ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

Cap. xcviii.

An Act to improve the Harbour of *Burntisland* in the County of *Fife*. [22d *July* 1848.]

WHEREAS an Act was passed in the Session of Parliament holden in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "The *Edinburgh and Northern* Railway Act, 1845," by which the *Edinburgh and Northern* Railway Company was authorized to make a Railway from *Burntisland* to *Perth*, with Branches to *Kirkcaldy* and to *Cupar*: And whereas by several other Acts passed in the Two Sessions of Parliament respectively holden in the Ninth and Tenth and Tenth and Eleventh Years of the Reign of Her said Majesty the same Company were authorized to make certain other Branch Railways to *Saint Andrews*, *Ferry-Port-on-Craig* and *Newport*, and *Dunfermline*, and to acquire and work the Ferry between *Ferry-Port-on-Craig* and *Broughty*, and the Low-water Pier at *Burntisland*, and the Ferry between the same and *Granton*: And whereas under the Provisions of an Act passed in the last Session of Parliament, intituled "The *Edinburgh and Northern* Railway Company and *Edinburgh*, *Leith*, *and Granton* Railway Company Amalgamation Act," the said Company and the *Edinburgh*, *Leith*, *and Granton* Railway Company have been incorporated into One Company by the Style and Title of the *Edinburgh and Northern* Railway Company: And whereas the Improvement of the Harbour at *Burntisland* would

8 & 9 Vict. c. 158.

10 & 11 Vict. c. 239.

would be of public Advantage, by facilitating the Traffic on the said Railways: And whereas the said Company are willing to carry such Undertaking into execution, but the same cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That, subject to the Provisions in this Act, it shall be lawful for the Company, with the Consent in Writing of the Magistrates and Town Council of the Royal Burgh of *Burntisland*, to deepen and improve the said Harbour and the Entrances thereof, and to make and construct the several Piers and other Works upon the Lands delineated on the Plans and described in the Books of Reference herein-after mentioned or referred to.

Power to improve Harbour, &c.

II. And be it enacted, That all the Provisions, Matters, and Things contained in the said "*Edinburgh and Northern* Railway Act, 1845," and in the other special Acts relating to the Company, so far as the same are now unrepealed and in force, and are applicable to the Purposes of this Act, and except such of them or such Parts thereof as are by this Act repealed, altered, or otherwise provided for, shall extend to this Act, and to the several Purposes and Things hereby authorized to be done, as fully and effectually as if the same Provisions, Matters, and Things were repeated and re-enacted in this Act in reference to such Purposes and Things.

Provisions of Edinburgh and Northern Railway Acts extended to this Act.

III. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments and other Proceedings, it shall be sufficient to use the Expression "The *Burntisland* Harbour Improvement Act, 1848."

Short Title.

IV. And be it enacted, That the "Lands Clauses Consolidation (*Scotland*) Act, 1845," shall be incorporated with and form Part of this Act, save as to such Parts thereof as may be modified by or be inconsistent with this Act.

8 & 9 Vict. c. 18. incorporated with this Act.

V. And be it enacted, That the Provisions in "The Harbour, Dock, and Pier Clauses Act, 1847," with respect to the Construction of such Act, and to the Construction of the Harbour, Dock, or Pier, the Construction of Warehouses, Wharfs, and other Conveniences, and with respect to Buoys, Lighthouses, and Beacons, shall be applicable to the Company for the Purposes of this Act, and the same shall be and are for such Purposes hereby incorporated with this Act.

Certain Provisions of 10 & 11 Vict. c. 27. incorporated with this Act.

VI. And whereas the estimated Expense of improving the said Harbour, and Works connected therewith, is Twenty-five thousand Pounds: Be it enacted, That it shall be lawful for the Company to raise by Contribution amongst themselves, or by the Admission of other Parties as Subscribers, or in part by each of these Means, any further Sum of Money not exceeding Twenty-five thousand Pounds: Provided always, that all and every Part of such Sum of Money shall be applicable only to the Purposes by this Act authorized.

Capital.

VII. And

New Capital to be consolidated with present Capital.

VII. And be it enacted, That, except so far as is herein provided, the Capital so to be raised shall be considered as Part of the general Capital of the Company, and shall be subject to the Provisions contained in the said "*Edinburgh and Northern* Railway Act, 1845," and in the other special Acts relating to the Company, as to the Distribution of Capital into Shares, the Transfer and Transmission of Shares, the Payment of Calls, and the Forfeiture of Shares for Nonpayment of Calls, and as to the Payment of Dividends, or otherwise in respect of the Capital and Shares of the Company.

Interest not to be paid on Calls paid up.

VIII. Provided always, and be it enacted, That it shall not be lawful for the Company, out of any Money by this Act or any other Act relating to the Company authorized to be raised by Calls in respect of Shares, or by the Exercise of any Power of borrowing, to pay Interest to any Shareholder on the Amount of the Calls made in respect of the Shares held by him in the Capital by this Act authorized to be raised: Provided always, that nothing herein-before contained shall be deemed to prevent the Company from paying to any Shareholder such Interest on Money advanced by him, beyond the Amount of the Calls actually made, as shall be in conformity with the Provisions in the "Companies Clauses Consolidation (*Scotland*) Act, 1845," in that Behalf contained.

Deposits for future Bills not to be paid out of the Company's Capital.

IX. And be it enacted, That it shall not be lawful for the Company, out of any Money by this Act or any other Act relating to the said Company authorized to be raised for the Purposes of such Act or Acts, to pay or deposit any Sum of Money which by any Standing Order of either House of Parliament, now in force or hereafter to be in force, may be required to be deposited in respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the said Company to construct any other Railway or execute any other Work or Undertaking.

Power to borrow a further Sum on Mortgage.

X. And be it enacted, That it shall be lawful for the Company to borrow on Mortgage of their several Undertakings or on Bond any Sum not exceeding in the whole the Sum of Eight thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence (besides and exclusive of the Sums of Money already authorized to be borrowed on Mortgage or Bond by the Company); but no Part of such Sum of Eight thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence shall be borrowed until the whole of the Capital authorized to be raised by this Act and the other special Acts relating to the Company shall have been subscribed for, and One Half thereof shall have been actually paid up; and all the Powers and Provisions in the said Acts relating to the Company contained in regard to the borrowing of Money, or the Creation of new Shares and Augmentation of Capital instead of borrowing, or relating to or in anywise affecting Mortgages and Bonds, and Assignments and Transfers thereof, or the several Mortgagees and Bond Creditors or Transferees, shall extend and be applicable to the said Sum of Eight thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence hereby authorized to be raised, in the same Manner and to the same Extent as the same are applicable to the Sum authorized

authorized to be raised by the said Acts, but no Mortgage or other Security to be granted under the Powers herein contained shall extend to or affect any Part of the public Harbour of *Burntisland*, or any Part of the Works authorized by this Act, in so far as the same are hereby declared to belong to the Magistrates and Town Council of the Royal Burgh of *Burntisland*, nor the Lands on which the same or any Part of the same are or shall be situate: Provided always, that all and every Part of such Sum of Money so to be borrowed shall, when borrowed, be applicable only to the Purposes by this Act authorized.

Mortgages under former Acts to have Priority.

XI. Provided always, and be it enacted, That all Mortgages already granted under the Powers of the said recited Acts shall during the Continuance thereof have Priority over any Mortgages to be granted under the Powers of this Act.

Mortgages to be stamped.

XII. And be it enacted, That all Mortgages, Bonds, or other Securities for Money, and every Transfer of any Mortgage, Bond, or other Security for Money to be granted or made by virtue of this Act, shall be by Deed duly stamped, wherein the Consideration for the same shall be duly stated, anything in this or the other said Acts contained to the contrary notwithstanding.

Works to be constructed according to deposited Plans.

XIII. And whereas a Plan describing the Site of the intended Works for improving the said Harbour, and the Lands which may be required to be taken for the Purposes thereof, together with Books of Reference to such Plan, containing the Names of the Owners, Lessees, and Occupiers, or the reputed Owners, Lessees, and Occupiers of the said Lands, have been deposited with the Sheriff Clerk for the County of *Fife*: Be it enacted, That it shall be lawful for the Company, subject always to the Provisions herein and in the recited Acts contained, to enter upon, purchase, take, and use such of the Lands delineated on the said Plan and referred to in the said Book of Reference as they may require for the Purposes of improving the said Harbour and constructing the Works by this Act authorized; and it shall be lawful for the said Magistrates and Town Council of *Burntisland* to sell and convey such Parts or Portions of the Lands as belong to or are in the Right of the said Burgh of *Burntisland* or the Community thereof, and to receive and discharge the Price or Prices to be paid in respect of the same.

Works to be made.

XIV. And be it enacted, That the Works to be made by the Company under the Authority of this Act shall be a Bulwark on the West Side of the Entrance to the said Harbour, a Pier, Bulwark, and Wharfs on the East Side of the said Harbour, with proper Breakwaters, Approaches, and other Buildings, Erections, and other Works and Conveniences in connexion therewith, and such other Works as may be necessary for deepening the said Harbour and the Entrances thereof, and removing a Part of the Pier at the said Harbour known by the Name of the East Pier.

Bulwark when con-

XV. And be it enacted, That the proposed Bulwark or Breakwater on the West Side of the said Harbour shall, when completed, belong to

to and be the Property of the Magistrates and Town Council of the Burgh of *Burntisland*, for behoof of the Community of the said Burgh, and they shall be entitled to use the same for the Construction of Wharfage, or for a Pier for the Use of Vessels frequenting the said Harbour, as they may see proper; but the said Bulwark or Breakwater, or Pier, if such Pier shall be by them constructed, shall not be so constructed or used as to interfere with, injure, or obstruct the Use of the said proposed Pier on the East Side of the said Harbour; and the Company, and the Vessels engaged in Traffic for the Railway, shall be entitled to use such Pauls or Mooring Rings as may be placed on the said Bulwark or Breakwater, or Pier, in working the said Vessels to or from the said proposed East Pier, or on entering or departing from the Inner Harbour, free of Charge; and when absolutely necessary, or when there may not be Accommodation in the Inner Harbour, the Masters or other Persons in charge of such Vessels shall be entitled to lay the same alongside the said Bulwark or Breakwater or Pier, but so as not to obstruct the Entrance to the Harbour; and until the said Bulwark or Breakwater shall be used by the said Magistrates and Town Council for the Construction of Wharfage, or a Pier, as aforesaid, the Company shall uphold and maintain the same in proper Repair.

structed to become the property of the Burgh.

XVI. And be it enacted, That the Quay Wall leading out to the proposed Pier Head from the present East Pier to the Extent of a Breadth of open Quay or Roadway of Twenty Feet measured Eastward from the Face of the Coping, with the Ground on which that Extent of Pier rests, and also the proposed Pier Head to the Extent of Twenty Feet in Breadth around the same, likewise measured from the Face of the Coping, together with the Ground on which the Pier Head to that Extent rests, shall belong to and be the Property of the said Magistrates and Town Council of *Burntisland*, for behoof of the Community of the said Burgh, but the Company shall have the Use thereof at all Times, and when and so long as they shall have occasion for the same for loading or unloading their Railway Traffic; and the Vessels engaged in the said Traffic shall, subject to the Provisions herein-after contained, be entitled exclusively to lie alongside of the said Portion of Pier, and to use the same for the Purposes of loading and unloading their Cargoes, and for all other necessary Purposes.

Quay Wall and Pier Head to the Breadth of 20 Feet to be the Property of the Burgh.

XVII. And be it enacted, That the present Road leading from the Shore of *Burntisland* to the said East Pier and *Gray Sandy* called *Stoneforth Road* shall be widened by the Company to Twenty Feet, and by them maintained at the same Width of Twenty Feet, and shall be kept open for the Use of the Public, subject nevertheless to such Arrangements and Agreements for giving Access to the Traffic of the Company across or along the same as have been or may be agreed upon between the Company and the said Magistrates and Town Council, and the Company shall make and construct and maintain a Road of Access of at least Twenty Feet wide from the said *Stoneforth Road* to the North End of the proposed East Pier, which shall at all Times be kept open and free to the Public.

Stoneforth Road and Continuation thereof to be made and maintained by the Company.

Entrance to the Harbour to be kept clear, and a Space of Twenty Feet broad along the Front of Quay Wall to be open to the Public.

XVIII. Provided always, and be it enacted, That the Entrance to the said Harbour shall at all Times be kept clear and open for the Ingress and Egress of all Vessels entering the Harbour, and a Space of at least Twenty Feet shall be kept open by the Company along the Front of the said Quay Wall, as a free Access to the Public along the same to the Pier Head, with Power nevertheless to the said Company to place Cranes on Part of the said Pier and Quay Wall of Twenty Feet, and also all such Pauls and Mooring Rings as shall be necessary to secure Vessels berthed at the said Pier, which Pauls and Mooring Rings shall be provided, fixed, and kept in repair and altered by the Company in such Manner and at such Places as the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, shall approve, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty, and all Masters and other Persons in charge of Vessels entering or leaving the Harbour of *Burntisland* shall be entitled to use the said Pauls or Mooring Rings, without any Charge being made or paid in respect thereof.

In case of Removal of the present East Pier, Company to construct a new Half-tide Pier.

XIX. And be it enacted, That in case the present East Pier of the said Harbour shall at any Time hereafter be removed by the Company, they shall, at their Expense, before such Removal, construct a sufficient Half-tide Pier, for the free Use of Fishing Boats and small Coasting Vessels, such Half-tide Pier being provided by continuing the said proposed new East Pier Northward from the South Side of the present East Pier to the South Wall of the Ship-building Yard belonging to the Company, and the Company shall from Time to Time dredge and maintain a sufficient Channel leading up to such Pier to the Level of Low Water at Spring Tides, and the Company shall also build a Light-house at the Entrance of the Harbour on the new East Pier Head, in the Place of that which may be removed, such Works to be executed by the Company to the Satisfaction of the said Lord High Admiral or the said Commissioners of the Admiralty; and the said Half-tide Pier and Lighthouse, when completed, shall belong to and be the exclusive Property of the Magistrates and Town Council of the Burgh of *Burntisland*, for behoof of the Community of the said Burgh; and the said Pier and Lighthouse shall thereafter be kept up and maintained by the said Burgh.

Admiralty may order local Survey.

XX. And be it enacted, That if, after working Drawings of the Works hereby authorized shall have been submitted to the Lord High Admiral of the United Kingdom, or to the Commissioners for executing the Office of Lord High Admiral, it shall be deemed expedient by him or them to order a local Survey and Examination of such Works or of the intended Site thereof, the Company shall defray the Costs of such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Company, and if not paid, upon Demand, may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered, with Costs, as a Penalty is or may be recovered from the Company.

If Works over tidal Waters are

XXI. And be it enacted, That if any of the said Works hereby authorized to be constructed, altered, or removed by the Company, or if any Portion of the Works which affect any tidal Water or navi-

gable

gable River, or Access thereto, shall be abandoned or suffered to fall into Disuse or Decay by the Company, it shall be lawful for the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper; and to restore the Site thereof to its former Condition, at the Cost and Charge of the Company, and the Amount thereof shall be a Debt due from the Company to the Crown, and be recoverable accordingly.

abandoned by Company Admiralty may remove them.

XXII. And be it enacted, That Vessels taking the Harbour of *Burntisland* in Stress of Weather, or arriving in a leaky or dangerous State, and unable with Safety to reach the Inner Harbour, or in other Circumstances which in the Opinion of the Harbour Master shall make it necessary, shall be allowed to lie alongside the said proposed East Pier and Quay Wall: Provided always, that there shall be a Berth or Berths empty at the Time, and that the Company's Use of the said Pier and Quay Wall is not thereby obstructed, but such Vessels shall be removed therefrom as soon thereafter as possible, and so that as little Interruption as may be shall be occasioned to the Traffic of the Company.

Vessels taking the Harbour in certain Cases may lie alongside proposed East Pier.

XXIII. And be it enacted, That the Works hereby authorized shall be deemed and taken to be within the Limits of the Harbour of *Burntisland*, subject nevertheless to the Provisions of this Act, and to such Agreements as have been or shall be made with reference thereto between the said Magistrates and Town Council of *Burntisland* and the Company; and that the Powers of the Harbour Master appointed or to be appointed by the said Magistrates and Town Council shall extend to the said Works authorized by this Act, and be exercised by him as fully and freely in all respects as the same have been or may be exercised by him within any other Part of the Harbour of *Burntisland*.

Works to be deemed to be within the Limits of the Harbour, and to be under the Regulation of the Harbour Master.

XXIV. And be it enacted, That the Quantity of Land to be taken by the Company for extraordinary Purposes shall not exceed Five Acres.

Lands for extraordinary Purposes.

XXV. And be it enacted, That the Powers of the Company for the compulsory Purchase of Lands for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the passing of this Act.

Period for compulsory Purchase of Lands limited.

XXVI. And be it enacted, That the Works by this Act authorized shall be completed within Four Years from the passing of this Act, and on the Expiration of such Period the Powers by this Act granted to the Company for executing the said Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Works as shall then be completed.

Period for Completion of Works.

XXVII. And be it enacted, That to reimburse the Company for the Works before mentioned being executed at the Expence of the Company it shall be lawful for the Magistrates and Town Council of the Royal Burgh of *Burntisland* to receive from the Company, in lieu of the Shore

Company may agree with the Magistrates and Town

Council of Burntisland as to Rates.

Shore Dues and Burgh Customs now leviable by them on Goods, Animals, Matters, and Things shipped and landed by or for the Company at the Harbour of *Burntisland*, or within the Boundaries thereof, or at the said new Pier and Wharfs to be constructed under this Act, or to be conveyed by or for the Company within or through the said Burgh, or to be conveyed by or for the Company across the *Burntisland and Granton* Ferry, such modified or restricted Sums for such Period and on such Terms and Conditions as shall be mutually agreed upon between the Parties; and it shall be lawful for the said Magistrates and Council and for the Company from Time to Time to enter into any Agreements and Contracts for the Purposes aforesaid or any of them, and for the Construction of the said Works and Improvement of the said Harbour, within the Powers of this Act, and for the Regulation and Use thereof, and such Agreements and Contracts may contain such Covenants and Conditions as may be mutually agreed upon; and it shall be lawful for the Company to levy such Shore Dues and Customs on Goods, Animals, Matters, and Things in respect of which such Composition or restricted Sum shall be payable by them, and the Company shall have and enjoy all the Rights, Powers, and Remedies for the levying of the same, or recovering of Penalties in connexion therewith, which are now competent to, and which might have been exercised in the same Matters by the said Magistrates and Town Council: Provided always, that such Shore Dues and Customs shall in no Case exceed the Sums which are at present legally exigible by the said Magistrates and Town Council for such Shore Dues and Customs; and provided always, that no such Contract or Agreement shall prevent the said Magistrates and Town Council, after the Expiration thereof, from again exercising all the Rights and Privileges of the said Burgh in relation to such Shore Dues and Customs, conferred by Charter, Custom, or otherwise, as fully and freely as if such Contract or Agreement had not been made or entered into, the Rights of the said Magistrates and Town Council to exact and levy Anchorage Dues, Shore Dues, Burgh Customs, and Lighthouse Dues during the Period of the said Agreement, on all Ships, Goods, Animals, Matters, and Things not comprehended within the said Agreement with the said Company, being in all respects reserved to them entire.

Four Fifths of the Burgh's Harbour Revenue to be applied solely to Harbour Purposes.

XXVIII. And whereas the Harbour Dues and Burgh Customs of the said Harbour and Burgh of *Burntisland* payable in respect of all Goods, Animals, Matters, or Things shipped or landed at the said Harbour which have hitherto been and are now in use to be levied by the Provost and Magistrates of the said Burgh are liable to be applied and are now applied in paying off the existing Debts due by the said Burgh: And whereas the Proportion arising in respect of Burgh Customs of the total Sums so levied as Harbour Dues and Burgh Customs amounts, as nearly as can be ascertained, to One Fifth of such total Sums: Be it enacted, That Four Fifths of the whole Amount of Money hereafter to be received by the Magistrates and Town Council of the said Burgh as Harbour Revenues, whether in Name of Harbour Dues or Burgh Customs, in respect of all Goods, Animals, Matters, or Things shipped or landed at the said Harbour, including any Sum payable by the said Railway Company by way of Compensation in lieu and stead thereof, shall be applied solely to Harbour

Harbour Purposes; and the said Magistrates and Council shall be bound once in every Year to render to the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, an Account showing the Amount of the said Four Fifths of the said Harbour Revenues received by them, and the Application thereof for the Purposes aforesaid: Provided always, that the Company shall not be bound to see to or be responsible for the Application of the said Revenues or of any Part thereof.

Part of Works to be the Property of the Company.

XXIX. And with respect to the said contemplated Works, be it enacted, That the same, with the Lands upon which they are made, except where otherwise specially provided for by this Act, shall be the Property of the Company, subject to such Contracts and Agreements as may have been or may be entered into by and between the said Magistrates and Town Council and the Company with reference to the Construction, Management, Regulation, and Use thereof, and the levying of Tolls, Dues, and Duties in respect of the same.

Saving Rights of a certain Ferry.

XXX. And be it enacted, That nothing herein contained shall interfere with or infringe any Rights of Ferry between *Burntisland* and *Leith* presently possessed by the said Magistrates and Town Council of *Burntisland*.

Saving Rights of Magistrates and Council of Burntisland.

XXXI. And be it enacted, That, except as herein otherwise provided, and except also in so far as the same are not inconsistent with the Provisions of this Act, all Rights, Benefits, Privileges, or Immunities which the Magistrates and Town Council of *Burntisland* are possessed of or have a Right unto by Charter, Prescription, Custom, or otherwise, and all their Jurisdiction over and within the Space to be occupied by the foresaid Works, shall subsist and continue in full Force and Effect.

Expenses of Act.

XXXII. And be it enacted, That all the Charges and Expenses of and attending the passing of this Act or incidental thereto shall be paid by the Company, *pari passu* with the Costs, Charges, and Expenses of any other Act of Parliament to be passed in the present Session to which they may be liable, out of the first Monies that shall come to their Hands, and in preference to any other Payment whatsoever.

Saving Rights of the Crown.

XXXIII. And be it enacted, That nothing contained in the said recited Acts or in this Act shall extend to authorize the Company to purchase, take, or use any Land or Soil, or any Rights in respect thereof, belonging to Her Majesty in right of Her Crown, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or any Two of them, first had and obtained for that Purpose, and which such Commissioners or any Two of them are hereby authorized and empowered to give, or to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs and Successors.

Interpretation of Act.

XXXIV. And be it enacted, That the following Words and Expressions in this Act shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Expression "the Company," "the said Company," or "The *Edinburgh and Northern* Railway Company," shall mean the *Edinburgh and Northern* Railway Company incorporated by "The *Edinburgh and Northern* Railway Company and *Edinburgh, Leith, and Granton* Railway Company Amalgamation Act."

Public Act.

XXXV. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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