thomas Batchelor	Ditto	Ditto	Do.
4.	Ditto	William Clough	Ditto	Ditto	Do.
5.	Ditto	Robert Simpson	Ditto	Ditto	Do.
6.	Ditto	Robert Scott	Ditto	Ditto	Do.
7.	Trustees of Miss Doig	William Reid	Pasture Meadow	Ditto	Do.
8.	The Crown and Earl of Haddington	Earl of Haddington	Ditto	Canongate	Do.
9, 10.	The Earl of Haddington and Road Trustees	Ditto and Road Trustees	Ditto	Ditto	Do.
11. 11. 11. 11. 11. 11.	Sir Robert Keith Dick, Bart.	Himself	Meadow	Dudington	Do.
12. 12.	Robert Wardlaw Ramsay	Arable Land	Libberton	Ditto	Do.
13.	Road Trustees	Public Road	Ditto	Ditto	Do.
14.	John Davidson's Trustees	William Watson	Arable Land	Libberton	Do.
15.	Andrew Wauchope of Niddrie Marischall	Himself	Plantations	Ditto	Do.
16. 23. 23. 23. 23. 23.	Ditto	James Johnston	Arable Land	Ditto	Do.
24.	Road Trustees	Public Road	-	Ditto	Do.
25. 25. 25. 25. 25.	Andrew Wauchope of Niddrie Marischall	William Young	Arable Land	Ditto	Do.
26.	Road Trustees	Public Road	-	Ditto	Do.
27. 27.	John Wauchope, Esq. of Edmonstone	Alexander Stenhouse	Arable Land	Inveresk	Do.
28.	Road Trustees	Public Roads	-	Ditto	Do.
29.	The Earl of Wemyss and March	John and James Gullan	Arable Land	Ditto	Do.
30. 30.	Sir John Hope of Craighall, Bart.	Robert Brown	Ditto	Ditto	Do.
31. 31.	Road Trustees	Public Road	-	Ditto	Do.
32. 32. 32.	John Wauchope, Esq. of Edmonstone	Alexander Laing	Arable Land	Newton	Do.
33.	Ditto	Alexander Stenhouse	Railway	Ditto	Do.
34.	Sir John Hope of Craighall, Bart.	John Hope	Arable Land	Ditto	Do.
35.	John Wauchope, Esq. of Edmonstone	John Ferguson and Isabella Brown	House and Garden	Ditto	Do.
36. 36. 36.	Ditto	William Porteous	Arable Land	Ditto	Do.
37.	Ditto	John Wauchope, Esq. of Edmonstone	Garden	Ditto	Do.
38.	Ditto	Ditto	House and Garden	Ditto	Do.
39.	Road Trustees	Public Road	-	Ditto	Do.
40. 41. 41.	John Wauchope, Esq. of Edmonstone	David Philip and Thomas Baigrie	Arable Land	Ditto	Do.
42. 42. 42.	His Grace the Duke of Buccleuch	George Seton	Do. and Plantation	Ditto	Do.
43. 43.	Ditto	John Young	Arable Land	Ditto	Do.
44.	Ditto	Himself	Ditto	Ditto	Do.
45.	Trustees for Roads	Public Road	-	Ditto	Do.

No. on the Plan.	Owners Names.	Occupiers Names.	Description of Property.	Parish.	County.
46. 46. 46.	His Grace the Duke of Buccleuch	John Young	Arable	Dalkeith	Edinburgh.
47. 48.	Road Trustees	Public Road	-	Ditto	Do.
49. 50. 50. 51.	His Grace the Duke of Buccleuch	Alexander Matheson, William Hogg, and himself	Arable & Plantation	Ditto	Do.
52.	Simon Fraser, Esquire, of Ford	Thomas Hope	Arable Land	Ditto	Do.
53.	Mr. Robert Bennett	John Wilson	Ditto	Ditto	Do.
54.	Road Trustees	Public Road	-	Ditto	Do.
55. 55.	Lord Viscount Melville	Andrew Melrose	Pasture	Ditto	Do.
56.	Road Trustees	Public Road	-	Ditto	Do.
57. 57. 57.	Mr. John Plummer	Himself	Ditto and Arable	Ditto	Do.
58.	Road Trustees	Public Roads	-	Ditto	Do.
59.	Richard Lothian	Himself	Arable Land	Ditto	Do.
60.	Dalkeith Kirk Session	John Plummer	Ditto	Ditto	Do.
61.	Duke of Buccleuch and others	Alexander Sanderson	Common	Ditto	Do.
62. 62. 62.	Alexander Hay, Esq., W.S.	John Nimmo	Arable Land	Lasswade	Do.
63. 63.	The Marquis of Lothian	David Gray	Ditto	Cockpen	Do.
Branch Railway from the Main Line to Fisherrow Harbour.					
1. 1.	Andrew Wauchope of Niddrie Marischall	William Young	Arable Land	Libberton	Edinburgh.
2.	Road Trustees	Public Road	-	Ditto	Do.
3. 3.	Miss Dalrymple of New Hailes	John Brown	Arable Land	Inveresk	Do.
4. 4. 4. 4. 4.	The Earl of Wemyss and March	Himself	Do. and Plantation	Ditto	Do.
5.	John Veitch of Olivebank	Mrs. Hastie	Pasture	Ditto	Do.
6. 6.	Road Trustees	Public Road	-	Ditto	Do.
7. 7.	Archibald Young	Archibald Young	Pasture and Arable Land	Ditto	Do.
8. 9.	The Heirs of Peter Cathie	Robert P. Handyside	Timber Yard	Ditto	Do.
	The Magistrates of Musselburgh	Themselves	Harbour of Fisherrow	Ditto	Do.
Branch Railway from the Main Line to Cowpits.					
A.	Archibald Cochrane, Esquire	Robert Aitken	Arable Land	Inveresk	Edinburgh.
1. 1.	Sir John Hope of Craighall, Bart.	Robert Bernard	Pasture	Ditto	Do.
2.	Ditto	William Nasmyth	House and Garden	Ditto	Do.
3.	Ditto	William Roger	Ditto	Ditto	Do.
4. 4. 4. 4. 4. 4.	The Earl of Wemyss and March	John and James Gullan	Arable Land	Ditto	Do.
5.	Road Trustees	Public Road	-	Ditto	Do.
6. 6. 6. 6. 6.	Sir John Hope of Craighall, Baronet	Robert Brown	Arable Land and Plantation	Ditto	Do.

