ANNO SEXTO

GULIELMI IV. REGIS.

****

Cap. xxxii.

An Act for making and maintaining a Railway from the Royal Burgh of *Dundee* in the County of *Forfar* to the Royal Burgh of *Arbroath* in the same County. [19th *May* 1836.]

WHEREAS the making and maintaining of a Railway from the Royal Burgh of *Dundee* in the County of *Forfar* to the Royal Burgh of *Arbroath* in the same County, for the cheap and expeditious Conveyance of Passengers and Goods, and other Matters, and the constructing of Wharfs, Warehouses, and other Conveniences for the convenient Use of the said Railway, and for depositing in Safety Goods and other Matters, will be of great local and public Utility: And whereas the several Persons herein-after named are desirous, at their own Cost and Charges, to make and maintain such Railway and Works; 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 Authority of the same, That the Right Honourable *William* Lord *Panmure*, *Alexander Kay*, *William Andson*, *Patrick Meffan*, *William Fullarton Lindsay Carnegie*, *Patrick Chalmers*, *James Miln*, *Patrick Anderson*, *John Miller*, *George Duncan*, *Adam Symon*, *William Boyack*, *Charles Guthrie*, *Thomas Collier*, *James Stirling*, *Peter*

Proprietors incorporated.

Borrie, David Blair, William Baxter, John Symers, John Sturrock, George Symers, John Croom, Robert Jobson, Robert Hunter, John Crichton, George Gray, Peter Kinmond, Robert Gordon, David Martin, and every other Person who shall hereafter become a Subscriber for the Purpose of making and maintaining the said Railway and Works, 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 Works according to the Rules, Orders, and Directions herein-after mentioned, and shall for that Purpose be One Body Corporate by the Name and Style of the "*Dundee* and *Arbroath* 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 the said Company shall have Power and Authority at all Times from and after the passing of this Act to purchase, feu, and hold Lands and Heritages to them and their Successors and Assigns, for the Use of the said Railway and Works.

Interpretation of Act.

II. And be it enacted, That in the Construction of this Act, unless there be something in the Subject or Context repugnant to such Construction, the Word "Person" shall extend and be applied to a Body Politic, Corporate, or Collegiate, as well as an Individual; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as One Person or Thing; and every Word importing the Plural Number shall extend and be applied to One Person or Thing as well as several Persons or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male.

Company empowered to form a Railway and other Works.

III. And be it enacted, That 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 *Dundee* and *Arbroath* Railway, passable for Waggons, locomotive Engines, and other Carriages, with Inclined Planes, Wharfs, Warehouses, Depôts, Roads of Communication, and other Conveniences, where the same may be necessary, from or near the Harbour or Docks of the Royal Burgh of *Dundee* to or near or into the Royal Burgh of *Arbroath*, passing through or near the Villages of *Broughty Ferry*, *Monifieth*, *Carnoustie*, *Westhaven*, and *Easthaven*, and from, through, or into the Parishes of *Dundee*, *Monifieth*, *Monikie*, *Barry*, *Panbride*, *Saint Vigeans*, *Arbirlot*, and *Arbroath*, all in the County of *Forfar*, and the Parish of *Caputh*, partly in the County of *Perth* and partly in the County of *Forfar*, or some of them, and as specified and described in the Plan and Book of Reference herein-after mentioned; and for the Purposes aforesaid the said Company, their Deputies, Agents, Officers, Workmen, and Servants, are hereby authorized and empowered to enter into and upon the Lands and other Premises of or belonging to any Person whomsoever, and also all Roads, Rivers, Quays, and other Places whatsoever, and to survey and take Levels of the same or any Part thereof, and to set out, ascertain, and appropriate such Parts thereof

as they shall think necessary and proper for making and maintaining the said Railway, Inclined Planes, Wharfs, Warehouses, Depôts, Roads of Communication, and other 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 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 Works, or out of the Lands or other Premises of or belonging to any Person whomsoever adjoining thereto, and which may be proper, requisite, or necessary for making, carrying on, continuing, maintaining, or repairing the said Railway and Works, or which may hinder, prevent, or obstruct the making, using, or completing, extending, or maintaining the same according to the Intent and Meaning of this Act; also to embank such Land from the River *Tay*, and to build or erect such Walls and form and construct such Bulwarks as may be requisite or necessary for making or maintaining the said Railway and Works; also to make, build, alter, erect, bank, excavate, widen, or set up, in, over, under, or upon the said Railway and Works, or upon the Lands adjoining the same, such and so many Embankments, Drains, Reservoirs, and other Conveniences as may be necessary or convenient for collecting or conveying Water necessary for the Purposes of the said Railway and Works, or the Steam Engines used by the said Company; and also to erect such and so many Wharfs, Warehouses, Toll Houses, Weighing Beams, Cranes, Steam Engines or other Machines and Conveniences, as the said Company shall think necessary or convenient; and also to make, maintain, repair, and alter any Bridges, Aqueducts, Tunnels, Passages, or Fences over, under, or through the said Railway and Works; and also to make and set out and appoint such Roads or Passing Places for Waggons and other Carriages to turn, lie, or pass each other, as the said Company shall think fit; to alter the Course of such Roads, Rivulets, and Communications as may run in or near the said Railway and Works; and also to construct, make, and do all other Matters and Things which the said Company shall think convenient or necessary for the making, effecting, altering, completing, maintaining, and using the said Railway and Works to be made or constructed by the said Company; they the said Company, their Deputies, Agents, Workmen, and Servants, 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 Heritages which shall be taken, used, removed, or injured, 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, their Deputies, Agents, Workmen, and Servants, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Provisions and Restrictions as are herein-after mentioned and contained.

Railway within Harbour Works

IV. And be it enacted, That, any thing in this Act contained to the contrary notwithstanding, it shall not be lawful to the said Company

not to be constructed without the Consent of the Harbour Trustees.

Company to make or construct any Part of the said Railway within the Precincts of the Harbour of *Dundee* to the Westward of *Carolina* Port, without the Consent of the Trustees of the said Harbour acting under an Act passed in the Eleventh Year of the Reign of His late Majesty, intituled *An Act for more effectually maintaining and improving the Harbour of* Dundee *in the County of* Forfar, if within Six Months after the passing of this Act the said Trustees shall have commenced the Works necessary for constructing the said Railway on a proper Level to *Trade's Lane*, and shall thereafter carry on such Works so as that the same may be completed within Two Years after the passing of this Act, or at the same Time as the other Parts of the Railway.

Power reserved to the Harbour Trustees as to Part of Railway on the North of the Harbour Works.

V. And whereas it may be necessary for the Interests of the Harbour of *Dundee* that the Trustees thereof should acquire the Property of the Embankments and Bulwarks and Railway to be made and constructed by the said Company on the North of the Harbour Works or any Extension thereof; be it enacted, That it shall and may be lawful to the said Trustees to treat and agree in regard to the Sum to be paid by the said Trustees to the said Company for such Embankments, Bulwarks, and Railway; and in case the said Parties cannot agree in regard to the Amount thereof, then the same shall be fixed and assessed by a Jury in the Manner herein provided with respect to any Compensation to be made for any Property taken or used for the Purposes of this Act.

Trustees of the Harbour may alter Line of Railway within the Harbour Works.

VI. And be it enacted, That it shall and may be lawful to the said Trustees to alter the Line of the said Railway so far as the same is situated within the Works of the said Harbour erected or to be erected, the said Trustees making Compensation to the said Company as herein provided with respect to such Part of the said Railway as they are herein authorized to acquire as aforesaid, so as to suit the Works of the Harbour or any Extension thereof; provided always, it does not interfere with or interrupt the Use of the same by the said Company.

Trustees of the Harbour to have the Controul of the Railway within Harbour Works.

VII. And be it enacted, That the said Company shall at all Times be entitled to the free Use of so much of the said Railway as shall be situated within the Works of the said Harbour erected or to be erected, subject to such Rules and Regulations as the said Trustees shall from Time to Time make and declare concerning the same, and paying for the Use of so much thereof as shall be constructed or be acquired by the said Trustees such Rates and Duties as may be agreed upon between them and the said Company, not exceeding the Rates and Duties charged at the Time by the said Company for the same Description of Traffic for a similar Distance on other Parts of the Railway.

Railway not to pass Turnpike Roads on a Level.

VIII. And be it enacted, That where the said Railway shall cross any Turnpike Road, either such Turnpike Road shall, at the Expence of the said Company, be carried over the said Railway, or the

the said Railway shall be carried over the said Turnpike Road, by means of a Bridge: Provided always, that where any Bridge shall be erected by the said Company for the Purpose of carrying the said Railway over any Turnpike Road the Span of the Arch of such Bridge shall be formed and shall at all Times be continued of such Width as to leave a clear and open Space under every such Arch of not less than Fifteen Feet, and of a Height from the Surface of such Road to the Centre of such Arch of not less than Fifteen Feet, and the Ascent of the Road over or Descent under any such Bridge shall not exceed One Foot in Thirty Feet.

Ascent to Bridges and Height of Fences.

IX. And be it enacted, That in all Places where it may be necessary to erect or build any Bridge on or to communicate with any public Carriage Road, or to cut or bank in order to allow the Passage of the said Railway under, above, across, or along such Road, the Ascent of the Road over or Descent under any such Bridge, Cut, or Bank shall not be more than One Foot in Thirteen Feet, and 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 such Bridge.

Gates to be erected where Railway crosses public Carriage Road on a Level.

X. And be it enacted, That in all Cases where the said Railway shall cross any public Carriage Road on a Level, the said Company, if required by any Meeting of the Trustees for public Roads for the District or Parish, shall erect and at all Times maintain good and sufficient Gates across the said Railway at the Point where the same shall cross such public Carriage Road, all which Gates shall be constantly kept shut by some Person to be appointed by the said Company, (and which Person the said Company is hereby required to appoint, under a Penalty of Five Pounds for each Default,) except during the Time when Waggons or Carriages passing along the said Railway shall have to cross such public Carriage Road, and then the said Gates shall be open for the Purpose only of letting such Waggons or Carriages pass through; and the Person intrusted with the Care of the said Gates shall cause every such Gate to be shut as soon as such Waggons or Carriages shall have passed through the same, under the Penalty of Forty Shillings for every Default therein: Provided always, that when the said Railway shall cross any Footpath not on a Level a convenient Ascent and Descent shall be provided.

Ledges not to project above Level of Roads.

XI. And be it enacted, That where the said Railway shall cross or pass along any public Carriage Road the Ledge or Flanch shall be so constructed as not to project above the Surface of such Carriage Road, nor shall any such Ledge or Flanch be more than Three Quarters of an Inch below the Level of the same.

Power to alter Roads.

XII. And be it enacted, That it shall and may be lawful for the said Company to alter and change the Course or Line of the Turnpike Road leading from the said Burgh of *Dundee* to the said Burgh of *Arbroath* from a Point at or near the Bridge of *Elliot* to a Point at or near the Villa of *Seaforth*; and also to

alter or change the Course or Line of the public Highway leading from the Burgh of *Dundee* to *Broughty Ferry* where the said Highway passes through the Lands of *Craigie*, and to take and acquire such Land as may be requisite and necessary for such Purposes.

Regulation as to crossing public Carriage Road.

XIII. And be it enacted, That when the said Railway shall cross any public Carriage Road maintained out of the Statute Labour, not being within the Limits of the Burghs of *Dundee* or *Arbroath*, such Road shall, if the Sheriff of the County shall consider it to be necessary for the Safety of the Public, and shall so direct, upon an Application by the Trustees of the District in which such Road is situated, made to him by the Order of some Special Meeting of such Justices to be called for that Purpose, to be, at the Expence of the said Company, either carried over the said Railway or the said Railway carried over the said Road by means of a Bridge, the Ascent and Descent to which shall be such as the said Sheriff shall direct, not exceeding One Foot in Twenty Feet: Provided always, that where the said Railway shall cross any public Carriage Road within the Limits of the said Burghs, such Road shall, if the Magistrates and Town Council of the Burgh of *Dundee* with respect to any such Road within the Limits of such Burgh, or the Magistrates and Town Council of *Arbroath* with respect to any such Road within the Limits thereof, shall so require, be, at the Expence of the said Company, either carried over the said Railway or the said Railway be carried over the said Road by means of a Bridge, the Ascent and Descent of which shall be such as the said Magistrates and Town Council shall respectively as aforesaid direct, not exceeding One Foot in Twenty Feet.

Houses and Gardens not to be used without Consent.

XIV. And be it enacted, That nothing herein contained shall authorize and empower the said Company to take, use, injure, or damage, for the Purpose of making or maintaining the said Railway and Works, any House or other Building which was erected or built at or before the passing of this Act, or any Land which was then set apart and used as or for a Garden, Orchard, Yard, Policies, planted Walk or Avenue to a Mansion House, without the Consent in Writing of the Owners or Occupiers thereof and Persons interested therein respectively, excepting always the Premises specified in the Book of Reference or laid down on the Plan herein-after mentioned.

Plan to remain with the Clerks of the Peace; and Company not to deviate more than One hundred Yards from the Line thereon laid down.

XV. And whereas a Survey has been taken to ascertain the Practicability of making the said Railway and Works, and Maps or Plans, with Books of Reference thereto, containing Lists of the Names of the Owners or reputed Owners and Occupiers of the Lands through which the same is to be carried or made, have been deposited at the Office of the Clerk of the Peace for the County of *Forfar* and at the Office of the Clerk of the Peace for the County of *Perth*; be it enacted, That the Maps or Plans, with Books of Reference, so deposited, shall remain and be kept by the said Clerks of the Peace respectively, to the end that all Parties interested in any Manner therein shall have Liberty at all reasonable Times to resort to and examine or make

Extracts from or Copies of the same, as Occasion shall require, paying the Sum of One Shilling for every such Inspection, and for Copies or Extracts from the said Books of Reference at the Rate of Sixpence for every Seventy-two Words; and the said Maps or Plans and Books of Reference, or true Copies thereof, and certified as such by the Clerk of the Peace, or his Depute, shall be and are hereby declared to be good Evidence in all Courts of Law or elsewhere; and the said Company, in making the said Railway and Works, 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 on the said Maps or Plans, and set forth in the said Book of Reference.

Provision as to Lands of Taybank and Mayfield.

XVI. Provided always, and be it enacted, That the North Side of the said Railway shall not be less than Thirty Feet distant from the extreme Point of the inclosed Grounds attached to the Dwelling House situated near the East End of the Docks at *Dundee* Harbour, belonging to *Christopher Kerr* Esquire, and curving so that the Centre of the said Railway may not be less than Three hundred and seventy Feet distant in a horizontal Line from the Wall on the South Side of the public Road between *Dundee* and *Broughty Ferry* at the March between the Lands of *Taybank* and *Mayfield*, nor less than Two hundred and ten Feet distant from the said Wall at a Point on the said Wall One thousand Feet Eastward from the said March, measured along and upon the said Wall; and the said Railway shall cross the said Wall at the Gate in the said Wall opening into the Pendicle on the Estate of *Craigie*, possessed by *Alexander Cairncross*; and from the said Gate the said Railway shall pass in a straight Line Eastward to a Point not less than Ten Feet from the South Extremity of the inclosing Wall on the North Side of the said Ferry Road between the Estate of *Craigie* and the Lands of Lord *Douglas*,

Omissions in the Book of Reference not to obstruct making of Railway.

XVII. And be it enacted, That the said Company may make the said Railway and Works into, through, or across or over the Lands of any Person who is or may be the Owner of Land over which the same is set out and described in the said Maps or Plans as aforesaid, or into, through, or over the River *Tay* aforesaid, although the Name of such Person may happen to be erroneously stated or altogether omitted in the said Books of Reference, in case it shall appear to the Sheriff of the County within which such Land or Ground is situate, or his Substitute, and be certified by Writing under his Hand, that such Error or Omission proceeded from Mistake.

Breadth of Land to be taken for the Railway.

XVIII. And be it enacted, That the Lands to be taken or used, or to be embanked from the River *Tay* aforesaid, for the Purposes of this Act, shall not exceed Twenty Yards in Breadth, except in those Places where it shall be judged necessary to appropriate a Space for Waggons or Carriages to turn, remain, or pass each other, or for raising Embankments for crossing the Valleys, Rivers, or Streams, or in deep Cuttings, or in the Avenues to Bridges, or where any Warehouses, Cranes, Weigbeams, Steam Engines,

Engines, or other Machines may be erected, or where any Reservoirs may be formed or constructed, or where any Places may be set out or appropriated for the Delivery or Reception of Goods or other Matters conveyed or to be conveyed on the said Railway, and in no Place shall more than Seventy-five Yards in Breadth be taken or used, without Consent in Writing of the Owners of the Lands and Heritages so to be taken or used, and except in those Places where Roads of Communication from the Roads in the Districts through which the Railway passes shall be required to be made to the said Railway.

Provision as to Lands of Craigie.

XIX. And be it enacted, That nothing in this Act contained shall authorize or empower, or be construed to authorize or empower, the said *Dundee* and *Arbroath* Railway Company to take or acquire any Part of the Lands of *Craigie*, without the Consent in Writing of the Proprietors thereof, except so much thereof as shall be necessary for the making of the said Railway and its inclosing Walls, and such additional Space as the said Company shall find necessary for Depôts or Wharfs, at any Place within One hundred Yards from the Junction of the Approach to *Craigie House* with the Road between *Dundee* and *Broughty Ferry*; provided always, that the Land to be taken at that Place shall not be more than Fifty Yards broad nor more than a Hundred Yards long; and provided further, that it shall not be lawful to the said Company to take or divert the Line or Direction of any Spring or Stream of Water flowing upon any Part of the Lands of *Craigie*, except so far as may be necessary for conducting the same under the said Railway, nor to prevent the Owners of the Lands from altering the Course thereof, at their own Costs and Charges, but so as not to injure or interrupt the said Railway; nor shall it be lawful for the said Company to dig for or take any Stones, Sand, or other Materials from or out of any Part of the said Lands of *Craigie*, without the Consent in Writing of the Proprietors thereof, except in the Space acquired or to be acquired by them for the said Railway and its inclosing Walls, and what may be obtained by sloping the Sides of any Cuts which it may be necessary to make in constructing the said Railway thereon, which Slopes the said Company are hereby authorized to make of such Inclination as they may think necessary; provided that in making the said Slopes the said Company shall work regularly, doing the least possible Injury to the Ground, and dressing and soiling the Lands they break; but no such Slope shall be made in the Ground called *Cairncross Possession* where the Line shall pass through Rock.

Right to embank not to be prejudiced.

XX. And be it enacted, That nothing in this Act contained shall alter, affect, or diminish, or be so construed as to alter, affect, or diminish, any Right or Title which any Person has or may claim to have to embank or gain Ground from the River *Tay*, either inside or outside the said Railway; nor shall any thing herein contained confer any such Right upon any Person whatever; but nothing herein contained shall extend or be construed to extend to entitle the said *Dundee* and *Arbroath* Railway Company to prevent any Person having

having Right so to embank from embanking and appropriating to their own Use the Space inside the Centre Line of the said Railway, leaving not more than Sixteen Feet North of the same for the said Railway and its inclosing Walls: Provided always, that the said Company shall nevertheless be entitled to carry out the Slope of their Embankment beyond the said Sixteen Feet, but the Property of the said Company shall not extend farther North than the said Sixteen Feet.

Bodies Politic, &c. empowered to sell and convey Lands.

XXI. And be it enacted, That after any Lands or Heritages shall be set out and ascertained for making the said Railway and Works it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Life-renters, Husbands, Tutors, Curators, Guardians, Trustees for charitable or other Purposes, Executors or Administrators, and all other Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of those for whom they are Tutors, Curators, or Trustees, whether Infants, Minors, Issue unborn, Lunatics, Idiots, Married Women, or other Person whomsoever, 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 whomsoever who is or shall be seised, possessed of, or interested in any such Lands 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 every Part thereof to and in favour of the said Company; and all such Contracts, Agreements, Sales, Conveyances, Feu Dispositions or Feu Charters, Leases, and Assurances shall be valid and effectual in Law to all Intents and Purposes whatsoever, any Law, Statute, Deed of Entail, Usage, or Custom to the contrary in any way notwithstanding; and all Bodies Politic, Corporate, or Collegiate, and all other Persons whomsoever, so conveying as aforesaid, are hereby indemnified for what they shall respectively do by virtue or in pursuance of this Act; and all such Contracts, Agreements, Sales, Conveyances, Feu Dispositions, Feu Charters, Leases, and Assurances (other than those which concern any Purchase or Exchange between any such respective Land Owners) so to be made as aforesaid shall be made at the Expence of the said Company, and shall be made according to the Form of Conveyance in use in *Scotland*, or in the Words or to the Effect following; (that is to say,)

Form of Conveyance.

'I of in consideration of the Sum of to me paid by the 'Dundee and *Arbroath* Railway Company [*or other Consideration, as the Case may be*], do hereby grant, dispone, and convey to the said Company all [*describing the Premises to be conveyed*], and all my Right, Title, and Interest in and to the same and every Part thereof, to hold to the said Company and their Successors for ever, by virtue and according to the true Intent and Meaning of an Act passed in the of the Reign of His Majesty King *William* the Fourth, intituled [*here set forth the Title of this Act,*

'Act, and insert a testing Clause according to the Form required by 'the Law of Scotland].'

And every such Conveyance shall be registered in the Register of Sasines kept for the County within which such Lands or Heritages are locally situated, or in the General Register of Sasines for *Scotland* presently kept at *Edinburgh*, within Sixty Days from and after the Date of every such Conveyance; and the Keepers of the said Registers are hereby required and authorized to register the same, and upon being so registered they shall give and constitute a good and undoubted Right and Title to the said Company to the Lands or Heritages therein described, any Law or Custom to the contrary notwithstanding.

Persons capacitated to convey Lands empowered to renounce and discharge Price of Lands and Damages.

XXII. And be it enacted, That it shall and may be lawful to and for every Person herein-before capacitated to sell and convey any Lands or Heritages required for the Purposes of this Act, on receiving Payment in the Manner required by this Act, to renounce and discharge, for themselves and every other Person who would have successed them in such Estates, all Claims for Price, Compensation, or other Demands which may be competent to such Person, for or in respect of any Lands or Heritages which may be occupied or damaged by the said Railway and Works; and a Discharge or Renunciation to this Effect, granted by such Person as aforesaid, and recorded as herein-before directed, shall have the same Force and Effect in Law as if a Conveyance had been granted and recorded as aforesaid.

Superiority not to be affected or diminished.

XXIII. And be it enacted, That the Rights and Titles to be granted in manner above mentioned to the said Company to the Lands and Heritages 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 such Conveyances; and the Lands and Heritages so conveyed to the said Company shall not be liable for any Feu Duties or Casualties to the Superiors, nor for Land Tax, Cess, Stipend, Schoolmaster's Salary, nor any public or Parish Burden whatever, but the same shall be paid by the original Proprietor of such Lands or Heritages.

Satisfaction to be made to Owners.

XXIV. And be it enacted, That every Person herein-before capacitated to sell or convey Lands or Heritages, and every Owner and Occupier of any Lands or Heritages through, in, or upon which the said Railway and Works shall be made, may accept and receive Satisfaction for the Value of such Lands and Heritages, or for the Damages sustained or to be sustained by making and completing the said Railway and Works, in gross Sums, or in annual Payments, or by a Feu Duty, at such Rate as may be agreed upon between such Person and the said Company or Committee; and all such Contracts, being made, shall be good and sufficient and binding on all Parties interested; and in case such Person and the said Company or Committee cannot agree as to the Amount or Value of

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.

For settling Differences in case of Disagreement as to Price.

XXV. And be it enacted, That in case of any Difference of Opinion between the said Company and the Owners or Occupiers of and Persons interested in such Lands or Heritages, relative to the Price or Value, Damages or Recompence to be given for any Lands or Heritages to be taken and 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 and such Proprietors of and Persons interested in the said Lands or Heritages, or if any such Owners or Occupiers or Persons interested in such Lands or Heritages 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 the said Company, or shall, upon Notice in Writing given to the principal Officer of such Bodies Politic, Corporate, or Collegiate, or to such Heirs of Entail, Life-renters, Husbands, Tutors, Curators, Guardians, Trustees, or Persons respectively, or left at the last or usual respective Places of their Abode, or with the Tenants 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, or by reason of Absence shall be prevented from treating, or through Disability cannot treat for themselves or make such Agreements as shall be necessary or expedient for enabling the said Company to take such Lands or Heritages, or to proceed in making the said Railway and Works, or shall not produce and evince a clear Title to the Lands and Heritages of which they are or shall be in Possession, or to the Interest which they claim therein, then and in every such Case the said Company, or the said Owner and Occupier or other Person 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 Sheriff or Sheriff Substitute of the County where the Lands or Heritages shall be situate, to proceed therein as herein-after mentioned; and the said Sheriff or Sheriff Substitute is thereupon accordingly hereby required to impannel, summon, and return a Jury of Eighteen Persons in the Manner in which Juries are impannelled, summoned, and returned in *Scotland*, to meet at such Time and Place as in the Warrants to be issued on that Behalf shall be appointed, not being less than Nine or more than Twelve Days after such Application shall be made to the said Sheriff or Sheriff 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 Sheriff or Sheriff Substitute shall return other honest and indifferent Men of the Standers-by, or that can speedily be procured to attend the Service, to make up the Number of the said Jury to the Number of Nine; all Parties concerned having their lawful Challenges or Exceptions against any of the said Jurymen; and the said Sheriff or Sheriff Substitute is hereby empowered and obliged to summon and call before him all Persons

Jury to be summoned by Sheriffs, &c.

Sheriffs empowered to summon and

examine Witnesses on Oath.

Persons who shall be thought necessary to be examined as Witnesses touching the Matter in question by or before any such Jury; and the said Sheriff or Sheriff Substitute may order and authorize the said Jury, or any Three or more of them, to view the Places or Matters in controversy; which Jury, upon their Oaths (which Oaths, as well as the Oaths to such Persons as shall be called upon to give Evidence, the said Sheriff or Sheriff Substitute is hereby empowered to administer) shall inquire of, assess, and fix by the Verdict of a Majority of their Number 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.

Juries to distinguish between Value of Land and Damages, &c.

XXVI. And be it enacted, That the said Juries respectively shall, if required by the said Company, award the Value of the Lands or Heritages required for the Purposes of this Act separately and distinctly from the Sum of Money to be assessed or adjudged for any Damages sustained or to be sustained by any Person by reason of any thing done or suffered under the Authority of this Act; and the said Sheriff or Sheriff 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 Sheriff or Sheriff Substitute, and shall be binding and conclusive to all Intents and Purposes against every Person whomsoever, without being subject to Reduction, Advocation, or Suspension, or to any Question or Review in any way whatsoever; and if such Sheriff or Sheriff Substitute shall make default in the Premises he shall for every such Offence forfeit and pay any Sum not exceeding Twenty Pounds; and if any Person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing shall refuse to give in 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, after having been paid or tendered a reasonable Sum for his 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 Sheriff or Sheriff Substitute, shall for every such Offence forfeit and pay any Sum not exceeding Ten Pounds.

Expences of Inquiry how to be borne.

XXVII. And be it 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 said Sheriff or Sheriff Substitute for the County or Place in which such Assessment or Award shall be made, 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 is herein-after mentioned, (that is to say,) if a Verdict shall be given for the same or a greater Sum as Satisfaction for the absolute Sale of or the Privilege to use any Lands or Heritages, or as a Compensation for any Damage done or to be done to any Lands or Heritages 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 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 behalf of the said Company, or in case, by reason of Absence or other Impediment or Disability, there shall not be found any Person legally capacitated to contract with and make Conveyance to or receive Compensation from the said Company, then such Expences, and also the Expence of the Bond to be granted by the Person making the Application for such Jury, as after provided, 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 Five Days after the same shall be demanded, then the same shall and may be recoverable, from and out of the Effects of the said Company or of their Treasurer, by Distress and Sale, and by the like summary Process by which any Penalties or Forfeitures may be recovered by this Act; 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 for such Lands or Heritages, or for Damages only, one Moiety of the said Expences and of the Expence of the said Bond shall be paid by the said Company, and may be recovered in manner aforesaid, and the other Moiety thereof shall be paid by the Party entitled to claim such Satisfaction 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 Sums of Money so to be assessed or awarded as aforesaid, and the Payment or Tender of the Remainder of such Sums of Money shall be deemed and taken, to all Intents and Purposes, to be a Payment or Tender of the whole 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 Person who claimed Damages from the said Company, 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 desiring a Jury to give Security.

XXVIII. And be it enacted, That every Person making Application for such Jury shall enter into a Bond, with sufficient Sureties, to the Clerk or Treasurer of the Company, in the Penalty of One hundred Pounds, or in such other Penalty as the Sheriff or Sheriff Substitute of the County shall appoint, not exceeding the Sum of One hundred Pounds, to prosecute such his Application, and to bear and pay 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.

XXIX. And be it 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 having a particular Estate, Term, or Interest in the Premises, for such his Interest therein: Provided always, that the said Company

Notice of Injury to be given to the Company before Complaint.

shall not be obliged, nor shall any Jury to be summoned by virtue of this Act (unless with the Consent of the said Company) be allowed, to receive or take notice of any Complaint to be made by any Party for any Loss or Injury by him sustained or supposed to be sustained in consequence of the Execution of any of the Powers of this Act, unless Notice in Writing, signed by or on behalf of the Party making such Complaint, stating the Particulars of such Loss or Injury, and the Amount of the Compensation claimed in respect thereof, shall have been given by such Party to the said Company Twenty-one Days before the summoning of such Jury, and within Six Calendar Months after the Time of such supposed Loss or Injury having been sustained, or the doing or committing thereof shall have ceased.

Juries to be under the same Regulations as in Courts of Law; and Persons giving false Evidence to be prosecuted.

XXX. And be it 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 any Justiciary Trial in *Scotland*; and every Person 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 Punishments and Disqualifications as any Person can or may be subject to for wilful and corrupt Perjury by the Laws or Statutes of that Part of the United Kingdom called *Scotland*.

Verdicts to be recorded.

XXXI. And be it enacted, That all the Verdicts of the Juries, and the Judgments of the said Sheriff or Sheriff Substitute thereon as aforesaid, shall be transmitted to and be kept by the Sheriff Clerk of the County in which such Verdict was given, and shall be deemed Records to all Intents and Purposes; and the same, or true Copies thereof duly certified by the said Clerk or his Deputy, 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 Seventy-two Words.

Upon legal Tender, &c. Works not to be impeded.

XXXII. And be it enacted, That upon Payment or Tender of such Sum of Money as shall have been contracted or agreed for between the Parties, or assessed by a Jury in the Manner herein-before provided, for the Purchase of any Lands or Heritages to be taken for the Purposes of this Act, or as a Recompence for the yearly Produce or Profits thereof, or as a Compensation for Damages, as herein-before mentioned, to the Proprietor of such Lands or Heritages, or to such other Person as shall be interested therein or entitled to receive such Money or Compensation respectively, at any Time within One Calendar Month after the same shall have been actually so agreed for, determined, or assessed, or if the Person entitled to or interested in the said Lands or Heritages shall not be able to make a good Title to the said Lands or Heritages, or to the Purchase Money thereof, or Compensation to be paid in respect of Damages thereto, to the Satisfaction of the said Company, or if such Person

cannot be found, or shall refuse to receive the said Purchase Money or Compensation, or shall refuse to execute a Conveyance of the said Land or Heritages to the said Company, then upon the Payment of the said Sum of Money into the Bank of *Scotland*, Royal Bank of *Scotland*, *British* Linen Company of *Scotland*, Commercial Bank of *Scotland*, or National Bank of *Scotland*, as the Case may be, in the Manner by this Act directed, for the Use of such Person so interested or entitled as aforesaid, then and in all or any of the said Cases, as often as the same shall happen, it shall be lawful for the said Company, and their Agents, Workmen, and Servants, immediately to enter, or, if they shall have entered, to continue upon such Lands or Heritages respectively, and then and thereupon such Lands or Heritages, together with the yearly Profits thereof, and all the Estate, Use, Trust, and Interest of any Person therein, shall from thenceforth be vested in and become the sole Property of the said Company, to and for the Purposes of this Act for ever; and such Payment, Tender, Investment, or Deposit shall not only bar all Right, Claim, Interest, and Demand of the Person to whom the same shall or ought to have been made, but shall also extend to and be deemed and construed to bar the Courtesy of the Husband and the Terce of the Wife of every such Person, and all Estates Entail and other Estates of every other Person whomsoever therein: Provided nevertheless, that before such Payment, Tender, Investment, or Deposit aforesaid shall have been made it shall not be lawful for the said Company, or any Person acting under their Authority, to dig or cut the Lands of the Person entitled to such Payment, for the Purpose of making the said Railway and Works, without the Consent in Writing of such Person.

Application of Compensation Money when exceeding 200*l.*

XXXIII. And be it enacted, That if any Monies 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, Heir of Entail, Married Woman, Infant, Lunatic, or Person under any Disability or Incapacity, such Money shall, without Fee or Reward, in case the same 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 One of the said Banks; to the Intent that such Money shall be applied, under the Direction of the said Court, to be signified by an Order made upon a Petition to be preferred in a summary Way by the Person 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 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 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

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 undetermined and capable of taking effect; and in the meantime and until such Purchase shall be made the Interest or annual Produce of such Money shall from Time to Time be paid, by Order of the said Court, to the Person who would for the Time 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.

If under 200*l.* and above 20*l.*

XXXIV. And be it 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 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 for the Time being entitled to the Rents and Profits of the Lands or Heritages so purchased, taken, or used, or of his Tutors, Curators, or Guardians, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, be paid into One of the said Banks, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person making such Option, and approved of by the said Company, 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 manner herein-before directed, so far as the Case may be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Session.

Where less than 20*l.*

XXXV. And be it 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 paid to the Person (for his own Use) 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; or in case such Person shall be an Infant or Lunatic, then such Money shall be paid to his Tutors, Curators, or Guardians, to and for the Use and Benefit of such Infant or Lunatic.

Court of Session may order Payment to Persons interested of any Sums of Money paid into Banks.

XXXVI. And be it enacted, That in any Case where Sums of Money shall have been as aforesaid paid into the said Banks, for the Use of such Persons as may be interested therein, it shall be lawful for the said Court of Session, on the Application of any Person making claim to such Sums of Money, or any Part thereof, by Petition, in a summary Way of Proceeding or otherwise, as to the said Court shall seem meet, to make such Order in the Premises as to the said Court shall seem just and reasonable; and the Cashiers of

of the said Banks respectively who shall receive such Sums of Money are hereby required, when any Sums of Money shall be paid into any of the said Banks in pursuance of the Directions herein contained, to give Receipts for the same, specifying for what and for whose Use the same are received, to such Person as shall pay any such Sums of Money into such Bank as aforesaid.

Where Questions arise touching the Title to any Money.

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

The Court may order Payment of reasonable Expences of Purchases.

XXXVIII. And be it enacted, That where, by reason of any Disability or Incapacity of the Person 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 Costs, Charges, and Expences of all Purchases from Time to Time to be made in pursuance of this Act, or which may be incurred in consequence thereof, and also the Costs, Charges, and Expences of the Reinvestment of the Purchase or Compensation Money in Land, or other Disposition of the same, or so much of such Costs, Charges, and Expences as the said Court shall deem reasonable, together with the necessary Costs, Charges, and Expences of obtaining the proper Orders, to be paid by the said Company, who shall from Time to Time pay such Sums of Money for such Costs, Charges, and Expences, as the said Court shall direct.

Empowering Company to purchase 100 Acres of Land.

XXXIX. And be it enacted, That it shall and may be lawful for the said Company and they are hereby authorized and empowered from Time to Time to contract with any Person willing to sell or feu, for the Purchase of or obtaining in Feu Farm of any Parcels of Land, Buildings, or Heritages (not exceeding in the whole One hundred Acres), in such Places as shall be deemed eligible or convenient for the Purpose of making, erecting, forming, and providing any Coal Yards, Lime Yards, Warehouses, and other Buildings and Conveniences for the Purpose of receiving, lodging, depositing, or keeping any Goods, Merchandize, or other Matters conveyed or intended to be con-

veyed upon the said Railway, or making any convenient Roads, Avenues, or Ways leading thereto, or for any other Purposes whatsoever connected with the said Railway and Works, or any of them, which the said Company shall judge requisite or necessary or convenient; and it shall be lawful for any Person whomsoever to sell and grant and convey to the said Company any Parcels of Land, Buildings, and Heritages whatsoever for the Purposes last aforesaid, or any of them, in the same Manner as herein-before directed concerning Lands and Heritages to be taken or used for the Purpose of forming, making, and maintaining the said Railway and Works.

Parties to deliver a Statement of the Particulars of their Estates, and Amount of Compensation claimed by them.

XL. And be it enacted, That on or before the Expiration of One Calendar Month next after Notice in Writing from the said Company, or their Agents duly authorized, of their Intention to take or use any Lands, or any Part thereof, for the Purposes of this Act, shall have been given to any Person seised, possessed of, or interested in, or authorized by this Act to accept and receive Satisfaction and Compensation for the Value of the same, or any Estate, Share, or Interest therein or Charge thereon, or for any Injury or Damage sustained on account of the Execution of this Act, such Person shall deliver or cause to be delivered at the Office of the Secretary or Clerk of the said Company a Statement in Writing of the Particulars of the Estate, Share, Interest, or Charge which he claims to be entitled to, or to be authorized to receive Satisfaction and Compensation for, and of the Injury or Damage sustained by him, and of the Amount of the Sum of Money which he may expect or be willing to receive in Satisfaction and Compensation for the Value of such Estate, Share, Interest, or Charge, and for such Injury or Damage respectively.

Compensation to be made for temporary Damage.

XLI. And whereas in the making and executing the said Railway and Works it may be necessary for the said Company, their Agents and Workmen, to enter upon and take temporary Possession of some Parts of the Lands adjoining to the Line of the said Railway, for the Purpose of laying and depositing and working thereon Earth, Clay, Stones, Bricks, Slates, Timber, Lime, and other Materials, or of manufacturing such Clay into Bricks, or for forming temporary Roads and Approaches to and from the said Railway and Works; and inasmuch as a Jury, summoned as directed by this Act to assess a Compensation for the Damage and Injury done to such adjoining Lands by the Exercise of the Powers and Authorities by this Act granted, cannot, either upon View or upon Evidence, form a just Opinion of the permanent Injury which would be sustained by the Owners and Occupiers of such adjoining Lands by the Exercise of the Powers and Authorities aforesaid, until the said Railway and Works shall have been completed, it is expedient that the said Company, their Agents and Workmen, should be empowered to enter upon such adjoining Lands for the Purposes aforesaid, without having previously made such Payment, Tender, or Investment of Money as herein-before mentioned; be it enacted, That notwithstanding any thing in this Act contained it shall be lawful for the said Company, their Agents and Workmen, and they are hereby empowered,

empowered, to enter upon the Lands of any Person or Corporation whatsoever adjoining or lying near to the said Railway and Works, for the Purposes of laying, depositing, working, or manufacturing upon such Lands, or upon any Part thereof respectively, any Earth, Clay, Stones, Bricks, Slates, Timber, Lime, or other Materials, or for forming temporary Roads and Approaches to and from the said Railway and Works, and also to make use of any existing Roads, they the said Company, their Agents and Workmen, doing as little Damage as may be in the Exercise of the several Powers hereby granted to them, and making Compensation for such temporary Occupation of or temporary Damage to the said Lands to the Owners or Occupiers thereof, such Compensation, in case the Parties differ about the same, to be settled and recovered in manner herein provided in case of Disputes as to the Value of Lands through or upon which the said Railway and Works are intended to be made, and the Compensation for any Damage sustained by reason of the Execution of the said Railway and Works: Provided always, that the said Company shall and they are hereby required to make such Compensation and Satisfaction for the permanent Damage or Injury (if any) which may have been done in the said Lands by the Exercise of any of the Powers and Authorities aforesaid within One Calendar Month after the Expiration of the Period by this Act granted for completing the said Railway and Works: Provided also, that before it shall be lawful for the said Company to make such temporary Uses aforesaid of the Lands adjoining or lying near the said Railway or Works, the said Company shall and they are hereby required to give Ten Days Notice of such their Intention to the Owners or Occupiers of such Lands, and to separate and set apart by sufficient Railings or Fencings so much of the Lands as shall be required to be used as aforesaid from the other Lands adjoining thereto: Provided also, that it shall not be lawful for the said Company to make such temporary Use of any such Lands as aforesaid lying at a greater Distance than Two hundred and fifty Yards from the said Railway.

For settling Disputes as to Damages to a small Amount.

XLII. And be it enacted, That in case any Difference shall arise between the said Company and any of the Owners or Occupiers of the Property to be taken or used for the Purposes of this Act as to the Value of or Amount of the Damage done by the said Company, their Agents or Workmen, to such Property, in the Execution of any of the Powers of this Act, and such Difference cannot be settled between the said Parties, the same shall be ascertained and determined by the said Sheriff or his Substitute, who, upon Application made to him by both or either of the said Parties, shall examine into the Matter in dispute, and shall determine and settle the Amount of Compensation which shall be payable by the said Company, provided such Compensation do not exceed the Sum of One hundred Pounds; and the said Sheriff or his Substitute is hereby authorized and required, on Nonpayment of the said Damages for the Space of Twenty Days after the same shall become due, to levy such Damages, and all Costs and Charges attending the same, by Distress and Sale of any Goods and Effects of the said Company, in the same Manner as by this Act is directed with respect to the Recovery,

Recovery, Satisfaction, or Compensation for other Damages done by the said Company.

Where small Parcels of Land are intersected Company compellable to purchase the whole.

XLIII. And be it enacted, That if in the Execution of any of the Powers of this Act any Lands not built upon shall be cut through and divided so that what shall be left thereof on both Sides or on either Side of the said Railway shall be less than One Half Part of an Acre in Quantity, and if the Owner of any such Land shall not have any other Land adjoining to that which shall be so left on either Side of the said Railway, then and in every such Case, if such Owner shall so require (but not otherwise), the said Company shall also purchase the Lands so left on both or on either of the Sides of the said Railway, being less than One Half Part of an Acre in Quantity, and unbuilt upon, as aforesaid, the Value thereof to be ascertained, if the Parties differ about the same, in the same Manner as is directed concerning Land to be taken or used for the Purposes of this Act; or in case such Owner as aforesaid shall have any other Land adjoining to that which shall be so left, he may require the said Company, at the Expence of such Company, to throw the same into the adjoining Land of such Owner, by removing the Fences and levelling the Sides thereof, and soiling the same in a workmanlike Manner: Provided always, that if the Owner of any Land which shall be so left, being less than One Half Part of an Acre in Quantity, shall not have any Land adjoining thereto on the same Side of the said Railway, and shall call upon the said Company to make any Bridge, Culvert, or other Crossing for the Purpose of making a Communication between such Lands and any Lands he may possess on the other Side of the said Railway, it shall be lawful for the said Company and they are hereby empowered to purchase such Piece of Land being less than One Half of an Acre in Quantity.

Enabling the Company to sell Land not wanted.

XLIV. And whereas by means of the Purchases which the said Company are empowered and are required to make by virtue of this Act they may happen to be possessed of more Lands than will be necessary for effecting the Purposes of this Act, or of Lands not applicable to the Purposes hereof; be it therefore enacted, That it shall be lawful for the said Company and they are hereby required, within Ten Years after the passing of this Act, to sell, and by any Deed under their Common Seal to convey, any such Lands, or any Estate or Interest in such Lands or any Part thereof, either together or in Parcels, by public Auction or by private Contract; and all such Sales and Conveyances from the said Company shall be valid and effectual to all Intents and Purposes whatsoever, any thing in this Act contained to the contrary notwithstanding: Provided always, that the said Company before they shall so convey any such Lands shall offer to sell the same to the Person or to the several Persons whose Lands shall immediately adjoin the Lands so proposed to be conveyed, if such Persons can be conveniently found, and are capable of entering into a Contract for the Purchase of such Lands; and such respective Persons, in case they shall be desirous of purchasing the same, shall signify such their Desire and Intention to the said Company in Writing within One Month after such Offer

of

of Sale shall have been made; and in case such Persons or any of them shall decline to avail themselves of such Offer, or shall neglect for the Space of One Month to signify to the said Company their Desire and Intention to purchase such Lands, the Right of Pre-emption of every such Person so declining or neglecting, in respect of the Lands included in such Offer, shall cease and determine; and an Affidavit sworn to before any Justice of the Peace for the said County of *Forfar*, by some Person not interested in the same Lands, stating, according to the Belief of the Deponent, that the Person entitled to such Right of Pre-emption was not conveniently to be found, or was not capable of entering into a Contract for the Purchase of such Lands, or that such Offer had been made by or on behalf of the said Company, and that such Offer had been refused or had not been accepted by the Person to whom such Offer had been made within the Space of One Month from the Time of making the same, shall in all Courts whatsoever be conclusive Evidence and Proof that such Offer had been made and had been refused or had not been accepted, as the Case may be, within the Time aforesaid, by the Persons to whom such Offer was made; and in case any such Person shall be desirous of purchasing any such Lands, and he and the said Company shall not agree with respect to the Price thereof, then the Price thereof shall be ascertained by a Jury in the Manner by this Act directed with respect to the disputed Value of Lands to be taken or used by the said Company; and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as in this Act is directed with respect to the disputed Value of Lands to be taken or used by the said Company (*mutatis mutandis*); and the Money produced by the Sale which may be made by the said Company of any such Lands as aforesaid shall be applied to the Purposes of this Act.

Treasurer, upon Payment of Money, to give Receipts.

XLV. And be it enacted, That upon Payment of the Money which shall arise by the Sale of any Lands, or of any Interest therein, belonging to the said Company, which shall be so sold by the said Company under the Authority of this Act, or upon Payment of any Money under this Act, it shall be lawful for the Treasurer for the Time being of the said Company to sign and give a Receipt for the Money so paid, which Receipt shall be a sufficient Discharge to all Persons for the Purchase Money for such Lands or Interests as shall be sold, or for such other Money as in such Receipt shall be expressed to be received, and such Persons shall not afterwards be answerable or accountable for any Loss, Misapplication, or Nonapplication of such Purchase Money or any Part thereof.

If Feu Duty not paid Land to revert to original Owner.

XLVI. And be it enacted, That in case the Feu Duty payable for any Lands or Heritages to be taken or used for the Purposes of this Act shall be at any Time unpaid for the Space of Two Years after a written Demand shall have been lodged with the Clerk of the said Company for the Payment thereof, then and in such Case it shall and may be lawful to the Court of Session in *Scotland*, on the Application of any Party having Interest, to inquire regarding such Failure to pay, and, failing the Payment of the Feu Duty in arrear, and the Costs of Suit, to give Judgment

according to the Forms in use in such Cases in *Scotland*, to the Effect that the Right of the said Company to such Lands or Heritages has and shall be held to have ceased and determined, and that such Lands or Heritages shall be held to have reverted to the original Owners thereof, or their Successors having Right for the Time to such Feu Duty, who shall be entitled to enter and to retain Possession of the same as if the said Company had never possessed any Right or Interest therein.

For paying off heritable Debt on Lands.

XLVII. And be it 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 Debts to any Persons, it shall be lawful to the said Company, upon Application made to them by such heritable Creditors, and the said Company are hereby authorized and required, to pay such Sum of Money agreed for and adjusted and assessed in manner aforesaid for such Lands burthened with heritable Debts to such heritable Creditors, in part of the Principal Money due on such heritable Debts: Provided always, that upon Receipt of such Sum such heritable Creditors shall acknowledge the Receipt of such Sum of Money, either by Indorsement to be made on the Security for such heritable Debts, and signed by such heritable Creditors in the Presence of Two or more credible Witnesses, in satisfaction of so much of the Principal Money due upon such heritable Debts, or otherwise by such other Receipt, Acknowledgment, or Discharge for such Payment as shall by the Law of *Scotland* be good and effectual to the Debtor; and in case such heritable Creditors shall refuse to receive Payment, if required by the said Company to accept thereof, or in case Doubt shall arise as to the Rights of any such heritable Creditors, it shall be lawful for the said Company to consign the said Sum of Money in any of the said Banks, and upon Payment or Consignment being made as aforesaid such Lands and Heritages shall henceforth be freed and disburthened of all such heritable Debts.

Act not to be put in force till the whole Sum necessary be subscribed.

XLVIII. And whereas the probable Expence of making and completing the said Railway and Works will, according to an Estimate made thereof, amount to Ninety-nine thousand eight hundred and forty-four Pounds, and Ninety thousand Pounds and upwards have been already subscribed for defraying such Expences, under a Contract, binding the Subscribers, their Heirs, Executors, Administrators, and Assigns, for Payment of the several Sums of Money so subscribed by them respectively; be it enacted, That the whole of said Sum of Ninety-nine thousand eight hundred and forty-four Pounds shall be subscribed in like Manner before any of the Powers given by this Act shall be put in force.

Certificate by a Justice that Money is subscribed to be sufficient Evidence.

XLIX. And be it enacted, That a Certificate under the Hand of any Justice of the Peace for the County of *Forfar*, that the whole of the said Sum of Ninety-nine thousand eight hundred and forty-four Pounds hath been subscribed as aforesaid, and which Certificate such Justice is hereby authorized and required to grant on Application made to him by the said Company, and on Production of the Subscription Deed of or relating to the said Company, shall for all Pur-

poses whatsoever be conclusive Evidence that the whole of the said Sum of Ninety-nine thousand eight hundred and forty-four Pounds has been subscribed.

Proprietors may raise Money for making the Railway.

L. And be it enacted, That it shall be lawful for the said Company to raise and contribute among themselves, in such Proportions as they shall think proper, any Sum of Money for making and completing the said Railway and Works, not exceeding in the whole the Sum of One hundred thousand Pounds, and the same shall be divided into Shares of Twenty-five Pounds each; and no Person subscribing thereto, or becoming a Proprietor in the said Company, shall be or become a Proprietor of less than One Share; and the said Shares shall be and they are hereby vested in the several Persons so raising and contributing the same, and their several and respective Successors, Executors, Administrators, and Assigns, for their and every of their proper Use and Benefit, proportionably to the Sums they shall severally raise and contribute; and all Persons, and their several and respective Successors, Executors, Administrators, and Assigns, who shall severally subscribe for One or more Shares, or such Sums as shall be demanded in lieu thereof, towards carrying on and completing the said Railway and Works, shall be entitled to and receive, at such Times as the said Company shall at any Meeting of the Company 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 Tolls and Rates and other Sums of Money to be raised, recovered, or received by the said Company by the Authority of this Act.

Shares to be deemed Personal Estate.

LI. And be it enacted, That every Proprietor of the said Company shall bear and pay a proportional Sum towards carrying on the Business of the Company in manner herein directed and appointed; and all and every the Shares of every Proprietor of the said Company shall be deemed Personal Estate, and transmissible as such, and not of the Nature of Real Property.

Application of the Money subscribed.

LII. And be it enacted, That the Money to be raised by the said Company 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 Works, and other the Purposes of this Act, and to no other Use, Intent, or Purpose whatsoever.

To compe Payment of Subscriptions.

LIII. And be it enacted, That every Person who has subscribed or who shall hereafter subscribe to advance any Money for or towards making and maintaining the said Railway and Works shall and he is hereby required to pay the Sums of Money by him respectively subscribed or to be subscribed, or such Parts or Portions thereof as shall from Time to Time be called for by the said Company

or

or Committee, 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 or Committee; and in case any Person shall refuse or neglect to pay the Sums so to be called for from him at the Times or Places and in the Manner appointed for that Purpose, it shall and may be lawful for the said Company to sue for and recover the same in any competent Court of Law in *Scotland*, together with the legal Interest on such Sums of Money, from the Time when the same shall have been directed to be paid by the said Company or Committee.

Certificates of the Shares to be delivered to Proprietors.

LIV. And for the better securing to the several Proprietors of the Company their respective Shares therein, be it enacted, That the said Company shall and they are required, at any Meeting of the Company, to cause the Names and proper Additions of the several Persons who shall be then entitled to the Shares in the said Company, with the Number of the Shares which they are then respectively entitled to hold, to be fairly and distinctly entered in a Book to be kept by the Clerk of the Company, in which Book also shall be minuted and recorded, as after provided, all Transfers or Conveyances of Shares, with the Names and proper Additions of the Assignees of the said Shares; and the said Clerk is empowered to deliver a Certificate to every such Subscriber or Assignee, on Demand, specifying the Shares to which he, according to the latest Entry or Minute in the said Book, is entitled in the said Company, every such Proprietor and Assignee paying to the said Clerk Two Shillings and Sixpence and no more for every such Certificate; and such Certificate shall be admitted in all Courts whatsoever as Evidence of the Title of such Person to the Shares therein specified or assigned, but the Want of such Certificate shall not hinder or prevent the Owner of any such Shares from selling or disposing thereof; and the said Certificate may be in the Words or to the Effect following; (that is to say,)

Form of Certificate.

‘ The *Dundee* and *Arbroath* Railway Company.

‘ THESE are to certify, That of
‘ is a Proprietor of Shares in the
‘ *Dundee* and *Arbroath* Railway Company, and that the said
‘ , his Executors, Administrators [*or* Successors],
‘ and Assigns, is and are, subject to the Rules, Regulations, and
‘ Orders of the said Company, entitled to the Profits and Advantages
‘ of such Shares. Given at the
‘ of in the Year of our Lord .’

And in the event of such Certificate being either lost or destroyed, then on Proof thereof, by Affidavit or otherwise, to the Satisfaction of the said Company or Committee, a new Certificate shall be given to the Party who was the Proprietor of the one so lost or destroyed, the new Certificate being duly entered by the Clerk of the Company, who shall be entitled to the same Fee as on granting an original Certificate.

Subscribers how to vote.

LV. And be it enacted, That every Person who shall have subscribed for or shall become entitled to and be in the actual Possession of

of One or more Shares in the said Company, and whose Name shall be entered as aforesaid in the said Book as the Proprietor thereof, shall be deemed a Proprietor of every such Share, and at all the Meetings of the said Company to be held as herein directed shall be entitled to vote for the same in manner following; (that is to say,) for One Share, or any Number of Shares less than Four Shares, he shall be entitled to One Vote; for Four Shares, and any Number of Shares less than Eight Shares, he shall be entitled to Two Votes; for every entire Four Shares beyond Eight Shares he shall be entitled to One Vote additional, under this Limitation, that no Proprietor shall have more than Twenty Votes whatever Number of Shares he may have subscribed for or may subscribe for or acquire; and all such Votes shall or may be given by such Proprietor, or by his Proxy (such Proxy being a Proprietor of One or more Shares in the said Company) duly constituted under his Hand, or Common Seal of a Corporation, or in Cases of Infancy or Lunacy under the Hand of the Tutor or Curator of such Infant or Lunatic: Provided always, that the Proxy for any Body Corporate may be any Member of such Body, although not holding any Share of the said Company; and every such Vote by Proxy shall be as good and valid to all Intents and Purposes as if the Proprietor granting such Proxy had voted in Person, and being an Infant had been of Age; and provided always, that no Person shall as Proxy have more than Twenty Votes; and the Appointment of which Proxy shall and may be made in the Words or to the Effect following; (that is to say,)

Form of Proxy.

'I One of the Proprietors of the *Dundee* and *Arbroath* Railway Company, do hereby appoint to be my Proxy, in my Absence to vote in any Question relating to the Affairs of the said Company which shall be proposed at any Meeting of the Company, in such Manner as he shall think proper. In witness whereof I have hereunto set my Hand the Day of in the Year of our Lord .'

Majority of Votes to determine.

And it shall not be necessary that the said Proxy be holograph, or subscribed before Witnesses, or be tested, the simple Subscription of the Grantor being in all Cases sufficient; and every Election of Members of the said Committee and of the Officers of the Company, and every Question, Matter, and Thing whatsoever which shall be proposed, considered, or discussed at any Meeting of the Company, shall be finally determined by the Majority of Votes and Proxies then present, computing as aforesaid; and at every such Meeting One of the Proprietors present shall be appointed Chairman of the Meeting, who shall not only have such Votes as a Proprietor as aforesaid, but shall also, in case of an equal Division, have the decisive or casting Vote.

Proprietor whose Name stands first in joint Shares to be deemed the Owner.

LVI. And be it enacted, That whenever Two or more Persons shall be possessed of or entitled to any Share in the said Company, the Person whose Name shall stand first in the Books of the said Company as a Proprietor of such Share shall for the Purposes of this Act be deemed and taken to be the Proprietor of such Share; and all Notices hereby required to be given to the Proprietor

of any Share in the said Company shall be given or sent to such Person, and such Notice shall be deemed to be a sufficient Notice to all the Proprietors of such Share for all the Purposes for which such Notice is intended to be given; and all Votes in respect thereof shall be given by the Person whose Name shall so stand first in the Books of the said Company as a Proprietor of such Share, whose Vote, either in Person or by Proxy, shall be deemed and allowed to be the Vote for or in respect of the whole Property in such Share, without Proof of the Concurrence of the other Proprietors of such Share, and notwithstanding of any Difference of Opinion among them.

Administrators, &c. of deceased Proprietors not to be entered in the Books of the Company without producing legal Evidence of Right.

LVII. And be it enacted, That in the event of the Death of any Proprietor, his Executor, Administrator, or Legatee succeeding to his Share in the said Company shall not be entitled to be entered as a Proprietor of such Share until he shall have produced to the Clerk of the Company legal Evidence, according to the Law of *Scotland*, of his Right to such Share, and shall not be entitled to receive any Part of the Dividends appropriated thereto, nor to vote or otherwise act as a Proprietor, until a Memorial of such Evidence shall be made in the aforesaid Book appointed to be kept by the said Clerk, who shall be entitled to a Fee therefor not exceeding Two Shillings and Sixpence.

Power to borrow 40,000*l.*

LVIII. And be it enacted, That in case the said Company shall be desirous of raising a further or additional Sum on the Credit of the said Railway and Works it shall be lawful for the said Company or Committee, by an Order of any Meeting of the Company, to borrow and take up at Interest all or any Part of the Sum of Forty thousand Pounds on the Credit of the said Railway and Works, as to them shall seem meet and convenient; and the said Company or Committee, upon an Order of any Meeting of the Company to that Effect, are hereby authorized and empowered to assign the Property of the said Company, and the Tolls and Rates arising or to arise by virtue of this Act, or any Part thereof, as a Security for any such Sums of Money to be borrowed as aforesaid, with Interest, to such Persons, or to their Trustees, who shall advance the same, the Expence of such Assignment being in all Cases borne by the said Company.

Or may accept it upon a Cash Account.

LIX. And be it enacted, That in case any Banking Company or Person shall agree to allow to the said Company a Credit to the Extent of the said Sum of Forty thousand Pounds so authorized to be borrowed, or any Part of such Sum, on a Cash Account, according to the Usage of Bankers in *Scotland*, upon the Security of the said Railway and Works as aforesaid, it shall be lawful for the said Company, by an Order to be made at any Meeting of the Company, to accept of such Credit, and authorize the said Committee, or the Treasurer or any other Officer of the Company, to borrow and take up at Interest any Sum under the said Sum; and the said Company or Committee, upon an Order to be made at any Meeting of the Company to that Effect, are hereby authorized

and empowered to assign the Property of the said Company, and the Tolls and Rates arising or to arise by virtue of this Act, or any Part thereof, as a Security for such Sums so to be borrowed and received as aforesaid, and the Interest thereof, to such Banking Company or Person who shall agree to advance the said Sum of Forty thousand Pounds, or any Part thereof: Provided always, that the total Sum due and owing by the said Company at any One Time for Money borrowed as aforesaid, and upon such Cash Account, shall never together exceed the Sum of Forty thousand Pounds.

Form of Assignment.

LX. And be it enacted, That all such Securities or Assignments shall be made under the Common Seal of the said Company, or in the Words or to the Effect following; (that is to say,)

'BY virtue of an Act made in the Year of the Reign of His Majesty King *William* the Fourth, intituled [*here set forth the Title of this Act*], we the *Dundee* and *Arbroath* Railway Company, incorporated by and under the said Act, in consideration of the Sum of to us in hand paid [*or, in case of Cash Accounts*, to be advanced and paid from Time to Time, when required, under a Credit or Current Account] by of do assign unto the said , his Executors, Administrators, and Assigns, all the Property of the said Company, and all and singular the Tolls and Rates arising by virtue of the said Act, and all the Estate, Right, Title, and Interest of, in, and to the same, to hold unto the said , his Executors, Administrators, and Assigns, until the said Sum of [*or, in case of Cash Account*, such Sums as shall be advanced and paid from Time to Time, and shall be due and owing as the Balance on the said current Account, not exceeding in all the 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 .'

Assignees to have equal Rights.

And all and every Person to whom such Security or Assignment shall be made shall be equally entitled one with the other to his Proportion of the said Property, Tolls, and Rates, according to the respective Sums in such Assignations mentioned to be advanced, without any Preference by reason of Priority of any such Assignments, or any other Account whatever; and a Memorandum of every such Assignment, containing the Date, Name of the Person to whom made, the Sum of Money borrowed, and the Rate of Interest, shall be entered in a Book to be kept by the Clerk of the Company, which said Book shall and may, without Fee or Reward, be perused at all seasonable Times by any of the Proprietors or Creditors of the said Company, or other Persons interested therein; and every Person to whom any such Security or Assignment shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer his Right or Interest therein to

any

any Person whomsoever, by an Instrument in Writing in the Words or to the Effect following; (that is to say,)

Form of Transfer.

'I of in consideration of the Sum of paid by of do hereby transfer a certain Security, made by the *Dundee* and *Arbroath* Railway Company to bearing Date the Day of for securing the Sum of and Interest, and all my Right and Property therein, to the said , his Executors, Administrators, and Assigns. Dated this Day of in the Year of our Lord .'

And every such Transfer shall, within Twenty-eight Days after the Date thereof, be produced to the Clerk of the Company, who shall cause a Memorandum to be made thereof in like Manner as of the original Security, for which the said Clerk shall be paid Two Shillings and Sixpence; and after such Entry made every Transfer so minuted shall entitle such Assignee, his Executors, Administrators, and Assigns, to the full Benefit thereof; and it shall not be in the Power of any Person who shall have made such Transfer to make void, discharge, or release the same, or any Sum of Money thereon due or thereby secured, or any Part thereof; and every such Person holding any Security or Assignment as aforesaid shall be bound, on receiving Payment of such Sum of Money, to transfer such Security or Assignment to any Person advancing such Sum of Money as the said Company may direct, the Expence of the said Transfer being paid by the said Company or Assignees.

Interest to be paid in preference to Dividend.

LXI. And be it enacted, That the Interest of the Money which shall be borrowed as aforesaid shall from Time to Time be fully paid or discharged or provided for before the yearly or other Interest or Dividends due or payable to the Proprietors of the said Company or to any of them shall be paid, made, or divided; and in case the Interest of the Money which shall be borrowed as aforesaid, or any Part thereof, shall be behind and unpaid for the Space of Thirty Days next after the same shall become due and be payable, the same, after Demand made, shall and may be sued for and recovered, with Costs, from the said Company, by Action before the Sheriff of the County or his Substitute, or in the Court of Session in *Scotland*:

Mortgagee not entitled to vote.

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 Company, for or on account of his having lent or advanced any Sum of Money on the Credit of such Security or Assignment.

No Person answerable for more than his Share of the Stock.

LXII. And be it enacted, That no Person, or the Estate, Real or Personal, of any such Person, who is or shall be a Proprietor of the said Company, shall be liable for or charged with the Payment of any Debt or Demand whatever due or to become due by or from the said Company, beyond the Extent of his Shares in the Capital

of

of the said Company, any Law, Custom, or Usage to the contrary thereof notwithstanding.

Committee of Management named until First General Meeting of the Company.

LXIII. And be it enacted, That the Right Honourable *William* Lord *Panmure*, *Alexander Kay*, Provost of *Dundee*, *William Andson*, Provost of *Arbroath*, *George Duncan*, *Adam Symon*, *John Miller*, *David Baxter*, *William Boyack*, *James Stirling*, *David M'Ewen*, *Peter Borrie*, *Thomas Collier*, *William Fullarton Lindsay Carnegie*, *Robert Gordon*, *Thomas Anderson*, *Patrick Anderson*, *Charles Guthrie*, *James Miln*, and *William Low*, shall be and are hereby appointed a Committee of Management until the First General Meeting to be held under this Act, in manner after mentioned; and until such General Meeting shall be holden, and the Committee to be then chosen are appointed, the said Persons, and the Survivors of them, or such of them as shall continue to act, or any Three of them, shall and may exercise all Powers and Authorities which are by this Act given to or which may be exercised by any Committee of Management which may be elected in pursuance hereof.

First General Meeting. A Committee of Management to be then elected; and at Annual General Meetings in future.

LXIV. And be it enacted, That the First General Meeting of the Company for putting this Act into execution shall be held in the Town Hall of the said Burgh of *Dundee* on the Third *Wednesday* after the passing of this Act, at the Hour of Twelve Noon; and a General Meeting of the said Company shall be held annually on the First *Wednesday* in the Month of *June* in each Year, or on such Day and at such Place and Hour as the Proprietors of the Company at the immediately preceding General Meeting shall appoint; and at the said First General Meeting, and at the General Meeting to be held on the First *Wednesday* of *June* in every Year thereafter, a Committee of Management shall be chosen by the Majority of Votes given by the Proprietors of the Company then present, or by Proxy, 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 Four Shares at the least in the said Company, which Committee shall have during the then ensuing Year Power to manage the whole of the Business and Affairs of the Company; and the said Committee shall consist of Nine or more Persons, Three of whom shall at all Meetings of the said Committee be a Quorum, and have full Power to act as if all the Members of the said Committee had been present at such Meetings; but if any Person elected to be a Member of the said Committee shall die, or shall cease to hold the said Number of Shares, or shall become bankrupt, such Proprietor shall cease to be a Member of the said Committee, and another Proprietor, qualified as aforesaid, shall be nominated by the remaining Members of the said Committee in his Room or Stead; and the Person so nominated a Member of the said Committee shall continue in Office till the next General Meeting: Provided always, that no Person shall be capable of being a Member of the said Committee who shall be concerned or interested in any Contract made or to be made with the said Company, or who shall hold any Office or Place of Trust or Emolument under the said Company.

Power, at General Meetings, to remove Committee; and also to make Bye Laws.

LXV. And be it enacted, That the said Company shall have Power and Authority at any General Meeting to remove and displace any Person who shall have been chosen a Member of the said Committee, 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; and shall also have Power and Authority to make and enforce such new Rules, Bye Laws, and Orders, for the good Government of the said Company, their Agents and Workmen, for making, maintaining, and using the said Railway and Works, and also for and concerning all such Waggons, Carriages, Goods, and other Matters as shall pass or be conveyed thereon, and also for the well-governing of all Persons in charge of any Waggons or Carriages, or who shall be employed in the conveying of any Goods and other Matters upon any Part of the said Railway and Works, and from Time to Time to alter and repeal and again to renew the said Rules, Bye Laws, and Orders, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same, as to the major Part of the Proprietors of the Company present at any such Meetings shall seem meet, not exceeding the Sum of Five Pounds for any One Offence; which said Rules, Bye Laws, and others, being reduced into Writing under the Common Seal of the said Company, the same or Abstracts thereof shall be painted in a legible Manner on Boards, and affixed upon the several Toll Houses to be erected on or near the said Railway and Works, and such Boards and Painting shall be renewed from Time to Time when destroyed, obliterated, or defaced; and such Rules, Bye Laws, 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.

Authenticated Bye Laws to be Evidence.

LXVI. And be it enacted, That in all Cases of Prosecution for or relating to Offences against the Bye Laws, Rules, or Orders of the said Company, the Production of a written or printed Paper, purporting to be the Bye Laws, Rules, or Orders of the said Company, and authenticated by having the Common Seal of the Company affixed thereto, shall be Evidence of the Existence or of the making of such Bye Laws, Rules, or Orders; and it shall be sufficient to prove that a Board, painted according to the Directions of this Act, purporting to be a Copy of such Bye Laws, Rules, or Orders, hath been affixed and published in manner by this Act directed, and, in case of its being afterwards displaced or damaged, hath been replaced by another such Board as soon as conveniently might be, unless and until Proof shall be adduced by the Defendant that such Board is not a Copy of such Bye Laws, Rules, or Orders, or hath not been duly affixed and continued in manner by this Act directed.

Power to call for Accounts.

LXVII. And be it enacted, That every Meeting of the Company shall have Power to call for, audit, and settle all Accounts of Money received, laid out, and disbursed on account of the said Company,

by their Treasurer or Collector of the Rates, or by any Person whomsoever employed by or concerned for or under them, in and about the said Railway and Works; and every such Meeting shall have Power to adjourn from Time to Time to such Places within the County of *Forfar* as shall at any such Meetings be thought proper and convenient.

Special Meetings to be called.

LXVIII. And be it enacted, That it shall be lawful for any Ten or more of the said Proprietors who shall together hold at least Forty Shares in the said Company to cause a Special General Meeting of the said Company to be called, after giving written Notice to the Clerk of the Company of their Intention so to do; and every such Meeting shall be called by Notice inserted in some One Newspaper published in *Dundee* Fourteen Days at least before the Time appointed for holding such Meeting, such Notices being signed by the Proprietors calling the same, or by the said Clerk; or such Meeting may be called in such other Manner as any Meeting of the Company shall direct or appoint; and all Notices of such Special General Meetings shall specify therein the Reason and Intention of requesting such Meetings, and the Time when and the Place where the same shall be held; and the said Proprietors are hereby authorized to meet pursuant to such Notices, and such of them as shall be present shall proceed to the Execution of the Powers by this Act given to the said Company, but only with respect to the Matters so specified as aforesaid in the Notices calling such Meeting; 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.

Officers to be appointed.

LXIX. And be it enacted, That it shall be lawful for the said Company 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, and to remove and again replace such Treasurer, Clerk, and other Officers, or any of them, as they shall think proper; and the said Company 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 shall think proper; and such Clerk shall attend all the Meetings of the said Company and Committee, and shall, in proper Books to be provided for that Purpose, enter and keep a true and perfect List of the Names and Places of Abode of the several Proprietors of the Company, and of all the Acts, Proceedings, and Transactions of the said Company and Committee, by virtue of and under the Authority of this Act; and the said Entries shall be deemed and taken to be original Orders and Proceedings of the Company, and the same, or Extracts therefrom, signed by the said Clerk, and impressed with the Seal of the said Company, shall be deemed and received as legal Evidence in all Courts and before all Judges whomsoever; and every Proprietor of the Company shall and may at all convenient Times have recourse to and peruse and inspect the same *gratis*, and may demand and have Copies thereof, paying Sixpence for

for every Seventy-two Words so to be copied; and if the said 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 Copies in a reasonable Time, 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 Company; and whenever any Treasurer or Clerk of the Company shall die, or be removed from or quit the Service of the said Company, it shall be lawful for the said Committee to appoint some other fit Person to be Treasurer or Clerk in the Place of the Person so dying, being removed, or quitting the said Service, until the then next General Meeting of the Company, when such Appointments shall be confirmed, or another Treasurer or Clerk shall be nominated and appointed in his Stead.

Same Person not to be Clerk and Treasurer.

LXX. And be it enacted, That it shall not be lawful for the said Company to appoint the Person who may be appointed their Clerk, or the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, the Treasurer of the Company, or to appoint any Person who may be appointed Treasurer, or the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, the Clerk of the Company; and if any Person shall accept both the Offices of Clerk and Treasurer, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, shall accept the Office of Treasurer, or being the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, shall accept the Office of Clerk of the Company, or if any such Treasurer shall hold or accept any Place or Office of Trust or Profit under the said Company other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person who shall sue for the same, to be recovered, with full Costs of Suit, in the same Way in which any other Penalties by this Act imposed may be sued for and recovered.

Powers of Committee.

LXXI. And be it enacted, That the Committee of Management shall meet from Time to Time at such Places within the County of *For ar* as the said Committee or a Quorum thereof shall think fit; and at all Meetings of the said Committee One of the Members present shall be appointed Chairman; and all Questions, Matters, or Things which shall be proposed, discussed, or considered at such Meetings shall be finally determined by a Majority of Votes of the Members of the said Committee present at any of the Meetings of the said Committee; but no Member of the said Committee shall have more than One Vote in the said Committee, except the 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 Business and Affairs of the Company, as well in buying and purchasing Lands and Heritages and Materials for the Use of the said Railway and

Works,

Works, as in employing, ordering, and directing the Works and Workmen, and in placing and displacing under Officers, Workmen, and Servants, and in making all Contracts and Bargains touching the said Railway and Works.

Power for the Committee to make Calls.

LXXII. And be it enacted, That the said Committee shall have Power from Time to Time to make such Calls for Money from the Proprietors of the Company as they shall from Time to Time find necessary for the Purposes of this Act, so that no such Call do exceed the Sum of Five Pounds upon each Share, and so as no Calls be made payable at the Distance of less than Two Months from each other; which Monies so called for shall be paid to the Treasurer, and by him to such Banking Company as the said Company shall at any Meeting appoint, to be placed in an Account to be kept with such Banking Company in the Name of the said Company, and such Monies shall thereafter be applied for the Use of the said Company; and every Proprietor of One or more Shares in the said Company shall pay his Share or Proportion of the Money to be called for as aforesaid, not exceeding the Sum aforesaid for every Share, at such Time or Place as aforesaid, of which Fourteen Days Notice at the least shall be given by written or printed Notices addressed to such Proprietor, and put into the Post Office, or in such other Manner as any Meeting of the Company shall direct or appoint; and if any Proprietor shall neglect or refuse to pay his rateable or proportionable Part of the said Money to be called for at the Time and Place appointed, it shall be lawful for the said Company to sue for and recover the same by Action in any competent Court; and if any Person shall neglect or refuse to pay his rateable or proportionable Part of the said Monies to be called for, the Person so neglecting or refusing shall forfeit any Sum not exceeding the Rate of One Pound Five Shillings Sterling for each of his Shares in the said Company; and in case such Person shall neglect or refuse to pay, at the Place so to be appointed for Payment thereof as aforesaid, his rateable or proportionable Part of the said Money to be called for as aforesaid, for the Space of One Calendar Month after the Time appointed for Payment thereof, then the Person so neglecting or refusing shall forfeit his Shares in the said Company, and all the Profit and Benefit thereof, and all Money advanced by him, and all such forfeited Shares shall be sold at a public Sale by the said Company for the most Money that they can get for the same, and the Money produced by the Sale of any such Shares shall be applied and disposed of in manner by this Act directed: Provided always, that no Advantage shall be taken of the Forfeiture of any Share in the said Company until Notice shall be given by the Clerk or Treasurer of the Company to the Owner thereof, or Notice in Writing sent, addressed to him, through the Post Office, nor unless the same shall be declared to be forfeited at a General Meeting of the Company 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 whose Shares shall be forfeited by a General Meeting against all Actions, Suits, or Prosecutions whatsoever to be commenced or prosecuted for any

If Calls are not paid the Company may sue for them.

If Calls are not paid in a Month, the the Shares to be forfeited and sold.

Breach of Contract or other Agreement, so far as the same may relate to the Affairs of the said Company, between such Proprietor and the rest of the Proprietors: Provided always, that it shall be lawful to and in the Power of the said Company at any General Meeting, instead of declaring any Share to be forfeited, to direct the Clerk of the Company to sue for and recover the Sum of Money subscribed by any Person, and called for as aforesaid, in any Court of Law or Equity.

If Price of Shares sold shall be more than sufficient to pay Arrears, the Surplus to be paid to the Owner.

LXXIII. And be it enacted, That in case the Money produced by the Sale of any Share so forfeited as aforesaid shall be more than sufficient to pay all the Arrears of Calls, and legal Interest thereon, with the Expences attending such Sale, the Surplus of such Money shall be paid, on Demand, to the Proprietor to whom such Share shall have belonged, or to his legal Representative; but the said Company shall not sell any more of the Shares of such Proprietor than shall be sufficient, as near as may be, at the Time of such Sale, to pay the Arrears due for or on account of such Calls, and the Interest thereon, and Expences attending such Sale; and from and after the Payment of all such Calls, and Interest and Expences, any Shares so forfeited as aforesaid which shall remain unsold shall revert to and again become the Property of the Person to whom such Shares shall have belonged immediately before such Forfeiture as aforesaid, in such Manner as if such Calls had been duly and regularly paid.

Proceedings in Actions for Calls.

LXXIV. And be it enacted, That in any Action brought by the said Company against any Proprietor of the Company, to recover any Sum of Money due or payable to the said Company for or by reason of any Call made by virtue of this Act, it shall be sufficient for the said Company to declare and allege that the Defender is indebted to the Company in such Sum of Money as the Call in arrear shall amount to, whereby an Action hath accrued to the Company 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 Defender, at the Time of making such Call, was a Proprietor of such Share in the said Company, and that a Call 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 any other Matter whatsoever; and the said Company shall thereupon be entitled to recover what shall appear due, unless it shall appear that any such Call exceeded the Sum of Five Pounds for every Share, or was made within the Distance of Two Months from the last preceding Call, or without Notice given as aforesaid: Provided always, that no Proprietor in arrear for any Call shall at any Meeting of the Company be allowed to vote, either personally or by Proxy, until such Time as he shall have paid to the said Treasurer all such Arrears as may be due from him in respect of such Calls.

Proprietors in arrear for any Call not to vote.

Committee may appoint Sub-Committees:

LXXV. And be it enacted, That it shall be lawful for the Committee of Management to nominate and appoint out of their own Body One or more 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 as aforesaid, and to hire and employ any Agents, Workmen, or Servants in and about the said Railway and Works, and to do, execute, and perform all other Matters and Things whatsoever in and about the Business and Affairs of the Company which the said Committee are themselves herein-before authorized to do, or such of them as the said Committee shall think proper to intrust to the Care and Management of any such Sub-Committee, 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, Clerks, Collectors, Engineers, Surveyors, and other principal Officers, and making of Calls for Money upon the Proprietors of the said Company; 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 Members of any Sub-Committee 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 to remove and displace any Member thereof, and to appoint some other in his 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 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, within the Intent and Meaning of this Act, 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 Chairman; and all Questions shall be decided by the Majority of Votes, and the Chairman shall have the casting Vote in case of an equal Division, although he may have given one Vote previous to his giving as Chairman his casting Vote.

Committees to report to General Meetings.

LXXVI. And be it enacted, That the said Committee shall from Time to Time make Reports of their Proceedings to the General and Special Meetings of the Company, and shall pay due Obedience to all Rules, Bye Laws, and Orders to be made by the said General or Special Meetings, such Rules, Bye Laws, and Orders not being contrary to any express Directions or Provisions in this Act contained.

Books to be kept.

LXXVII. And be it enacted, That proper Books of Accounts and other Matters relating to the said Company shall be kept, and the same shall be deposited and kept, under the Direction of the said Committee, at such Place as the said Committee shall from Time to Time direct; and any Member of the said Committee shall at all seasonable Times, between the Hours of Ten Forenoon and Four Afternoon, have free Access to the same for Inspection, without Fee or Reward.

LXXVIII. And

Officers to account.

LXXVIII. And be it 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 or Committee by Notice in Writing to him given or left at his usual Place of Abode, or within Seven Days next afterwards, make out and deliver to the said Company or Committee, or to such Person as they shall appoint to inspect and examine the same, a true and perfect Account in Writing under his Hand of all Monies which shall have been by him had, collected, and 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 to the said Company, to such Person as the said Company or Committee shall appoint to receive the same; and if any Officer or Person shall neglect or refuse to render or deliver such Account 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 Committee, or to such Person as they shall appoint, all Books, Papers, Writings, Matters, and Things in his Custody or Power relating to the Execution of this Act, or which he shall have disposed of without the Consent of the said Company or Committee, then and in every such Case, Complaint being made by the said Company or Committee, or by any other Person on their Behalf, of any Neglect or Refusal, to the Sheriff or Sheriff Substitute for the County where such Neglect or Refusal shall have happened, or where the Officer or Person so neglecting or refusing shall live or reside, such Sheriff is hereby authorized and required, by Warrant under his Hand, to cause such Officer or Person to be brought before him, and upon his 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 or Committee might have done; and if upon the Confession of the Officer or Person against whom such Complaint shall be made, or by the Oath of any One Witness, or upon the said Account if produced, it shall appear to such Sheriff 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 Sheriff may and he is hereby authorized, upon Nonpayment thereof within such Time as such Sheriff shall direct, by Warrant under his Hand to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Officer or Person respectively; and if no Goods or Chattels can be found sufficient to answer and satisfy the said Monies, and the Charges of taking, making, and keeping and selling such Distress, or if such Officer or Person shall not appear (without having sufficient Excuse) before the said Sheriff at the Time and Place appointed for that Purpose, or if appearing shall refuse or neglect to make out and deliver to the said Sheriff such Account in Writing as aforesaid, and to produce and deliver up to the said Sheriff the several Vouchers and Receipts relating to such Account, or to deliver up to him all such Books, Papers, Writings, Matters, and

Proceedings in case of Default.

and Things as aforesaid, to be by him delivered over to the said Company or Committee, then and in any of the Cases aforesaid the said Sheriff 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 shall live or reside, there to remain without Bail until he 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 that shall appear to be in his Hands belonging or owing from him 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 shall have compounded with the said Company or Committee for such Money or Charges, and paid the Composition Money to the said Company or Committee, or to such Person as they shall appoint to receive the same, (and which Composition the said Company or Committee are hereby empowered to make,) and shall have delivered up as aforesaid such Books, Papers, Writings, 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 longer Time than Six Calendar Months.

Shares may be sold.

LXXIX. And be it enacted, That it shall be lawful for each of the Proprietors of the said Company, and his Heirs, Executors, or Administrators, from and after Payment made of the Sum of Five Pounds upon every Share held by him in the said Company, but not before, to sell and dispose of any such Share, subject to the Rules and Conditions herein mentioned; and provided that the Form of Conveyance of such Share shall be in the Words or to the Effect following; (that is to say,)

Form of Conveyance.

'I in consideration of paid to me by do hereby bargain, sell, and transfer unto the said Share of the *Dundee* and *Arbroath* Railway Company, to be held by him the said his Executors, Administrators, and Assigns, subject to the same Rules, Orders, and Restrictions, and on the same Conditions as I held the same immediately before the Execution hereof; and I the said do hereby agree to take and accept the said Share, subject to the same Rules, Orders, Restrictions, and Conditions. As witness our Hands the Day of .'

And on every such Sale the Instrument of Conveyance, executed by the Seller and the Purchaser of such Share, shall be kept by the Clerk of the Company, who shall deliver an attested Copy thereof to such Purchaser, at his Expence, when required, and shall enter in a Book to be kept for the Purpose a Memorial of such Transfer and Sale, to be kept for the Use of the said Company, and testify or indorse the Entry of such Memorial on the said Instrument of Conveyance, for which no more than Two Shillings and Sixpence shall be paid; and the said Clerk is hereby required to make such Memorial of such Transfer or Sale accordingly; and unless and

until such Memorial shall have been made and entered as above directed, such Purchaser shall not be entitled to receive any Part of the Profits of the said Company, or any Dividend or Interest for such Share paid unto him, or to vote as a Proprietor of the said Company.

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

LXXX. And be it enacted, That after any Call of such Money shall have been made by the said Company or Committee as aforesaid, no Person shall sell or transfer any Share which he shall possess in the said Company, although Five Pounds *per* Share shall have been paid thereon, under the Penalty of forfeiting his Share in the said Company, in Trust for the Benefit of all the other Proprietors of the said Company, unless he shall at the Time of such Sale or Transfer have paid and discharged to the Treasurer of the said Company 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 declared at a General or Special Meeting in manner herein directed.

As to making up Accounts and Division of Profits annually.

LXXXI. And in order to ascertain the Amount of the clear Profits of the said Company, be it enacted, That the said Company or Committee shall and are hereby required, from the Time of the passing of this Act, to cause a true, exact, and particular Account to be kept, and annually made up and balanced on the First Day of *May* in each Year, of the Money collected and received by the said Company, or their Treasurer for the Use of the said Company, by virtue of this Act, and of the Charges and Expences attending the erecting, making, supporting, maintaining, and carrying on the said Railway and Works, and of all other the Receipts and Expenditure of the said Company; and that at the General Meeting of the Company, to be from Time to Time holden as aforesaid, or at some Adjournment thereof, a Dividend shall be made out of the clear Profits of the said Company, unless such Meeting shall declare otherwise; and such Dividend shall be at and after the Rate of so much *per Centum* upon the several Sums invested in Shares by the Proprietors of the said Company, as such Meeting shall think fit to appoint and determine: Provided always, that no Dividend shall be declared or paid before the General Meeting which shall be holden next after the Expiration of Six Months from the passing of this Act: Provided also, that no Dividend shall be made whereby the Capital of the said Company shall be in any Degree reduced or impaired; nor shall any Dividend be paid in respect of any Share after the Day appointed for Payment of any Call for Money in respect thereof until such Call shall have been paid.

Rates of Carriage.

LXXXII. And be it enacted, That it shall and may be lawful for the said Company or Committee, from Time to Time and at all Times hereafter, to ask, demand, take, recover, and receive, to and for the Use and Benefit of the said Company, for all Goods and other Matters which shall be delivered to the Custody of the said Company, or carried and conveyed upon the said Railway, or upon any Part thereof, and loaded and unloaded into or from the Waggons or Carriages, the Tolls or Rates herein-after mentioned; that is to say, such Sum as the said Company or Committee shall from Time to

Time direct and appoint, not exceeding what is herein-after set forth; (that is to say,)

For all Lime to be used as Manure, Dung or other Manure, and all Materials for making or repairing public Highways, such Sums as the said Company shall from Time to Time direct and appoint, not exceeding Two-pence *per* Ton *per* Mile, and so in proportion for any less Distance or Quantity:

For all Lime and Limestone to be used otherwise than as Manure, Coal, Kennel, or Gas Coal, Coke, Culm, Charcoal, Cinders, Stone, Sand, Brick, Pavement, Slates, Lime, Earth, Iron, Lead, or other Metals and Minerals unmanufactured, and for all Turnips, Potatoes, Grass, Hay, and other gross agricultural Produce, such Sums as the said Company shall from Time to Time appoint, not exceeding Three-pence *per* Ton *per* Mile, and so in proportion for any less Distance or Quantity:

For all Sugar, Corn, Grain, Flour, Dyewoods, Timber, Staves, Deals, Lead, Bar Iron, and other Metals, Cotton, Wool, Flax, Hemp, and Hides, such Sum as the said Company shall from Time to Time appoint, not exceeding the Sum of Four-pence *per* Ton *per* Mile, and so in proportion for any less Distance or Quantity:

For all manufactured Goods, Drugs, and for all other Wares, Merchandize, Articles, Matters, or Things such Sum as the said Company shall from Time to Time appoint, not exceeding the Sum of Sixpence *per* Ton *per* Mile, and so in proportion for any less Distance or Quantity:

And for all Silks, Muslins, Gold and Silver Plate, Glass, China, Earthenware, Jewellery, Watches, Pictures, Musical Instruments, and other Articles requiring from their Value or their Quality especial Attention and Care, Five *per Centum* on the Value thereof, over and above the Rates already specified:

And for the Use of any Waggon, Crane, Shed, Machinery, Engine, or Power, Wharf, Depôt, or Warehouse, belonging to the said Company, and for the loading or unloading of any Goods or other Articles into or from any Waggon or Carriage by the Company's Servants, such Sum or Sums, Rates or Dues, in addition to the said Rates, as the said Company or Committee shall from Time to Time direct and appoint,

Tolls to be taken on Carriages conveying Passengers, Cattle, &c.

LXXXIII. And be it enacted, That it shall and may be lawful to and for the said Company or Committee to demand, receive, and recover, to and for the Use and Benefit of the said Company, for and in respect of Passengers, and Cattle and other Animals, conveyed in Waggons or Carriages along the said Railway, and for and in respect of the several Matters herein-after mentioned, any Tolls, Rates, or Fares not exceeding the following; (that is to say,)

For every Person conveyed in or upon any such Waggon or Carriage any Sum not exceeding Two-pence *per* Mile:

For every Horse, Ass, or other Beast of Draught or Burden, and for every Ox, Cow, Bull, or Neat Cattle conveyed, in or upon any such Waggon or Carriage, any such Sum not exceeding Two-pence *per* Mile:

For

For every Calf, Pig, Sheep, Lamb, Dog, or other small Animal conveyed in or upon any such Waggon or Carriage, any Sum not exceeding One Penny *per* Mile:

For every Carriage mounted on Springs, not being a Carriage adapted and used for travelling on a Railway, and not weighing more than One Ton, carried or conveyed on a Truck or Platform, any Sum not exceeding Sixpence *per* Mile:

For every other Carriage, not being a Carriage adapted and used for travelling on a Railway, and not weighing more than One Ton, carried or conveyed on a Truck or Platform, any Sum not exceeding Four-pence *per* Mile, and so in proportion for any additional Weight.

Company empowered to convey Passengers and Goods, and to charge for the same.

LXXXIV. And be it enacted, That it shall be lawful for the said Company and they are hereby authorized, if they shall think proper, to provide locomotive or stationary Engines or other moving Power, for moving or propelling Carriages or Waggons, empty, or loaded with any Goods or other Matters, Persons or Animals, and to use and employ such or any other locomotive or stationary Engines or other moving Power, and in Carriages or Waggons moved or propelled thereby to convey upon the said Railway, and also along and upon any other Railways communicating therewith, all such Passengers and Goods and other Matters as shall be offered to them for that Purpose, and to receive, demand, and recover such Sums of Money for the Use of such Engines or other Power, and to make such reasonable Charges for such Conveyances, as they may from Time to Time think proper and determine upon, in addition to the several Rates or Tolls by this Act authorized to be taken: Provided always, that it shall not be lawful for the said Company, or any Person using the said Railway as Carriers, to charge for the Conveyance of any Passengers upon the said Railway a greater Sum than the Sum of Three-pence *per* Mile, including the Toll or Rate herein-before granted.

Packages containing Goods of a dangerous Quality to be marked.

LXXXV. And for the better preventing of Accidents or Injury which might arise on the said Railway and Works from the unsafe and improper Carriage of certain Goods and other Matters upon the same, be it enacted, That every Person who shall send or cause to be sent by the said Railway any Aquafortis, Oil of Vitriol, Gunpowder, or other Goods or Matters of a dangerous Quality, shall distinctly mark or state the Nature of such Goods or Matters on the Outside of the Package containing the same, or shall otherwise give Notice in Writing to the Servant of the said Company with whom the same shall be left at the Time of so sending or causing the said Goods to be sent, on pain of forfeiting for every Default herein the Sum of Five Pounds: Provided always, that the said Company shall not be compelled or compellable to carry upon the said Railway any Gunpowder or other Goods which in the Judgment of the said Committee shall be of a dangerous Character, and it shall be lawful also for the said Company to restrain any other Persons from carrying thereon Gunpowder or other such Goods as aforesaid.

LXXXVI. And

Regulating the Charge for short Distances.

LXXXVI. And be it enacted, That in all Cases where any Passengers, or Cattle or other Animals, Goods or other Matters, shall be conveyed on the said Railway for a less Distance than One Mile, the said Company or Committee are hereby empowered, if they think fit, to demand and receive the afore-mentioned Tolls, Rates, or Fares, as the Case may be, for One Mile, how short soever such Distance may be.

Dues for small Parcels.

LXXXVII. And be it enacted, That it shall be lawful for the said Company or Committee from Time to Time to make such Orders for fixing and to fix the Sums to be charged by the said Company in respect of small Parcels not exceeding One hundred Pounds Weight each as to them shall seem proper, and from Time to Time to repeal or vary the same as they shall think fit: Provided always, that the Provision herein-before contained shall not extend to Goods or other Matters sent in large aggregate Quantities, although made up of separate and distinct Parcels, but only to single Parcels unconnected with Parcels of a like Nature which may be sent upon the said Railway at the same Time.

Regulations as to fractional Parts of a Ton or of a Mile.

LXXXVIII. And be it enacted, That in all Cases in which there shall be a Fraction of a Ton a Proportion of the said Tolls or Rates may be demanded or taken for such Fraction according to the Number of Quarters of a Ton contained therein, and when there shall be a Fraction of a Quarter of a Ton such Fraction shall be deemed and considered as a Quarter of a Ton; and in all Cases in which there shall be a Fraction of a Mile in the Distance which any Waggon or Carriage shall pass upon the said Railway the Proportion of the Tolls or Rates which shall be demanded and taken for such Fraction shall be after the Rate of the Number of Quarters of a Mile contained therein, 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 such Tolls or Rates shall be demanded and taken upon the said Railway the said Company shall cause the said Railway to be measured, and Stones or other conspicuous Marks, with proper Inscriptions, to be set up and maintained along the whole Line thereof at the Distance of a Quarter of a Mile from each other.

Rates may be reduced and increased.

LXXXIX. And be it enacted, That it shall and may be lawful for the said Company or Committee from Time to Time to lessen or reduce, or advance and increase, all or any of the Tolls or Rates herein-before granted, but so as not at any Time to exceed the Amount herein-before set forth and authorized to be collected.

Rates to be charged equally.

XC. And be it enacted, That the aforesaid Tolls or Rates shall at all Times be charged equally and after the same Rate *per* Ton *per* Mile throughout the whole of the said Railway in respect of the same Description of Goods or other Matters; and that no Reduction or Advance in the said Tolls or Rates shall either directly or indirectly be made partially or in favour of or against any particular Person or Company, or be confined to any particular Part of the said

said Railway, but that every such Reduction or Advance of Tolls or Rates upon any particular Kind or Description of Goods or other Matters shall extend to and take place throughout the whole and every Part of the said Railway upon and in respect of the same Description of Goods or other Matters so reduced or advanced, and shall extend to all Persons whomsoever using the same, or carrying the same Description of Goods or other Matters thereon.

Table of Tolls and Rates to be put up.

XCI. And be it enacted, That the said Company shall and they are hereby required to put or fix up, and afterwards to continue the same so fixed, at or near the Places where such Tolls or Rates are collected, a Table, whereon shall be painted in distinct and legible Letters and Figures a List of all the Tolls or Rates payable by virtue of this Act, and to renew such Boards whenever any of such Letters or Figures shall be worn out, defaced, or obliterated.

Penalty on Persons defacing Boards.

XCII. And be it enacted, That if any Person shall wilfully, negligently, or maliciously pull down, deface, or destroy any Board whereon any Rules, Bye Laws, Orders, Tolls, or Rates shall be painted, he shall, on Conviction, forfeit and pay to the said Company any Sum not exceeding Five Pounds.

For preventing Toll Collectors from taking undue Tolls.

XCIII. And be it enacted, That if any Collector or other Officer or Servant of the said Company shall demand or take a greater or less Toll or Rate from any Person than he shall be authorized to do by virtue of the Powers of this Act, or, upon the legal Toll or Rate being paid or tendered, shall unnecessarily detain or wilfully obstruct or hinder any Waggon or Carriage, or prevent any Person entitled so to do from passing along the said Railway, or shall make use of any scurrilous or abusive Language to any Person, then and in every such Case every such Collector or Officer or Servant shall forfeit and pay any Sum not exceeding Five Pounds.

For settling Disputes the about Amount of Tolls.

XCIV. And be it enacted, That if any Dispute shall arise concerning the Amount of the Tolls or Rates due, or the Charges occasioned by any Distress made under the Authority of this Act, it shall be lawful for the Collector or Person who made such Distress to detain such Distress, or the Money arising from the Sale thereof (as the Case may happen), until the Amount of the Tolls or Rates due, and the Charges of seizing, keeping, or selling such Distress (as the Case may happen), shall be ascertained by the Sheriff or Sheriff Substitute for the County, who upon Application made to him for that Purpose shall examine the said Matter upon Oath of the Parties or other Witness; and it shall be lawful for the said Sheriff or Sheriff Substitute 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 summary Warrant under the Hand of the said Sheriff or Sheriff Substitute.

To prevent Evasion of Rates.

XCV. And be it enacted, That if any Person shall fraudulently carry or convey any Goods or other Matters on the said Rail-

way, on Payment of a lower Toll or Rate than that to which such Goods or other Matters are made subject or liable by the said Company, or shall commit any Deception or other fraudulent Act to the Loss or Prejudice of or with Intent to injure the said Company, and shall thereof be convicted in manner herein-after mentioned, every such Person so offending shall for every such Offence forfeit and pay to the said Company any Sum not exceeding Five Pounds over and above the Toll or Rate to which such Goods or other Matters are liable, to be levied and recovered by Distress of his Goods and Effects.

Recovery of Rates.

XCVI. And be it enacted, That the Tolls or Rates herein authorized to be demanded and taken shall be paid to such Person, at such Place at or near the said Railway, in such Manner and under such Regulations as the said Company or Committee shall direct or appoint; and in case of Refusal, Neglect, or Delay of Payment of any such Tolls or Rates, or any Part thereof, on Demand, to the Person appointed to receive the same as aforesaid, the said Company may sue for the same by Action in any Court competent, or the Person to whom the said Tolls or Rates ought to have been paid may and he is hereby authorized to seize the Beasts or Goods or other Matters for or in respect whereof any such Tolls or Rates ought to have been paid, or any Part thereof; and the Waggon or Carriage laden therewith, as also the Horse or other Beast employed in drawing the same, and retain the same until such Payment shall be made, and also until Payment of all Arrears of any Tolls or Rates which may be due from the Owner of such Waggon or Carriage, or Goods or other Matters, Horse or Beast, to the said Company, together with the reasonable Charges for such Seizure and Detention; and if such Waggon or Carriage, or Goods or other Matters, Horse or Beast, shall not be redeemed within Three Days next after the taking thereof, the same shall be sold by a Warrant to be granted by the Sheriff of the said County or his Substitute, returning the Overplus (if any there be), upon Demand, to the Owners thereof, after such Tolls or Rates, and the reasonable Charges of making such Distress, and keeping and selling the same, shall be deducted and paid.

Company empowered to lease the Rates.

XCVII. And be it enacted, That it shall be lawful for the said Company or Committee, and they are hereby authorized and empowered, at any Meeting of the Company, by Writing under the Common Seal of the Company, at any Time to let to farm the Tolls or Rates hereby made payable, or any Part thereof, upon the Whole or any Part of the said Railway, unto any Person, for any Term or Time they shall think proper, not exceeding Three Years from the Commencement of any Lease; and every such Lease shall be valid and effectual; and the Lessee thereof, and also such Person as such Lessee shall appoint to collect and receive the Tolls or Rates so let, shall during the Continuance of every such Lease be deemed the Collector of the Tolls or Rates so let, but for the proper Use of such Lessee, and shall have the same Power and Authority for collecting and recovering the same as if he had been appointed for that Purpose by the said Company; provided public Notice of the Intention to let the said Tolls or Rates or any Part thereof be given

given in Writing by the said Company or Committee, or the Clerk of the Company, by Advertisement published in such Newspaper as aforesaid at least Twenty-one Days prior to any Meeting at which the said Tolls or Rates or any Part thereof are proposed to be let; and it shall also be lawful for the said Company or Committee to lease to any Person the Right of establishing and using any Waggon or Carriage, or any locomotive Engine or other Power, and to grant Licences to any Person willing to establish the same, for the Conveyance and Transport of Passengers and Goods or other Matters upon and along the said Railway, at such Sum or Rent as may be mutually agreed on by the said Company or Committee and such Person: Provided always, that such Waggon, Carriage, locomotive Engine, or other Power be constructed agreeably to the Rules and Regulations to be made touching such Matters by the said Company or Committee.

For Recovery of Possession of Toll Houses.

XCVIII. And be it enacted, That in case all or any of the Tolls or Rates arising by virtue of this Act shall be let to farm to any Person in any Manner whatsoever, and the Lessee thereof shall neglect or refuse to perform the Terms and Conditions on which the same shall be so let; or in case the Rent agreed to be paid by such Lessee, or any Part or Instalment thereof, shall be in arrear or unpaid for the Space of Fourteen Days next after any of the Days on which the same ought to be paid, pursuant to the Lease or Contract for letting the said Tolls or Rates; or in case any temporary or other Collector of the said Tolls and Rates shall be discharged from his Office, or shall die, abscond, or absent himself, and any such Collector who shall be so discharged, or the Wife, 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, shall refuse to deliver up the Possession of any Toll House, Weighing Machine, or other Building, with the Gardens and other Appurtenances thereto respectively belonging, to be erected, built, constructed, or set up by virtue of this Act, for the Space of Two Days after Demand thereof made in Writing given or left at such Toll House, Weighing Machine, or Building which shall be or have been in the Possession or Occupation of such Collector or other Person, such Demand in Writing to be signed by any Two Members of the said Committee, or by the Clerk or Treasurer of the Company; or in case any such Lease or Contract shall in any other Manner become void; then and in any of the said Cases it shall be lawful for the Sheriff of the said County of *Forfar*, or his Substitute, upon Application made by the said Committee, or by the Clerk or Treasurer of the Company, by Warrant under his Hand to order any Sheriff 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 other the Person who shall be found therein, together with his Goods, from and out of the same and the Possession thereof, and from the Collection of the said Tolls and Rates, and to put the said Company, or their new Lessee or Collector, into the

the Possession thereof; and thereupon it shall be lawful for the said Committee to vacate and determine the Lease or Contract (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 thereby reserved, or other unperformed or broken Obligations or Covenants on the Lessee's Part, as if such Lease or Contract had never been made; and it shall be lawful for the said Company or Committee in every such Case again to let to farm the said Tolls and Rates to any Person, 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.

On Payment of Toll a Ticket to be delivered.

XCIX. And be it enacted, That upon the Payment of the Tolls or Rates granted by this Act the Collector thereof shall and he is hereby required to deliver *gratis* to the Person paying such Tolls or Rates a Ticket denoting such Payment, and stating the Weight paid for, and which Ticket shall be provided by the said Company.

Company may enter into Contracts.

C. And be it enacted, That it shall and may be lawful for the said Company or Committee from Time to Time to enter into Contracts with any Person willing to contract for the driving, dragging, propelling, or moving of the Waggons and Carriages, laden or not laden, on the said Railway or any Part thereof, or for the providing or maintaining of Horses, locomotive or other Engines, or of all or any other Matters and Things connected with the said Railway and Works, and the Conveyance of Goods and other Matters along or upon the said Railway, as the said Company or Committee shall think proper: Provided that no such Contract shall endure for longer Time than Three Years, or be entered into without the Sanction of a Meeting of the said Company, of which Notice shall have been given as before provided, stating the Intention of entering into such Contract.

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

CI. And be it enacted, That the Owner of any Branch Railway, or the Owner or Person having the Care of any Waggon or Carriage passing upon the said Railway or any Part thereof respectively, shall give an exact and true Account, in Writing signed by him, to the Collector of the said Tolls and Rates, at the Place where he shall attend for that Purpose, of the Weight of the Goods or other Matters in such Waggon or 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 his Bill of Lading to any such Collector demanding the same, or shall give a false Account, or shall deliver any Part of the said Goods or other Matters at any other Place than what shall be mentioned in such Account, with Intent to avoid the Payment of the said Tolls or Rates, or any Part of them, he shall forfeit and pay any Sum not exceeding Ten Shillings for every Ton of Goods and other Matters, and so in proportion for any less Quantity than a Ton, which shall be in any such Waggon or 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 Tolls or Rates directed by this Act to be paid for the same.

Collector may weigh or measure Waggons.

CII. And be it enacted, That if any Difference shall arise between any Collector of the said Tolls or Rates, and the Owner or Person having the Charge of any Waggon or Carriage, or the Owner of any Goods or other Matters carried or intended to be carried along the said Railway, it shall be lawful for any such Collector to stop and detain any such Waggon or Carriage, and to weigh, measure, or gauge such Waggon or Carriage, and all such Goods and other Matters 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 Tolls or Rates are hereby appointed to be recovered and levied; but if such Goods or other Matters 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.

Company to regulate the Passage on the Railway.

CIII. And be it enacted, That it shall be lawful for the said Company from Time to Time to make such Orders and Regulations as they shall think proper for regulating the travelling upon and Use of the said Railway, and the Times when the same shall be open for Use, and for or relating to Travellers and Carriages and Waggons passing upon the said Railway, and for or relating to the Mode or Means by which and the Speed at which such Carriages or Waggons shall from Time to Time be moved or propelled, and the Times of their Departure and Arrival, and the loading or unloading thereof respectively, and the Weights which they shall respectively carry, and the Delivery of Goods and other Matters which shall be conveyed in or upon such Carriages or Waggons, and also for preventing the smoking of Tobacco and the Commission of any other Nuisance in or upon any such Carriages or Waggons, or in any of the Stations or Premises occupied by or belonging to the said Company, and generally for regulating the passing upon, using, or working the said Railway and Works, or in anywise relating thereto respectively; and all such Orders and Regulations shall be binding upon and be conformed to by the said Company, and by all Owners of and Persons having the Care and Conduct of such Carriages or Waggons, and by all Persons using or working the said Railway and Works, and by all Passengers and Persons passing upon the said Railway, upon pain of forfeiting and paying a Sum not exceeding Five Pounds which the said Company may attach to any such Default; provided that such Rules and Regulations shall be published by affixing the same upon some conspicuous Part of every Toll House along the said Railway; and provided always, that in every Case of Infraction or Nonobservance of any such Rules or Regulations which shall be attended with

Danger to the Public or Annoyance to Travellers, or which shall obstruct or hinder the said Company in their due and lawful Use and working of the said Railway, it shall be lawful for the said Company and their Officers or Servants summarily to interfere to obviate such Danger, or to remove or prevent such Obstruction, Nuisance, or Hindrance.

Engines used on Railway to be approved by Company.

CIV. And whereas, for the greater Security of Passengers and other Persons travelling upon and using the said Railway, it is expedient that the moving Powers to be from Time to Time used in moving or propelling Carriages or Waggons upon or along the said Railway should be under the Control of the said Company; be it enacted, That no locomotive or other Engine, or other Description of moving Power, shall at any Time be brought upon or used on the said Railway unless the same shall first have been approved of by the said Company; and it shall be lawful for the said Company and they are hereby required, within Fourteen Days after Notice given to them by any Person desirous of bringing any such Engine on the said Railway, to cause their Engineer or other Agent to inspect and examine such Engine at any Place within Five Miles of the said Railway, and to report thereon to the said Company, who shall within Seven Days after such Report, in case such Engine shall be fit and proper to be used on the said Railway, give a Certificate to the Party requiring the same of the Approval of every such Engine; and it shall be lawful for the said Company from Time to Time, upon any Engine on the said Railway being out of repair, or unfit to be used upon the said Railway, to order the same to be taken off, or to forbid the same to be used upon the said Railway; and in case any Person shall bring or use upon the said Railway any locomotive or other Engine, or any other moving Power, without having first obtained such Certificate of Approval as aforesaid, or in case, after Notice given by the said Company to remove from or not use upon the said Railway any such Engine as aforesaid, the Person to whom such Engine shall belong shall not forthwith remove the same, or shall use any such Engine upon the said Railway without having first repaired the same to the Satisfaction of the said Company, and obtained such Certificate of Approval as aforesaid, every such Person shall forfeit and pay any Sum not exceeding Twenty Pounds for every such Offence, and the said Company are hereby authorized to remove such Engine from the said Railway.

No Waggon to pass along the Railway except properly constructed.

CV. And be it enacted, That no Waggon or Carriage shall be allowed to pass upon any Part of the said Railway, unless the same be constructed according to the Orders and Regulations of the said Company or Committee for adapting and fitting the same to the Railway, and preventing any Damage being done thereto by such Waggon or Carriage, or by the Contents or Lading thereof; and that if any Person shall pass upon any Part of the said Railway with any Waggon or Carriage not constructed in the Manner directed by the said Orders and Regulations, he shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings to the said Company, together with the Expences of repairing any Damage done by using any such Waggon or Carriage so improperly constructed,

constructed, and the said Company and their Officers and Servants shall be entitled to stop such Waggon or Carriage from passing along the said Railway: Provided always, that such Orders and Regulations shall be affixed upon some conspicuous Part of every Toll House along the said Railway.

Owners to put their Names on the Outside of their Waggons.

CVI. And be it enacted, That every Owner of every Waggon or Carriage passing along the said Railway shall cause his Name and Place of Abode, and the Number of his Waggon or Carriage, to be painted in distinct Characters on some conspicuous Part of the Outside of every such Waggon or Carriage; and every Owner of any Waggon or Carriage which shall pass along any Part of the said Railway without having such Name and Figures thereon as hereinbefore directed, and every Person who shall alter, erase, or deface the same or any Part thereof, shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings to the said Company.

Owners of Waggons answerable for Damages; but to recover back from their Servants any Sums paid for their Neglect or Default.

CVII. And be it enacted, That the Owner of every Waggon or Carriage passing along the said Railway, and the Engine propelling the same, shall be and is hereby made answerable for any Damage, Spoil, or Mischief that shall be done by his Waggon, Carriage, or Engine, or any of his Waggoners or other Persons belonging to or employed by him in or about the same respectively, to the said Railway and Works, or to any Goods or other Matters carried or intended to be carried along the said Railway, or to any Lands, Buildings, or other Property adjoining or lying near to the said Railway; and the said Owner of such Waggon or Carriage shall for every such Damage, upon Conviction of such Person before the Sheriff or Sheriff Substitute of the County of *Forfar*, either by the Confession of the Party offending or upon the Oath of One or more credible Witnesses (which Oath such Sheriff is hereby empowered and required to administer), pay to the Person injured the Damages to be ascertained by such Sheriff, 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 of such Waggon or Carriage, by Warrant under the Hand of such Sheriff; 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 of such Goods and Effects; or if the said Damages shall exceed the Sum of Five Pounds, then and in such Case the Owner of such Waggon or Carriage shall and may be prosecuted for the same in any Court competent in *Scotland*, and if a Verdict or Judgment be given against him, the Pursuer in such Case shall recover his Damages thereby sustained, with full Expences: Provided always, that in case the Owner of any Waggon or 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 Servant, such Servant shall be liable to repay such Penalty

Penalty or Satisfaction and Costs to such Owner; and in case of Nonpayment upon Demand thereof, on Oath made by such Owner of the Payment by him of such Penalty or Satisfaction and Costs, and that the same hath not been paid to him by such Servant, although demanded, (such Oath to be made before the said Sheriff or Sheriff Substitute,) the same Penalty and Satisfaction shall be levied, by Warrant of such Sheriff, 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 in discharge of such Penalty and Satisfaction so by him paid for the wilful Act or Default of such Servant as aforesaid; and in case no sufficient Distress can be had such Sheriff 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 have been committed, there to remain for any Time not exceeding Six Calendar Months.

Penalty on leaving Waggons, &c.

CVIII. And be it enacted, That if any Waggon or Carriage, Horse or other Beast, shall be placed or suffered to remain on any Part of the said Railway or Works so as to obstruct the Passage thereof, and the Person having the Care of such Waggon or Carriage, Horse or Beast, shall not immediately upon Request made remove the same, he shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings; and it shall be lawful for any Officer of the said Company to cause any such Waggon or Carriage to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction, and to detain such Waggon or Carriage, and Horse or other Beast, 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 Five Days, then and in every such Case it shall be lawful for the said Company to sell and dispose of such Waggon or Carriage, with the Loading thereof, rendering to the former Owner of the same the Overplus, after such Expences and the Charges of such Sale shall be deducted.

Penalty on Persons obstructing the using of the Works.

CIX. And be it enacted, That if any Person shall suffer the Loading of any Waggon or Carriage using the said Railway to lie or project over the Sides of such Waggon or Carriage, or shall overload any such Waggon or Carriage so as to obstruct or shall in any other Way obstruct the passing of any Waggon or Carriage along the said Railway, and shall not immediately upon Notice to him given for that Purpose remove such Obstruction, or if any Person shall throw or in any way lay or spill any Gravel, Stones, Rubbish, or other Matter or Thing into or upon any Part of the said Railway and Works, every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Ten Pounds.

Railway not to be used as a Passage for Horses or Cattle,

CX. And be it enacted, That if any Person (save and except the Workmen and Servants employed by the said Company, or other Persons having their Authority,) shall lead, ride, or drive, or cause to be ridden, led, or driven, along or across the said Railway, any Horse, Cow, or other Neat Cattle, Sheep, Swine, or other Beast or

or Animal, except only in directly crossing the same at Places to be appointed by the said Company or Committee for that Purpose, he shall forfeit and pay to the said Company any Sum not exceeding Forty Shillings; or if any Person shall travel or pass on Foot along or across the said Railway without the Leave and Consent of the said Company (except for the Purpose of attending any Waggon or Carriage under his Care), every Person so offending shall forfeit and pay to the said Company any Sum not exceeding Twenty Shillings for every such Offence.

Penalty for damaging the Works.

CXI. And be it enacted, That if any Person shall carelessly, wilfully, or maliciously break, throw down, derange, or destroy any Part of the said Railway and Works, every Person so offending, and being thereof lawfully convicted, shall forfeit and pay to the said Company for every such Offence any Sum not exceeding Ten Pounds nor less than Five Pounds, over and above the full Amount of Damages thereby done to the said Railway and Works.

Company to erect Fences and Gates.

CXII. And be it enacted, That the said Company shall, at their own proper Costs and Charges, after any Part of the said Railway and Works shall be laid out and formed, make, erect, and set up, and from Time to Time maintain, such and so many Bridges, Arches, Culverts, Ditches, Drains, Passages, Fences, and Gates, over and under and by the Side of the said Railway and Works, of such Dimensions and in such Manner as the said Company or Committee shall from Time to Time judge necessary and appoint, or as shall be deemed necessary and appointed, on the Application of any Owner or Occupier of Lands through which the said Railway may be made, by the said Sheriff or Sheriff Substitute of the County of *Forfar*, in case there should be any Dispute about the same, for the Use of such Owners and Occupiers, not only for protecting the said Lands and Heritages from Trespass, and the Cattle and other Property of the Owner or Occupier thereof from straying or escaping thereout by reason of such Railway, but also conveying the Water clear from the Lands adjoining or lying near to the said Railway, without obstructing or impeding the same, and for the commodious Use and Occupation of the Lands on either Side of the said Railway, and for crossing over the said Railway to the River *Tay*; and in case the said Company shall refuse or neglect to make, erect, and maintain such Bridges, Arches, Culverts, Ditches, Drains, Passages, Fences, and Gates, as herein-before directed, for the Space of Ten Days next after the Time to be appointed for those Purposes respectively by such Sheriff, then and in every such Case it shall be lawful for any of the Owners or Occupiers of the said Lands and Heritages, who shall find themselves aggrieved by such Neglect or Refusal, to make or erect, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that in the making and maintaining thereof the said Railway and Works shall not be obstructed or injured for any longer Space of Time nor in any other Manner than shall be necessary for the doing thereof; and all the reasonable Costs and Charges thereof, to be settled and allowed by the said Sheriff, shall be repaid to the respective Owners or Occupiers of the said Lands or Heri-

tages who shall have so erected and made, repaired or maintained the same, by the said Company, within the Space of One Month next after the same shall have been so settled and allowed, and an Account and Demand in Writing shall have been made and delivered thereof to and from the said Company, by Delivery of such Account and Demand to the Treasurer or Clerk of the Company; and in default of Payment of the said Costs and Charges within the Time aforesaid the said Sheriff shall be and is hereby authorized, by Warrant under his Hand, to levy the said Costs and Charges by Distress and Sale of the Goods and Effects of the said Company, for the Use of such Person who shall have so incurred such Costs and Charges, rendering to the said Company the Overplus (if any), after deducting the reasonable Charges of making such Distress and Sale, to be settled by such Sheriff; and every or any of the said Owners or Occupiers, upon Refusal or Neglect of the said Company to pay the said Costs and Charges as aforesaid, shall and may also take such and the like Remedy as they shall be advised to take against the said Company for the Recovery thereof by Action at Law.

Roads, &c. may be made across the Railway by Owners of adjoining Lands.

CXIII. And be it enacted, That nothing herein contained shall extend to prevent any Owner of any Lands adjoining the said Railway from making any private Railway, common Road, Watercourse, Bridge, or Culvert to, from, across, over, or under the said Railway hereby authorized to be made by the said Company, and to use such his Railway, Road, Watercourse, Bridge, or Culvert for the Benefit of himself and all other Persons to whom he may from Time to Time give Leave (but not for Hire or Reward), so that such private Railway, Road, Watercourse, Bridge, or Culvert do not in any way injure or prevent or obstruct the free Passage upon the said Railway and other Works hereby authorized to be made by the said Company, and so that every such private Railway, Road, Watercourse, Bridge, and Culvert be made and erected under the Superintendence of the Engineer for the Time being of the said Company, to whom Plans, Sections, and Specifications shall be submitted for Approval by such Engineer previously to the commencing of every such Railway, Road, Watercourse, Bridge, or Culvert respectively; and in case the said Engineer shall object to such Plans, Sections, and Specifications, or shall refuse or neglect, for the Space of One Month after the same shall have been submitted to him, to approve thereof or of any Part thereof, then, if any such Owner shall so require, it shall be left to the Decision of the Sheriff Depute of the County of *Forfar*, or his Substitute, to determine whether any such Plans, Sections, and Specifications shall be adopted, or any and what Alterations be made therein, whose Determination, after the Examination of competent Witnesses to be produced before them, shall be binding; and such Sheriff is hereby authorized and directed to take cognizance of all such References, and to act therein accordingly: Provided nevertheless, that in case any Damage or Obstruction shall thereby or by the Want of Repair thereof be done or occur to or upon the said Railway or other Works hereby authorized to be made by the said Company, they shall and may forthwith repair or remove (as the Case may

may be) such private Railways, Roads, Watercourses, Bridges, and Culverts, by and at the Expence of the respective Owners of the Lands for whose Benefit the same may have been made and continued; and it shall be lawful for the said Company to recover the Expences attending the same, in case of Refusal or Neglect to pay the same within One Month after Demand thereof, by Action in any competent Court, or in the same Manner as any Penalty may be recovered under this Act.

Owners and Occupiers of adjoining Lands to pass along the Railway without Payment of Toll until other Communications shall be made.

CXIV. And be it enacted, That it shall be lawful for the respective Owners and Occupiers of any Lands through which the said Railway shall be made, and their respective Servants and Workmen, (except, in Cases in which the said Company shall, at their own Expence, have made Communications from the Land on the one Side of the said Railway to the Land on the other Side thereof, according to any Agreement with the Owner or Occupier thereof, or according to the Provisions of this Act,) at all Times, for the Purpose of occupying the same Lands, to pass and repass, and to lead and conduct any Horse, Mule, or Ass, Cow or other Neat Cattle, Sheep, Swine, or any other Beast, directly (but not otherwise) over and across such Part of the said Railway (and such Part only) as shall be made in or upon their respective Lands, provided that by so doing, or by consequence thereof, the Passage upon or along the said Railway be not in any way hindered or obstructed, or the same or the Works connected therewith be not in any way damaged.

Gates may be maintained by Owners of Land.

CXV. And be it enacted, That if the Owners or Occupiers of Lands or Heritages through which the said Railway shall be made, in the Case aforesaid, do or shall at any Time hereafter apprehend that any of the Bridges, Arches, Culverts, Ditches, Drains, Passages, Fences, and Gates respectively made by the said Company are insufficient, either in their Number or Situation, for the commodious Use and Occupation of the respective Lands or Heritages through which the said Railway 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, upon Request made to them or their Clerk or Treasurer, or in case of their Neglect or Refusal to give such Consent and Approbation for the Space of Ten Days next after such Request made, then it shall be lawful for the said Owners or Occupiers, on Warrant or Authority to be granted by the said Sheriff or his Substitute, to make, fix, and erect, at their own Costs and Charges, any such other Bridges, Arches, Culverts, Ditches, Drains, Passages, Fences, or Gates, in, upon, or near to the said Railway, in such Places as shall be found and adjudged most necessary and convenient for the better Use, Cultivation, Improvement, or Occupation of such Lands or Heritages, and to repair and support the same at their own like Costs and Charges, as Occasion shall require, so that the Passage along the said Railway be not prevented or obstructed thereby for any longer Space of Time or in any other Manner than the same would have necessarily been if the same had been made or erected by the said Company.

CXVI. And

In case of Compensation in lieu of Gates, Bridges, &c.

CXVI. And be it enacted, That in every Case in which the Owner of any Lands, or other Person by this Act capacitated to convey, shall, in their Arrangements with the said Company, have received or agreed to receive Compensation in Money for Gates, Bridges, Arches, Hollows, Culverts, Fences, Ditches, Drains, or Passages, instead of the same being erected or formed by the said Company for the Purpose of facilitating the Passage to or from either Side of the Lands severed or divided by the said Railway, it shall not be lawful for such Owners, or those claiming under them, to pass, and they shall for ever be prevented from passing or crossing the said Railway, from one Part to the other of their Lands so severed and divided, otherwise than by a Bridge, Arch, or Culvert to be erected at the Charge of such Owners.

Private Lands to be fenced off.

CXVII. And be it enacted, That the said Company shall be obliged, and they are hereby empowered and required, at their own proper Charges, after any Land shall be taken for the Use of the said Railway, to divide and separate and keep constantly divided and separated the same from the Lands or Grounds adjoining the said Railway, with good and sufficient Dikes or Fences capable of resisting and opposing or fencing in or out Horses, Cattle, and Sheep; and the said Company shall also make and maintain all necessary Gates in all such Fences to be made as aforesaid, all such Gates being made to open towards such Lands and Grounds; and in case the said Company shall refuse or neglect so to fence off and keep and maintain fenced off the Lands or Grounds adjoining to such Railway, and to make and maintain all necessary Gates in all such Fences to be made as aforesaid, then and in every such Case the Powers, Provisions, Directions, and Regulations herein 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 and Gates 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 and Gates.

Gates to be shut.

CXVIII. And be it enacted, That every Person opening any Gate set up across or alongside the said Railway shall and he is hereby directed and required to shut and fasten the same so soon as he shall have passed through the same, or as soon as the Waggon or Carriage driven or attended by such Person shall have passed through the same; and every Person neglecting so to do shall be liable for the Damage or Injury occasioned by such Neglect, and shall also forfeit and pay for every such Offence a Sum not exceeding Five Pounds, to be levied and recovered as herein-after mentioned.

Penalty on Officers shewing Partiality.

CXIX. And be it enacted, That if any Wharfinger or other Servant belonging to the said Company shall give any Preference or shew any Partiality to any Person in loading or unloading any Goods or other Matters at any of the Wharfs, Warehouses, Weighbeams, Cranes, and other Machines belonging to the said Company, and shall thereof be convicted in manner herein-after mentioned, every

Person so offending shall forfeit and pay for every Offence any Sum not exceeding the Sum of Five Pounds.

How Damages not provided for to be recovered.

CXX. And be it enacted, That if at any Time hereafter any Person shall sustain any Damage in his Lands, 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 and Satisfaction for such Damage shall from Time to Time be settled and ascertained in such Manner as herein-before directed in respect of any other Recompence or Satisfaction herein-before mentioned.

Notices how to be served on the Company.

CXXI. And be it enacted, That in all Cases where it may be requisite or necessary for any Person to serve any Notice upon the said Company, or any Citation or Summons or other legal Proceedings, the Service upon the Clerk of the 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, shall be deemed good and sufficient Service of the same respectively on the said Company.

Costs may be recovered from Treasurer.

CXXII. And be it enacted, That when and as often as any Sum of Money shall be directed or ordered to be paid in pursuance of the Directions of this Act, and such Sum of Money shall not be paid by the said Company to the Party entitled to receive the same within Ten Days after Demand in Writing shall have been made from the Treasurer or Clerk of the Company, in which Demand the Order of the Sheriff making the same shall be stated, then and in such Case the Amount of the Compensation or Satisfaction shall and may be levied and recovered by Distress and Sale of the Goods and Chattels of the said Company, under a Warrant to be issued for that Purpose by any such Sheriff under his Hand, on Application made to him for that Purpose by the Party entitled to receive the said Sum of Money.

General Power to Justices to administer Oaths.

CXXIII. And be it enacted, That in all Cases in which any Justice of the Peace is authorized by this Act to examine any Person, or to take cognizance of or to hear or determine any Matter or Complaint, it shall be lawful for such Justice and he is hereby required to administer an Oath to or to receive the Affirmation of any Person before he shall be examined by or before such Justice.

Allowing the Owners of adjoining Lands to make Branches to communicate with Railway.

CXXIV. And be it enacted, That it shall be lawful for the Owners and Occupiers of the respective Lands adjoining to the said Railway, and for all Corporations and Persons, to lay down, either upon their own Lands, or upon the Lands of any other Corporations or Persons with the Consent of such other Corporations or Persons, any collateral Branches from their respective Lands, to communicate with the said Railway; and the said Company shall be bound to make, at the Expence of such Owners and Occupiers and other Corporations and Persons as aforesaid, Openings in the Ledges or Flanches of the said Railway for effecting such Communication, in such Places only where the said Communication can be made without Prejudice or Injury to the said Railway; and the said Company shall not in any Case

Case be bound to make any such Openings in any Yard or Station, or in any Place where they shall have erected, made, or set up any Building, Steam Engine, Works, or Machinery, or in any Place which the said Company shall have appropriated for any specific Purpose, with which such Communication would interfere; and in case any Disagreement shall arise between any such Owners and Occupiers, or other Corporations or Persons, or the said Company, as to the proper Places for making any such Openings as aforesaid, then the same shall be left to the Decision of the Sheriff Depute of the County of *Forfar* or his Substitute, whose Determination, after the Examination of competent Witnesses to be produced before them, shall be binding, and such Sheriff is hereby authorized to take cognizance of all such References, and to act therein accordingly; and the said Company shall not receive any Rate, Toll, or Sum for the passing of any Goods or other Things along such Branches so to be made by any such Owner, Occupier, or other Corporation or Person as aforesaid.

Company empowered to contract with other Railway Companies.

CXXV. And whereas it would tend much to the Convenience of the Public if Railway Companies were empowered to enter into mutual Arrangements, so as to avoid the Necessity of a Change of Carriages and other Delays arising from a Diversity of Interests; be it therefore enacted, That notwithstanding any thing in this Act contained it shall be lawful for the Company hereby established and they are hereby empowered from Time to Time to make and enter into any Contract or Agreement with any other Railway Company (and which Contract or Agreement all other Railway Companies are hereby empowered to make and enter into), either for the Division or Apportionment of the Rates, Tolls, and Duties, or for the Passage over or along the Railway by this Act authorized to be made of any Engines, Coaches, Waggons, or other Carriages of or belonging to any other Railway Company or which shall pass over or along any other Line of Railway, or for the Passage over or along any other Line of Railway of any Engines, Coaches, Waggons, or other Carriages which shall belong to the Company hereby established or which shall pass over or along their Line of Railway, upon the Payment of such Rates, Tolls, or Duties, and under such Conditions and Restrictions as may be mutually agreed upon, and also to make and enter into any other Contract with any other Railway Company that may be deemed advisable; and every such Contract may contain such Clauses, Provisions, Conditions, and Agreements as the contracting Parties may respectively think advisable and mutually agree upon: Provided always, that no such Contract shall in any Manner alter, affect, increase, or diminish any of the Rates, Tolls, or Sums which the respective Companies Parties to such Contracts shall for the Time being be respectively authorized to have, demand, receive, or recover of or from any Person or any other Company, but that all other Persons and Companies shall, notwithstanding any such Contract, be entitled to the Use and Benefit of any of the said Railways upon the same Terms and Conditions, and upon Payment of the same Rates, Tolls, and Sums as they would have been in case no such Contract had been entered into; nor shall any such Contract give any Preference or Advantage to any

Company

Company or Person, Party thereto, over any other Company or Person, but all such Companies and Persons so contracting shall notwithstanding such Contract pay the same Amount of Rates, Tolls, or Duties as shall from Time to Time be charged to other Companies or Persons not being Parties to such Contracts; and no Person or Party using the said Railway shall pay or be liable to pay any greater Amount of Rate, Toll, or Duty, for or in respect of any Carriage, Passenger, Goods, Articles, Matters, or Things carried or conveyed upon or along or using the said Railway, than any of such Railway Companies.

Recovery and Application of Penalties.

CXXVI. And be it enacted, That all Penalties and Forfeitures inflicted or imposed by this Act, or by virtue of any Bye Law, Rule, or Order made in pursuance thereof, (the Manner of levying and recovering whereof is not otherwise herein particularly directed,) may in case of Nonpayment thereof be recovered in a summary Way by the Order and Adjudication of the said Sheriff or his Substitute, on Complaint to him for that Purpose made, and afterwards be levied (as well as the Costs, if any, of such Proceedings, on Nonpayment) by Distress or Poinding and Sale of the Goods and Effects of the respective Offenders or Persons liable to pay the same, by Warrant of the said Sheriff or his Substitute; and the Overplus (if any) of the Money so raised or recovered, after discharging such Penalty or Forfeiture, and the Costs and Expences as aforesaid, shall be returned, on Demand, to the Party whose Goods and Effects shall be so poinded; all of which Penalties and Forfeitures not herein directed to be otherwise applied shall be paid, One Half to the Informer, and the Remainder to the Treasurer of the said Company, for the Use of the said Company, unless such Penalties and Forfeitures shall be incurred by the said Company, in which Case the whole of the same shall be paid to the Informer; and in case such Penalties and Forfeitures shall not be forthwith paid it shall be lawful for the said Sheriff or his Substitute, and he is hereby required, to order the Offender so convicted to be detained in safe Custody until Return can conveniently be made to such Warrant of Poinding, unless such Offender shall give sufficient Security, to the Satisfaction of such Sheriff or his Substitute, for his Appearance before the said Sheriff or his Substitute at such Time as shall be appointed for the Return of such Warrant (such Time not being more than Ten Days from the taking of such Security), and which Security the said Sheriff or his Substitute is hereby empowered to take; but if upon Return of such Warrant it shall appear that no sufficient Goods and Effects could be had whereupon to levy the said Penalties or Forfeitures and such Costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the Satisfaction of such Sheriff or his Substitute, upon Confession of the Offender or otherwise, that he hath not sufficient Goods and Effects whereupon such Penalties, Forfeitures, Costs, and Expences could be levied if a Warrant should be issued, such Sheriff or his Substitute shall not be required to issue such Warrant, but in such Cases it shall be lawful for such Sheriff and his Substitute, and he is hereby required, by Warrant under his Hand, to commit such Offender to the Common Gaol or House of Correction for the County or Place

within his Jurisdiction, there to remain for any Time not exceeding Three Calendar Months, or until such Penalty or Forfeiture shall be paid and satisfied, together with all the Costs and Charges attending such Proceedings as aforesaid, as the same shall be ascertained by such Sheriff or his Substitute, or until such Offender shall be otherwise discharged by due Course of Law.

Distress not to be deemed unlawful for Want of Form.

CXXVII. And be it enacted, That where any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceedings relative thereto; nor shall the Party making such Distress be deemed a Trespasser *ab initio* on account of any Irregularity which shall be afterwards committed by the Party making such Distress.

Proceedings not to be vacated for Want of Form.

CXXVIII. And be it enacted, That no Proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for Want of Form, or be removed by Suspension or Advocation, or be subject to Reduction in any Court in *Scotland*, any Law or Statute to the contrary notwithstanding.

For securing transient Offenders.

CXXIX. And whereas Persons guilty of Offences against this Act may be transient Persons, unknown to the Collectors and other Servants of the said Company; be it enacted, That it shall and may be lawful to and for the said Collectors and Servants respectively to seize and detain any such unknown Persons guilty of any Offence against this Act, and to convey them before any Sheriff or Sheriff Substitute, without any other Warrant or Authority than this Act for so doing, and such Sheriff or Sheriff Substitute respectively is hereby empowered and directed to proceed immediately to the Conviction or Acquittal of such Offenders.

Form of Conviction.

CXXX. And for the more easy and speedy Conviction of Offenders against this Act, be it enacted, That all and every Sheriff before whom any Person shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up in the Words or to the Effect following; (that is to say,)

'County of } BE it remembered, That on the Day
' of in the Year of our Lord
' is convicted before me
' Sheriff [*or* Sheriff Substitute, *as the Case may be*,] for the said
' County of *Forfar* [*specifying the Offence, and the Time and Place*
' *when and where the same was committed*]. Given under my Hand
' the Day and Year aforesaid.'

Appeal.

CXXXI. And be it enacted, That any Person thinking himself aggrieved by any Order or Judgment made or given by any Sheriff Substitute in pursuance of any of the Provisions of this Act, or of any Rule, Bye Law, or Order to be made by the said Company, may, within Ten Days after such Order or Judgment shall have been made or given, appeal to the Sheriff of the County, first giving Three

Days Notice at the least in Writing of such Intention to appeal to the Parties interested in such Complaint; and the said Sheriff shall in a summary Way hear and determine the said Appeal, and, if he sees Cause, may mitigate any Penalty or Forfeiture, and may order any Money to be returned which shall have been levied in pursuance of the Provisions contained in this Act, or in such Rule, Bye Law, or Order as aforesaid, and may also order any such further Satisfaction to be made to the Party injured as he shall judge reasonable, and may also order such Costs to be paid to the Party aggrieved by the Party aggrieving as such Sheriff in his Judgment shall think just and reasonable.

Limitation of Actions.

CXXXII. And be it enacted, That no Action, Suit, or Complaint shall be brought, commenced, or prosecuted against the said Company, their Officers, Workmen, or Servants, 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 Fourteen Days previous Notice in Writing shall be given by the Person intending to commence and prosecute such Action, Suit, or Complaint to the said Company or to their Clerk, or unless such Action, Suit, or Complaint shall be brought and commenced within Six Calendar Months next after the Cause of Action accrued, or, in case there shall be a Continuation of Damage, then within Six Calendar Months next after the doing or committing such Damage shall have ceased, and not afterwards; and the Defender in such Action, Suit, or Complaint shall and may give this Act and the special Matter in Evidence at any Proceedings to be had thereupon, and that the same was done in pursuance and by virtue of this Act; and if it shall appear to have been so done, or if such Action, Complaint, or Suit shall have been brought or commenced before or after the respective Times so limited for bringing or commencing the same, then and in every such Case Judgment shall be given for the Defender; and if such Action, Suit, or Complaint shall be dismissed or found irrelevant, or if the same shall be suffered to fall asleep, or if Judgment shall be given against the Pursuer, the Defender shall have full Costs or Expences, and shall have such Remedy for the same as any Defender hath for Costs of Suit in any other Case of Law.

Compensation to be made for Damage done to Fishings.

CXXXIII. And be it enacted, That in case any Damage shall arise in consequence of the Operations under this Act to the Salmon or other Fishings belonging to any Person or Corporation in that Part of the River *Tay* in which the said Railway shall be constructed, the said Company shall make Compensation to the Owners and Occupiers of such Fishings for such Damage; and it shall be lawful to such Owners and Occupiers and the said Company to treat and agree for the Compensation to be made to them the said Owners and Occupiers for such Damage; and in case the Parties shall not agree such Compensation shall be fixed and assessed by a Jury and paid for in manner provided in this Act.

Saving the Rights of the Magistrates of Dundee.

CXXXIV. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to take away, impeach, diminish, change, or affect the existing Rights, Titles, Dues, Duties, Payments, Powers, Privileges, Jurisdictions, or Authorities of the Magistrates and Town Council of *Dundee*, or of the Magistrates of *Dundee*.

Act to be null as to any Parts of Works not executed within Five Years.

CXXXV. And whereas the whole of the said Railway and Works may be completed, if not prevented by inevitable Accident, within the Space of Five Years, according to an Estimate of the probable Time within which the same may be completed; be it therefore enacted, That if the said Railway and Works shall not have been completed so as to answer the Objects of this Act within the Space of Five Years from and after the passing of this Act, all the Powers given by this Act shall from thenceforth cease and become void, save only as to so much of the said Railway and Works as shall have been completed within the said Space of Five Years.

If Land not paid for within Two Years, Power of taking it to cease, unless with Consent.

CXXXVI. And be it enacted, That unless the said Company shall within the Space of Two Years, to be computed from the passing of this Act, agree for or cause to be valued and paid for, as in this Act mentioned, the Lands which they are by this Act empowered to take or use, or otherwise so much thereof as shall be by them deemed necessary and proper for the Purposes of making the said Railway and Works hereby authorized, then and from thenceforth the Powers which are hereby granted to them for taking or using such Lands shall cease and be utterly void, save and except with the Consent in Writing of the Owners and Occupiers thereof respectively.

If Railway abandoned, Land to belong to the Owners of Lands adjoining the Railway.

CXXXVII. And be it enacted, That in case the said Railway and Works hereby authorized to be made shall at any Time be given up or abandoned by the said Company, or, after the same shall have been completed, shall for the Space of Two Years cease to be used and employed as a Railway, then and in such Case the Lands and Grounds constituting the said Railway and Works, or so much thereof as shall be given up, shall and is hereby declared to be the Property of the Owners of the Lands adjoining such Railway and Works; that is to say, One Half thereof to the Owners on the one Side, and the Remainder to the Owners on the other Side thereof; the said Owners however being liable to pay the Price or Value of the same to the said Company.

Public Act.

CXXXVIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1836.