ANNO SEPTIMO

GEORGII IV. REGIS.

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Cap. ci.

An Act for making a Railway from the Royal Burgh and Port of *Dundee* in the County of *Forfar* to *Newtyle* in the said County. [26th *May* 1826.]

WHEREAS the making and maintaining a Railway, with Inclined Planes where such Planes are necessary, for the Passage of Waggons or other Carriages, from the Royal Burgh and Port of *Dundee* in the Parish of *Dundee* in the County of *Forfar*, or near to such Royal Burgh and Port, to the Valley of *Strathmore* in the said County, passing through Part of the Parishes of *Dundee*, *Mains*, and *Strathmartin*, *Auchterhouse*, *Tealing*, *Caputh*, and *Newtyle*, and terminating at or near to the Farm-stead of Mill of *Newtyle* in the Parish of *Newtyle*, in the said County, will be of great local and public Utility: And whereas the several Persons herein-after named are desirous, at their own Costs and Charges, to make and maintain the said Railway and other Works; but such Purpose cannot be obtained without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Magistrates and Town Council of *Dundee*, *J A Stuart Wortley*, *George Kinloch*, *Peter Wedderburn*, *David Jobson*, *Patrick Anderson*, *David Nairne*, *Alexander Clayhills*, *David Brown*, *Patrick Kirkaldy*, *Andrew Dalgairns*, *James M'Nicoll*, *Hugh Watson*, *Alexander Balfour*, *David Miln*, *Thomas Bell*, *George Gray*, *David Rankin*, *John*

Subscribers incorporated.

John Duff, and all and every other Person or Persons who are or shall hereafter become a Subscriber or Subscribers to the said Undertaking, and their several and respective Successors, Executors, Administrators, and Assigns, shall be and are hereby united into a Company for making, completing, and maintaining the said Railway, and the Inclined Planes and other Works necessary therefor or connected therewith, and for carrying Goods, Minerals, and other Commodities on the same, 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

Their Name.

"The *Dundee* and *Newtyle* Railway Company," and by that Name shall have perpetual Succession, and shall have a Common Seal, and by that Name shall and may sue and be sued; and that the said Company of Proprietors shall have Power and Authority, at all Times from and after the passing of this Act, to purchase and hold Lands and Heritages to them and their Successors and Assigns, for the Use of the said Undertakings and Works, and also to sell or dispose of such Lands and Heritages, or any Part thereof, again, without incurring any Penalties, Forfeitures, or Disabilities.

Power to acquire and hold Lands;

and to form a Railway and other Works.

II. And be it further enacted, That the said Company shall be and they 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 *Newtyle* Railway," passable for Waggons or other Carriages, beginning at or as near as conveniently may be to the South Side of the Ground lying on the North Side of the Burgh of *Dundee*, called the *Hospital Ward*, opposite to the Ground belonging to the Town Council and Community of *Dundee*, in a Line or nearly in a Line with the Lane called the *Schoolwynd*, in the said Burgh, and passing through and across the said *Hospital Ward* to the Ground called the *West Chapel Shade*, belonging to the Town Council and Community of *Dundee*, and through the said *Chapel Shade*, and from thence ascending by an Inclined Plane, to and through the Grounds called the *Constitution Brae*, also the Property of the Town Council and Community of *Dundee*, the several Grounds, Streets, and Places aforesaid being all within the Parish of *Dundee*; and continuing the Railway from the Top of the said Inclined Plane Northwards through the remaining Part of the Parish of *Dundee*, passing through the Grounds called *Stirling's Park* and Part of the Estate of *Dudhope*, to the Parish of *Mains*, and through Part of that Parish, crossing the Stream called the *Baker's Brig Burn* by a Bridge to the Parish of *Strathmartin*, through that Parish, and afterwards crossing the River or Water of *Dighty* by a Bridge and Embankment to the Parish of *Auchterhouse*, through Part of that Parish, ascending by means of an Inclined Plane to the Lands of *Balbeuchly* in the Parish of *Caputh*, through Part of these Lands, and afterwards through the Lands of *Pitpointy*, Part of the Parish of *Tealing*, into the Parish of *Auchterhouse* aforesaid, through Part of that Parish, passing near to the Moss of *Auchterhouse* into the Parish of *Newtyle*, and through Part of that Parish until within a short Distance from the Mill of *Newtyle*, and descending by an Inclined Plane to a Level near to that Mill: And for the Purposes aforesaid, the said Company of Proprietors, their Deputies, Servants, Agents, Surveyors, and Workmen, are hereby authorized and empowered to enter into and upon the Lands and Grounds of or belonging to any Person or Persons, Body or Bodies Politic,

Line of the Railway.

Power to enter Lands and construct Works.

Politic, Corporate, or Collegiate whatsoever, and to survey and take Levels of the same or any Part thereof, and to set out, ascertain, and appropriate, for the Purposes herein-before and herein-after mentioned, such Parts thereof as they shall think necessary and proper for making the said Railway and Inclined Planes, and for making the Depôts or Wharfs, with Roads of Communication, Bridges, and all other Works, Matters, and Conveniences hereby authorized to be made; and also to bore, dig, cut, trench, remove, take, carry away, lay, and use any Earth, Clay, Stone, Soil, Rubbish, Trees (leaving such Trees for the Owner or Owners thereof), Roots of Trees, Beds of Gravel or Sand, or any other Matters or Things which may be dug or gotten in making the said Railway, Inclined Planes, Depôts, Wharfs, Roads, Bridges, and other Works, Matters, and Conveniences, or any of them, or out of the Lands or Grounds of or belonging to any Person or Persons, Bodies Politic, Corporate, or Collegiate, adjoining thereto, or which may be proper, requisite, or necessary for making, carrying on, continuing, maintaining, or repairing the said Railway, Inclined Planes, Depôts, Wharfs, Roads, or other Works, Matters, or Conveniences, or which may hinder or obstruct the making, using, or completing, extending, or maintaining the same respectively, according to the Intent and Meaning of this Act; also to make, build, alter, erect, bank, excavate, widen, or set up, in, over, under, or upon the said Railway, or upon the Lands adjoining the same, such and so many Embankments, Bridges, Piers, Arches, Aqueducts, Drains, Tunnels, Side Ditches, Conduits, Basins, Ponds, Reservoirs, and other Works, Matters, and Conveniences, as may be necessary or convenient for passing in Valleys, Rivers, Brooks, or other Waters, or for collecting, taking, carrying, conveying, or retaining Water necessary for the Purposes of the said Works, and to stop the Course of or draw off any Rivers, Brooks, or other Waters for such Time as shall be necessary for completing Bridges, or Passages over the same, where such Water is not received into the Aqueducts or other Works aforesaid; and also to erect such and so many Houses, Warehouses, Toll Houses, Weighing Beams, Cranes, Steam Engines, or other Machines, and other Works, Posts, Ropes, Chains, and Conveniences, as the said Company of Proprietors shall think necessary or convenient for the Purposes of the said Undertaking; and also to make, maintain, repair, and alter any Passages or Fences over, under, or through the said Railway; and also to make and set out and appoint such Roads and Ways convenient for hauling or drawing of Waggons and other Carriages passing upon the said Railway, and proper Places for Waggons and other Carriages to turn by or pass each other, as the said Company of Proprietors shall think fit; and also to preserve, improve, use, alter, maintain, and repair all such Works and Conveniences, and to construct, make, and do all other Matters and Things, which the said Company of Proprietors shall think convenient or necessary for the making, effecting, altering, completing, and using of the said Railway, Depôts, Wharfs, Bridges, Embankments, Aqueducts, Basins, Reservoirs, Roads, and other Works and Conveniences to be made or constructed in pursuance of and according to the true Intent and Meaning of this Act; they the said Company of Proprietors, their Deputies, Agents, Servants, and Workmen, doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making full Satisfaction in manner herein-after mentioned to the Owners or Proprietors of and all Persons interested in any Lands and other Heritages which shall be taken, used, removed, or injured, for all Damages to be by them

them sustained in or by the Execution of all or any of the Powers of this Act; and this Act shall be sufficient to indemnify the said Company of Proprietors, and their Deputies, Servants, Agents, and Workmen, and all other Persons whomsoever, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Provisions and Restrictions as are herein-after mentioned and contained.

Crossings.

III. Provided always, and be it further enacted, That where the said Railway shall cross or pass along any Turnpike Road or public Path or Highway, the Ledge or Flanch shall be so constructed as not to project above the Surface of such Road, Path, or Highway; nor shall any such Ledge or Flanch be more than Three Quarters of an Inch below the Level of such Turnpike Road, public Path, or Highway: Provided always, that it shall be lawful to the said Company, on obtaining the Consent of the Trustees for the public Roads of the said County of *Forfar*, or the acting Committee of such Trustees, to lower or increase the Height of the Surface of any such Road, Path, or Highway, so as to be enabled as aforesaid to preserve, as nearly as conveniently may be, the most proper and convenient Level for the said Railway; but no such Alteration in the Level of any such Street, Road, Path, or Highway shall be such as shall increase or diminish the Ascent or Descent thereon more than One Foot in Thirteen Feet.

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

IV. Provided always, and be it enacted, That in all Places where it may be necessary to erect or build any Bridge or Bridges to communicate with any public Carriage Road, the Ascent to every such Bridge for the Purpose of such Road shall not be more than One Foot in Thirteen Feet, and that a good and sufficient Fence shall be made on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Houses and Gardens not to be used without Consent.

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

Plans and Books of Reference.

VI. And whereas a Survey has been taken to ascertain the Practicability of making the said Railway, and a Map or Plan, with a Book 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, has been deposited at the Office of the Clerk of the Peace for the County of *Forfar*; be it further enacted, That the said Map or Plan and Book of Reference, so deposited, shall remain and be kept by the said Clerk of the Peace; and all Persons 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 to the said Clerk of the Peace the Sum of One Shilling for every

such

such Inspection, and for Copies or Extracts from the said Book of Reference at the Rate of Sixpence for every Seventy-two Words; and the said Company in making the said intended Railway shall not deviate more than One hundred Yards from the Course or Direction delineated in the said Map or Plan.

Railway not to approach the Turnpike Road nearer than 100 Yards.

VII. Provided always, and be it enacted, That the said Company in making the said intended Railway shall not make any Deviation from the Course or Direction delineated on the said Map or Plan which may have the Effect of bringing the said Railway nearer to the Turnpike Road between *Dundee* and *Coupar Angus*, or its Branch to *Meigle*, than One hundred Yards; and at those Places where the Course or Direction of the said Railway is delineated on the said Map or Plan as intended to be nearer to the said Turnpike Road or its said Branch than One hundred Yards, no Deviation shall be made which may have the Effect of bringing the said Railway nearer to the said Road or Branch Road than the Course or Direction so delineated.

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

VIII. Provided always, and be it further enacted, That the said Company may make the said Railway, Inclined Planes, Depôts, and other Works, into, through, or across or over the Lands or Grounds of any Person or Persons who is or are or may be the Owner or Owners of Land over which the same is set out and described in the said Map or Plan as aforesaid, although the Name or Names of such Person or Persons may happen to be erroneously stated or altogether omitted in the said Book of Reference, in case it shall appear to the Sheriff Depute of the said County of *Forfar*, or his Substitute, and be certified by Writing under his Hand, that such Error or Omission proceeded from Mistake.

Breadth of the Land to be taken for the Railway.

IX. And be it further enacted, That the Lands and Grounds to be taken or used for the Purposes of this Act shall not exceed Fifteen Yards in Breadth, except in those Places where it shall be judged necessary for Waggons or other Carriages turning, remaining, or passing 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, Weighbeams, Steam Engines, or other Machines may be erected, or where any Ponds, Basins, or Reservoirs may be formed or constructed, or where any Places may be set out or appropriated for the Reception or Delivery of Goods, Wares, or Merchandize, or other Things conveyed on the said Railway; and in no Place shall more than Sixty Yards in Breadth be taken or used without the Consent in Writing of the Owners and Occupiers of the Lands and Heritages so to be taken or used.

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

X. And be it further enacted, That after any Lands or other Heritages shall be set out and ascertained for making the said Railway or Wharfs, Depôts, and other Works, or any Part or Parts thereof, and for providing or constructing the Works and Conveniences herein-before authorized to be made, or any of them, it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Life-renters, Husbands, Tutors and Curators, or other Guardians, Trustees for charitable or other Purposes, and all other Trustees or 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 or Persons, and to and for all Married Women who are or shall be seised, possessed of, or interested in their own Right, or entitled to Terce or other Interest therein, and to and for all and every other Person or Persons whomsoever who is or are or shall be seised, possessed of, or interested in any such Lands, Grounds, or Heritages as last aforesaid, which shall be so set out and ascertained for the Purposes aforesaid, to contract for, sell, and convey the same and every Part thereof to and in favour of the said Company; and all such Contracts, Agreements, Sales, Conveyances, and Assurances shall be valid and effectual in Law to all Intents and Purposes whatsoever; any Law, Statute, 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, and Assurances 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 following, or in Words to the following Effect:

Form of Conveyance.

'I of in consideration of the Sum
' of to me paid by the *Dundee* and *Newtyle*
' Railway Company, do hereby grant and convey to the said Company
' of Proprietors all [*describing the Premises to be conveyed*], and all my
' Right, Title, and Interest in and to the same and every Part thereof,
' to be held by the said Company and their Successors for ever, by
' virtue or according to the true Intent and Meaning of an Act passed
' in the Seventh Year of the Reign of His present Majesty, intituled
' [*here set forth the Title of this Act*]. In witness whereof I have hereunto
' set my Hand the Day of in the Year of our Lord One
' thousand eight hundred and

And every such Conveyance shall be registered in the Register of Sasines kept for the County of *Forfar*, or the General Register of Sasines for *Scotland* kept at *Edinburgh*, or in the Register of Sasines kept for the Burgh of *Dundee*, if the Lands and Heritages conveyed be of Burgage Tenure, within Sixty Days from and after the Date of every such Conveyance; and upon being so registered shall give and constitute a good and undoubted Right and Title to the said Company to the Premises therein described, any Law or Custom to the contrary notwithstanding.

Magistrates and Council of Dundee may sell.

XI. And be it further enacted, That it shall be lawful to the Provost, Magistrates, and Council of the Burgh of *Dundee*, notwithstanding the Provisions in an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act for regulating the Mode of accounting for the Common Good and Revenues of the Royal Burghs of* Scotland, to sell and alienate to the said Company by private Bargain, and without the Necessity of public Roup or Auction, any Lands or other Heritages necessary for the Purposes of this Act belonging to them or under their Administration; and which Sale by private Bargain shall be equally valid and effectual to the said Company as if the said Lands and other Heritages had been

been acquired from the said Magistrates and Council at a public Roup or Auction, in Terms of the said Act passed in the Third Year of the Reign of His present Majesty.

Superiority not to be affected or diminished.

XII. And be it further enacted, That the Rights and Titles to be granted in manner above mentioned to the said Company to the Lands and other 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 the said Conveyances; and the Grounds so conveyed to the said Company shall not be liable for any Duties or Casualties to the Superiors, nor for Land Tax, nor any Public or Parish Burden.

Satisfaction to be made to Owners.

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

In case of Disageement as to the Price, the same to be determined by a Jury.

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

Under-

Undertaking, or shall not produce and evince a clear Title to the Premises 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 Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Life-renters, Husbands, Tutors, Curators, or other Guardians, Trustees, or other Person or Persons interested in or entitled to such Lands or Heritages, shall be and they are hereby respectively empowered and required from Time to Time to make Application in Writing to the Sheriff Depute or Substitute of the said County, where the Lands or other Subjects shall lie, to proceed therein as hereinafter mentioned; and the said Sheriff Depute or Substitute is thereupon accordingly hereby required to impannel, summon, and return a Jury of Twenty-four Persons, in the Manner in which Juries are impannelled, summoned, and returned in *Scotland*, to meet at such Time and Place as in the Warrant or Warrants to be issued on that Behalf shall be appointed, not being less than Nine or more than Twenty Days after such Application or Applications shall be made to the said Sheriff Depute or Substitute; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed as aforesaid, the said Sheriff Depute or 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 said Jury to the Number of Twelve, and all Parties concerned may have their lawful Challenges or Exceptions against any of the said Jurymen; and the said Sheriff Depute or Substitute are hereby empowered and obliged to summon and call before them all and every Person or Persons who shall be thought necessary to be examined as a Witness or Witnesses touching the Matter in question, by or before any Jury or Juries as aforesaid; and the said Sheriff Depute or Substitute may order and authorize the said Jury, or any Three or more of them, to view the Place or Places or Matters in controversy, which Jury upon their Oaths shall inquire of, assess, and ascertain the Sum of Money to be paid for the Purchase of such Lands or Heritages, or the Recompence to be made for the Damages that may or shall be sustained as aforesaid, and shall assess separate Damages for the same; and the said Sheriff Depute or Substitute shall give Judgment for such Purchase Monies or Recompence to be assessed by such Juries; which said Verdict, and the Judgment thereupon pronounced as aforesaid, shall be signed by the said Sheriff Depute or Substitute, and shall be binding and conclusive to all Intents and Purposes against all Bodies Politic, Corporate, or Collegiate, and all other Persons whomsoever, without being subject to Reduction, Advocation, or Suspension, or to any Question or Review in any way whatsoever; and if such Sheriff Depute or Substitute shall make default in the Premises, he shall for every such Offence forfeit and pay any Sum not exceeding Twenty Pounds; and if any Person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing shall refuse to give 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, her, or their 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

Depute, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Expences of Jury how to be borne.

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

Persons desiring a Jury to give Security.

XVI. And be it further enacted, That all and every Person or Persons, making Application for or requesting such Jury, shall enter into a Bond with sufficient Sureties to the Clerk or Treasurer for the Time being of the said Company, in the Penalty of One hundred Pounds, or in such other Penalty as the Sheriff of the County shall appoint, not exceeding the Sum of One hundred Pounds, to prosecute such his or her or their 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: Provided always, that the said Sheriff Depute or Substitute shall not be obliged, by virtue of this Act, to receive or take notice of any Application or Applications to be made by any Person or Persons whomsoever, for any Damage or Injury by him, her, or them sustained or supposed to be sustained in consequence of the Execution of any of the Powers of this Act, unless Notice in Writing hath been or shall be given in relation thereto, by or on behalf of such Person or Persons, to the said Company, or to their Clerk or Treasurer, within

the Space of Six Calendar Months next after the Time such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have ceased.

Juries to distinguish between Value and Damages.

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

Persons giving false Evidence to be prosecuted.

XVIII. And be it further enacted, That every such Jury and Jurymen as aforesaid shall be under and subject to the same Regulations, Pains, and Penalties, as if such Jury or Jurymen had been returned to pass upon any Justiciary Trial in *Scotland;* and that all and every Person and Persons who in any Examination to be taken by virtue of this Act shall wilfully and corruptly give false Evidence before any such Jury as aforesaid, shall and may be prosecuted for the same, and upon Conviction thereof shall be subject to such Punishments and Disqualifications as any Person or Persons can or may be subject to for wilful and corrupt Perjury by the Laws or Statutes of that Part of the United Kingdom called *Scotland.*

Verdicts to be recorded.

XIX. And be it further enacted, That all the Verdicts of the Juries, and the Judgment of the said Sheriff Depute or 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 Extracts thereof duly authenticated 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 Two Shillings and Sixpence 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, Works not to be impeded.

XX. And be it further enacted, That upon Payment or legal Tender of such Sum or Sums of Money as shall have been contracted or agreed for between the Parties, or assessed for 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 Recompence for the yearly Produce or Profits thereof, or as a Compensation for Damages as herein-before mentioned, to the Proprietor or Proprietors of such Lands or Premises, or to such other Person or Persons as shall be interested therein, or entitled to receive such Money or Compensation respectively, at any Time within Thirty Days after the same shall have been actually so agreed for, determined, or assessed; or if the Person or Persons so entitled or interested, or any of them, shall not be able to make a good Title thereto, to the Satisfaction of the said Company, or cannot be found, or shall refuse to receive the same or execute such Conveyance, then upon the Payment of the said Sum or Sums of Money into the Bank of *Scotland*, Royal Bank of *Scotland*, or *British* Linen Company of *Scotland*, as the Case may be,

in the Manner by this Act directed, for the Use of such Person or Persons 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 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 or Persons therein, shall from thenceforth be vested in and become the sole Property of the said Company and their Successors, to and for the Purposes of this Act, for ever; and such Payment, Tender, Investment, or Deposit, shall not only bar all Right, Claim, Interest, and Demand of the Person or Persons to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the Terce of the 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 or Grounds of the Person or Persons entitled to such Payment, for the Purpose of making the said Railway or other Works, without the Consent in Writing of such Person or Persons respectively.

Application of Compensation Money when exceeding 200*l.*

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

XXII. Pro-

Application where less than 200*l.*

XXII. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as last before mentioned shall be less than Two hundred Pounds, then and in all such Cases the same shall be applied to the Use of the Person 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 of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not making out Titles.

XXIII. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands or Heritages to be purchased by virtue of this Act for the Purposes aforesaid, shall refuse to accept the same, or shall not be able to make a good Title to the Premises, to the Satisfaction of the said Company, or in case the Person or Persons to whom any such Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands or Heritages be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Company, or their Committee, to order the Sum and Sums of Money so awarded as aforesaid to be paid into the Bank of *Scotland*, Royal Bank of *Scotland*, or *British* Linen Company, as the Case may be, in manner as respectively before directed, to the Credit of the Parties interested in the said Lands or Heritages, (describing them if they are known, and if they are not known, generally to the Credit of the Parties interested in the said Lands or Heritages, without any Description of them), subject to the Order, Controul, and Disposition of the said Court of Session; which said Court, or either of the Divisions thereof, on the Application of any Person or Persons making claim to such Sum or Sums of Money, or any Part thereof, by Petition, shall be and are hereby empowered, in a summary Way of Proceeding or otherwise, as to the said Court shall seem meet, to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *Scotland*, Royal Bank of *Scotland*, or the *British* Linen Company, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for the same, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into such Bank or Banks as aforesaid.

Where Questions arise touching the Title to any Money.

XXIV. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into any such Bank as aforesaid, in pursuance of this Act, for the Purchase of any Lands or Heritages, or of any Estate, Right, or Interest in any Lands or Heritages to be purchased in pursuance thereof, or to any Interest of such Money, the Person or Persons who shall have been in the Possession of the Lands or Heritages at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands or Heritages according to such Possession until the contrary be shown to the Satisfaction of the said Court of Session; and the Interest of such Money, and also the Principal Sums, shall be paid, applied, and disposed of accordingly, unless it shall be made

made appear to the said Court that such Possession was a wrongful one, and that some other Person or Persons was or were lawfully entitled to such Lands or Heritages, or to some Estate or Interest therein.

Court may order the Payment of Expences.

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

Empowering the Company to purchase Twenty Acres of Land.

XXVI. And whereas it may tend to the public Advantage and Accommodation if the said Company be empowered to purchase any Quantity of Land not exceeding Twenty Acres, and also to purchase any Heritages or Buildings, for the Purpose of making, erecting, forming, and providing any Coal Yards, Lime Yards, Warehouses, and other Buildings and Conveniences; be it therefore enacted, That it shall and may be lawful for the said Company, and they are hereby authorized and empowered, to contract with any Person or Persons, Bodies Corporate or Collegiate, Corporations Aggregate or Sole, for the Purchase of any Parcel or Parcels of Land, Buildings, or Heritages (not exceeding in the whole Twenty Acres), in such Place or 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 Things carried or conveyed or intended to be carried or conveyed upon the said Railway, or for making any convenient Roads, Avenues, or Ways leading thereto, or for any other Purposes whatsoever connected with the said Railway and other Works or any of them, which the said Company shall judge requisite or necessary or convenient; and it shall be lawful for all Bodies Politic, Corporate, and Collegiate, Corporations Aggregate and Sole, and all other Persons whomsoever, to sell and grant and convey to the said Company and their Successors any Parcel or Parcels of Land, Buildings, and Heritages whatsoever, for the Purposes last aforesaid or any of them, in the same Manner as is herein-before directed concerning Lands, Buildings, and Heritages to be taken or used for the Purpose of forming, making, and maintaining the said Railway and other Works.

Power of the Company to sell Lands not required for the Purposes of this Act.

XXVII. And be it further enacted, That it shall and may be lawful for the said Company, and they are hereby authorized and empowered, from Time to Time, and at any Time or Times hereafter, to sell and dispose of such additional Lands, Houses, and Heritages as they are hereby authorized and empowered to purchase and shall have actually purchased for the Pur-

Purposes of this Act, or so much and such Part or Parts of the said Lands, Houses, and Heritages as the said Company shall think proper, and either together or in Parcels, by public Auction or private Contract, as shall be thought advisable or expedient, to any Person or Persons who shall be willing to become the Purchaser or Purchasers thereof, and again from Time to Time to contract for the Purchase of any other Lands, Houses, and Heritages more eligible or convenient for the Purposes aforesaid or any of them, and afterwards to sell and dispose of the same as aforesaid, so that the total Number or Quantity of Acres to be purchased by the said Company for any of the Purposes herein-before mentioned shall not exceed at any one Time the Quantity or Number of Acres by this Act specified or allowed for the same respective Purposes.

Limiting the Quantity of additional Land to be purchased from or sold by incapacitated Persons, &c.

XXVIII. Provided always nevertheless, and be it hereby further enacted and declared, That in case the said Company shall purchase such Land or Ground of or from any Body or Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Life-renters, Husbands, Tutors or Curators, or other Persons to whom or for whose Benefit Lands are limited in strict Settlement, and other Persons being under legal Disability or Incapacity, and shall at any Time afterwards sell the Whole or any Part of such Land or Ground so purchased from any such incapacitated Parties or Persons, it shall not be lawful for the said Company again to purchase any Land or Ground in lieu of the Land or Ground so sold as last aforesaid of or from the same, or of or from any other Body or Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Life-renters, Husbands, Tutors or Curators, or other Persons to whom or for whose Benefit Lands are limited in strict Settlement, and other Persons being under legal Disability or Incapacity, nor shall it be lawful for the said Company to purchase, or for the same or any other Body or Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Heirs of Entail, Life-renters, Husbands, Tutors or Curators, or other Persons to whom or for whose Benefit Lands are limited in strict Settlement, and other Persons being under legal Disability or Incapacity, to sell to the said Company any other Lands in lieu or instead of such Land or Ground, or any Part thereof, so sold or disposed of by the said Company.

For paying off Incumbrances on Lands taken by the Company.

XXIX. And be it further enacted, That in case any Lands or Heritages to be taken or used for the Purposes of this Act shall happen to be burdened with any Heritable Debt to any Person or 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 or Sums of Money agreed for and adjusted and assessed in manner aforesaid for such Lands burdened 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 or Sums, such Heritable Creditors shall acknowledge the Receipt of such Sum or Sums of Money, either by Endorsement 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,

ledgment, 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 Doubts shall arise as to the Rights of any Heritable Creditor or Creditors, it shall be lawful for the said Company to consign the said Sum or Sums of Money in the Bank of *Scotland*, Royal Bank of *Scotland*, or the *British* Linen Company; and upon Payment or Conveyance being made as aforesaid such Lands and Heritages shall thenceforth be freed and disburdened of all such Heritable Debts.

All the Money required, to be subscribed before the Act be executed.

XXX. And whereas the probable Expence of making the said Railway will, according to an Estimate made thereof, amount to the Sum of Twenty-seven thousand six hundred Pounds, and Four Fifths and upwards of this Sum have been already subscribed for defraying such Expences, under a Contract binding the Subscribers, their Heirs, Executors, and Administrators, for Payment of the several Sums of Money so subscribed by them respectively; be it enacted, That the Whole of the said Sum of Twenty-seven thousand six hundred Pounds shall be subscribed in like manner before any of the Powers given by this Act shall be put in force.

Proprietors may raise Money for making the Railway.

XXXI. And be it further enacted, That it shall be lawful for the said Company to raise and contribute among themselves, in such Proportions as they shall think proper, a competent Sum of Money for making and completing the said Railway, Inclined Planes, Depôts, or Wharfs, with Roads of Communication, Bridges, and all other Works, Matters, or Conveniences belonging or requisite thereto, not exceeding in the whole the Sum of Thirty thousand Pounds, and the same shall be divided into Shares of Fifty Pounds each; and no Person subscribing thereto, or becoming a Proprietor in such Company, shall be or become a Proprietor of less than One Share; and the said Shares shall be and the same 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 proper Use and Benefit, proportionably to the Sums they shall severally raise and contribute; and such several Persons, and their several and respective Successors, Executors, Administrators, and Assigns, shall be entitled to and receive, at such Time and Times as the said Company shall, at a General or Special Meeting to be convened for that Purpose, direct and appoint, the entire and net Distribution of an equal proportionable Part (according to the Money so by them respectively paid) of the Profits and Advantages that shall and may arise and accrue by the Rates and other Sums of Money to be raised, recovered, or received by the said Company by the Authority of this Act.

Shares to be deemed Personal Estate.

XXXII. And be it further enacted, That every Body Politic, Corporate, or Collegiate, Person or Persons, having such Property in the said Undertaking as aforesaid, shall pay a proportionable Sum towards carrying on the same in manner herein directed and appointed; and all and every the Shares and Proportions of all and every Bodies Politic, Corporate, or Collegiate, and all other Person or Persons, of and in the Undertaking or the Joint Stock Fund of the said Company, shall be deemed Personal Estate,

Estate, and transmissible as such, and not of the Nature of Real Property.

Application of the Money to be raised.

XXXIII. And be it further 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, Inclined Planes, Depôts, or Wharfs, with Roads of Communication, Bridges, Engines, and all other Works, Matters, or Conveniences belonging or requisite thereto, and other the Purposes of this Act, and to no other Use, Intent, or Purpose whatsoever.

Certificates of the Shares to be delivered to the Proprietors.

XXXIV. And, for the better securing to the several Proprietors of the said Company their respective Shares therein, be it further enacted, That the said Company shall and they are hereby required, at the first or some subsequent General Meeting, 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 or the Amount of all the Subscriptions which they are then respectively entitled to hold, and also the proper Number by which every Share shall be distinguished, to be fairly and distinctly entered in a Book to be kept by the Clerk of the said Company; and after such Entry made to cause their Common Seal to be affixed thereto, and to cause a Certificate or Instrument, with the Common Seal of the said Company of Proprietors affixed thereto, to be delivered to every such Subscriber, on Demand, specifying the Share or Shares to which he, she, or they is or are entitled in the said Company, every such Proprietor paying the Clerk One Shilling, and no more, for every such Certificate or Instrument; and such Certificate or Instrument shall be admitted in all Courts whatsoever as Evidence of the Title of such Subscriber, his or her Executors, Administrators, and Assigns, to the Share or Shares therein specified, but the Want of such Certificate or Instrument shall not hinder or prevent the Owner of any such Shares from selling or disposing thereof; and which said Certificate or Instrument may be in the Words or to the Effect following; *videlicet*,

Form of Certificate.

'The *Dundee* and *Newtyle* Railway Company.

'Number

'THESE are to certify, That of
'is a Proprietor of Share *or* Shares of
'the *Dundee* and *Newtyle* Railway Company, subject to the Rules,
'Regulations, and Orders of the said Company; and that the said
', his *or* her Executors, Administrators,
'[*or* Successors] and Assigns, is and are entitled to the Profits and Advantages of such Shares. Given under the Common Seal of the said
'Company, the Day of in the Year of our
'Lord .'

XXXV. And

Subscribers to have a Vote for every Share.

XXXV. And be it further enacted, That all and every Body or Bodies Politic or Corporate, or other Person or Persons, and his or her or their Successors, Executors, Administrators, or Assigns, who shall have subscribed for or shall become entitled to and be in the actual Possession of One or more Share or Shares in the said Company, shall be deemed a Proprietor for every such Share; and in the General or Special Meetings of the said Company to be held as herein directed for carrying on the said Undertaking, as relative thereto, every such Proprietor shall have One Vote for and in respect of every such Share not exceeding Ten; and if any such Proprietor be entitled to vote for and in respect of a greater Number of Shares than Ten, then such Proprietor shall have One Vote more than the first Ten Votes for every complete Number of Five Shares for or in respect of which such Proprietor is entitled to vote over and above the first Ten Shares, but with this Limitation, that no Proprietor shall in any Case have more than Twenty Votes in all; and all such Vote or Votes shall or may be given by the Proprietor or Proprietors, or by his, her, or their Proxy or Proxies (such Proxy or Proxies being a Proprietor or Proprietors of at least Five Shares in the said Company) duly constituted under his or her or their Hand or Hands, or Common Seal of a Corporation, or in Cases of Infancy, Lunacy, or Fatuity, under the Hand or Hands of his, her, or their Tutor or Tutors, Curator or Curators, or Guardian or Guardians; and provided also, that the Proxy or Proxies for any Body or Bodies Politic or Corporate may be any Member or Members of such Body or Bodies respectively, although not holding any Share or Shares of the said Company; and every such Vote by Proxy shall be as good and valid to all Intents and Purposes as if such Principal or Principals had voted in Person, and, being an Infant, had been of full Age; the Appointment of which Proxy shall and may be made in the Words or to the Effect following (varying the same so as to meet each particular Case); *videlicet*,

Form of Proxy.

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

Majority of Votes to determine

And every Election of Committees and Officers, and every Question, Matter, and Thing whatsoever which shall be proposed, considered, or discussed in any General or Special Meeting of the said Company, shall be finally determined by the Majority of Votes and Proxies then present; and at every such Meeting One of the Proprietors present shall be appointed President or Chairman, who shall not only have such Vote

or Votes as a Proprietor as aforesaid, but shall also, in case of an equal Division, have the decisive or casting Vote.

Company may borrow and assign the Property and Rates in Security;

XXXVI. Provided always, That in case the said Company shall be desirous of raising a farther or additional Sum on the Credit of the said Undertaking, it shall be lawful for the said Company or their Committee, by an Order of any General Meeting of the said Company, to borrow and take up at Interest all or any Part of the Sum of Ten thousand Pounds on the Credit of the said Undertaking, as to them shall seem meet and convenient; and the said Company, or the Committee of the said Company, upon an Order of any General Meeting to that Effect, are hereby authorized and empowered to assign the Property of the said Company, and the Rates arising or to arise by virtue of this Act, or any Part thereof, as a Security for any such Sum or Sums of Money to be borrowed as aforesaid, with Interest, to such Person or Persons, or to his, her, or their Trustee or Trustees, who shall advance the same.

or may obtain Cash Accounts, and assign in Security thereof.

XXXVII. And be it further enacted, That in case any Banking Company or Person or Persons shall agree to allow to the said Company a Credit to the Extent of the said Sum of Ten 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 Undertaking as aforesaid, it shall be lawful for the said Company, by Order of any General Meeting, to accept of such Credit, and authorize their Committee, Treasurer, or other Officer to borrow and take up Money at Interest, any Sum under the said Sum; and the said Company, or the Committee of the said Company, upon an Order of any General Meeting to that Effect, are hereby authorized and empowered to assign the Property of the said Company, and the Rates arising or to arise by virtue of this Act, or any Part thereof, as a Security for such Sum so to be borrowed and received as aforesaid, and the Interest thereof, to such Banking Company or Person or Persons who shall agree to advance the same.

Form of Assignment.

XXXVIII. And be it further enacted, That all such Securities or Assignments shall be made under the Common Seal of the said Company, and may be in the common Form of such Deeds in *Scotland*, or in the Words or to the Effect following; (that is to say,)

'Number

'BY virtue of an Act made in the Seventh Year of the Reign of His 'Majesty King *George* the Fourth, intituled [*here set forth the Title of* '*this Act*], we, the *Dundee* and *Newtyle* 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 a Current 'Account] by of 'do assign unto the said 'his [*or* her] Executors, Administrators, and Assigns, the said Under-'taking, and all and singular the Rates arising by virtue of the said Act, 'and all the Estate, Right, Title, and Interest of and in the same, to hold 'unto the said his [*or* her] 'Executors,

'Executors, Administrators, and Assigns, until the said Sum of
'[*or, in case of Cash Accounts,* such Sum or 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 be equally entitled.

And all and every Person or Persons to whom such Security or Assignment shall be made shall be equally entitled one with the other to his, her, or their Proportion or Proportions of the said Rates and Premises, according to the respective 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 or Names of the Person or Persons to whom made, the Sum of Money borrowed, and the Rate of Interest, shall be entered in a Book or Books to be kept by the Clerk to the said Company, which said Book or Books shall and may be perused at all reasonable Times by any of the Proprietors or Creditors of the said Undertaking, or other Persons interested therein, without Fee or Reward; and all and every Person or Persons 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, her, or their Right or Interest therein to any Person or Persons whomsoever; which Transfer shall and may be in the Words or to the Effect following; (that is to say,)

Form of Transfer.

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

And every such Transfer shall, within Fourteen Days after the Date thereof, be produced to the Clerk of the said 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 such Sum as the said Company shall appoint, not exceeding Two Shillings and Sixpence; and after such Entry made, every Transfer shall entitle such Assignee or Assignees, his, her, and their Executors, Administrators, and Assigns, to the full Payment thereof; and it shall not be in the Power of any Person or Persons who shall have made such Transfer to make void, discharge, or release the same, or any Sum or Sums of Money thereon due or thereby secured, or any Part thereof; and every such Person or Persons holding any Security or Assignment as aforesaid shall be bound, on receiving Payment of such Sum or Sums of Money, to transfer such Security or Assignment to any

Person

Person or Persons advancing such Sum or Sums of Money, as the said Company may direct, the Expence of the said Transfer being paid by the said Company or the Assignees.

Interest to be paid in preference to Dividends.

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

First and other General Meetings.

XL. And be it further enacted, That the First General Meeting of the said Company for putting this Act into execution shall be held at *Dundee* on the Third *Friday* next after the passing of this Act, at the Hour of One o'Clock Afternoon, in some Place to be appointed by Notice given in some Newspaper published in *Dundee*; and the Second and every other General Meeting shall be held on such Day and at such Place as the said Proprietors at the immediately preceding General Meeting shall appoint, and all such Meetings shall be at the Hour of One o'Clock Afternoon; and the said Company, at such respective General Meetings, together with such Proxies as shall then be present, shall choose and elect, out of such of the said Proprietors as at the Time of such Election shall be respectively possessed in their own Right of Stock to the Amount of Four Shares at the least in the said Undertaking, a Committee to manage the whole of the Affairs and Concerns of the said Company; and the said Company shall have Power and Authority at any such General Meeting to remove and displace any Person or Persons who shall have been chosen a Member of such Committee as aforesaid, or any Officer or Officers under them, 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 laid down by virtue of this Act with regard to their Proceedings among themselves, as they shall think proper, (the Method of calling Special Meetings, and their Time and Place of meeting and voting, and appointing the Committee of Managers, only excepted,) and shall also have Power and Authority to make such new Rules, Bye Laws, and Orders for the good Government of the said Company, their Agents and Workmen, for making, maintaining, and using the said Railway or other Works, and all other Conveniences, Matters, and Things that shall be made for the same, and also for and concerning all such Carriages, Goods, and Commodities as shall be conveyed thereon, and also for the well governing of all Persons who shall be employed in the conveying of any Goods and Commodities, and other Articles and Things upon any Part of the said Railway or other Works, and from Time to Time to alter and repeal, and again to renew,

Their Powers.

such Bye Laws, Orders, and Regulations, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same, as to the major Part of such General Meetings shall seem meet, not exceeding the Sum of Five Pounds for any one Offence; which said Rules, Bye Laws, and Orders, being reduced into Writing under the Common Seal of the said Company, the same or Abstracts thereof shall be distinctly and legibly painted on Boards, and affixed upon the several collecting Houses to be erected on the said Railway and Wharfs, and shall, when worn out, defaced, or obliterated, be from Time to Time repainted and renewed; and which Bye Laws 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; and every such General Meeting shall have Power to call for, audit, and settle all Accounts of Money received, laid out, and disbursed on account of the said Undertaking by the Treasurers, Receivers, or Collectors of the said Rates, and other Officers by them appointed, or by any other Person or Persons whomsoever employed by or concerned for or under them in and about the said Railway and the Works thereto belonging; but no Vote or Votes by Proxy shall be given or have any Power in or as to the Audit and Settlement of Accounts; and the said Company shall have Power to adjourn themselves from Time to Time to such Place or Places within the Town of *Dundee* as shall at any such General Meeting be thought proper and convenient: Provided always, that no Person shall be capable of being a Member of such Committee, who shall be concerned or interested in any Contract made or to be made with the said Company, or shall hold any Office or Place of Trust or Emolument under the said Company.

Penalty on Persons defacing Boards.

XLI. And be it further enacted, That if any Person or Persons shall wilfully or maliciously pull down, deface, or destroy any Board whereon any of such Rules, Orders, and Bye Laws, or Abstracts thereof, shall be painted, he, she, or they shall, upon Conviction, for each Offence forfeit and pay to the said Company a Sum not exceeding Five Pounds, to be levied and applied as other Penalties are by this Act directed to be levied and applied.

General Meetings to choose Committees.

XLII. Provided always, and be it further enacted, That if at any such General Meeting there shall not be Persons present, personally or by Proxy, who shall be possessed of at least One hundred Shares or Subscriptions of Fifty Pounds each in the said Undertaking, no Choice of the said Committee of Management, nor any Removal or Appointment of a Person or Persons in the Room of such of the Members of the said Committee who shall have died, or declined or become incapable to act, shall be made at the Time, but in such Case there shall be another Meeting of the said Company, at the same Place and Hour upon that Day Fortnight; and if a sufficient Number of Proprietors as Principals or by Proxies shall not then attend, the said General Meeting shall stand adjourned to the same Place on the *Monday* Se'night next following; and such Choice, Removal, or new Appointment of any Members of the Committee shall then take place, and not before; and such Committee so before appointed shall continue to act

and have the same Powers as they had and were possessed of until a new Committee shall be appointed as aforesaid.

Special Meetings to be called.

XLIII. And be it further enacted, That if at any Time it shall appear that for the more effectually putting this Act in execution a Special General Meeting of the said Company is necessary to be held, it shall be lawful for any Five or more of the said Proprietors who shall each hold at least Five Shares in the said Undertaking to cause such Meeting to be called, after giving written Notice to the Clerk of their Intention so to do; and every such Meeting shall be called by written or printed Notices to be put into the Post Office of *Dundee*, addressed to the several Proprietors, Fourteen Days at least before the Time appointed for the Meeting, such Notices being signed by the Proprietors calling the same, or by the Clerk to the said Company for the Time being; or such Meeting may be called in such other Manner as the said Company shall at any General Meeting direct or appoint; and all Notices of such Special Meetings shall specify therein the Reason and Intention of requesting such Special General Meeting, 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 preesnt 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; and all such Acts of the Proprietors, or the major Part of them, met together at every such Special General Meeting, shall be as valid with respect to the Matters specified in such Notice as if the same had been done at a General Meeting at the Time herein-before appointed for holding the same.

Company may appoint Officers.

XLIV. And be it further 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 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 from Time to Time to remove and again replace any such Treasurer, Clerk, and other Officers, or any of them; and such Clerk shall attend the General Meetings of the said Company, and the Meetings of the said Committee, and shall, in a proper Book or Books to be provided for that Purpose, enter and keep a true and perfect List of the Names and Places of Abode of the several Proprietors of the said Company, and of the several Persons who shall from Time to Time become Owners and Proprietors or entitled to any Share or Shares therein, and of all the Acts, Proceedings, and Transactions of the said Company, and of the said Committee, by virtue of and under the Authority of this Act; and every Proprietor of the said 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 every Seventy-two Words so to be copied; and if any such Clerk shall refuse to permit any of the said Proprietors to inspect or peruse any such Books at all convenient Times and Seasons, or refuse to make any such

Copy or Copies 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.

Same Person not to be Clerk and Treasurer.

XLV. Provided always, and be it further enacted, That it shall not be lawful for the said Company to appoint the Person or Persons who may be appointed their Clerk or Clerks in the Execution of this Act, or the Partner or Partners of any such Clerk or Clerks, or the Clerk or Clerks or other Person or Persons in the Service or Employ of any such Clerk or Clerks or of his or their Partner or Partners, the Treasurer or Treasurers for the Purposes of this Act, or to appoint any Person or Persons who may be appointed Treasurer or Treasurers, or the Partner or Partners of any such Treasurer or Treasurers, or the Clerk or Clerks or other Person or Persons in the Service or Employ of any such Treasurer or Treasurers or of his or their Partner or Partners, the Clerk or Clerks to the said Company; and if any Person shall accept the Offices of Clerk and Treasurer for the Purposes of this Act, or if any Person or Persons, being the Partner or Partners of any such Clerk, or the Clerk or Clerks or other Person or Persons in the Service or Employ of any such Clerk or Clerks or of his or their Partner or Partners, shall accept the Office of Treasurer, or being the Partner or Partners of any such Treasurer or Treasurers, or the Clerk or Clerks or other Person or Persons in the Service or Employ of any such Treasurer or Treasurers or of his or their Partner or Partners, shall accept the Office of Clerk in the Execution of this Act, or if any such Treasurer or Treasurers 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 Sterling to any Person or Persons 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.

XLVI. And be it further enacted, That the said Committee shall, until the next General Meeting to be holden in manner as aforesaid, meet at such Times and at such Places, and from Time to Time adjourn themselves to such other Time or Times, as they shall think fit; and at all Meetings of the said Committee one of the Members present shall be appointed President or Chairman; and all Questions, Matters, or Things, which shall be proposed, discussed, or considered at such Meetings shall be finally determined by a Majority of Votes; but no Member of such Committee, although he may be a Proprietor of many Shares in the Undertaking, shall have more than One Vote, except the President or Chairman, who in case of an equal Division shall always have a second or casting Vote; and the said Committee shall have Power and Authority to direct and manage all the Affairs of the said Company, as well in buying and purchasing Lands and Heritages and Materials for the Use of the said Undertaking and Works, as in employing, ordering, and directing the Works and Workmen, and in placing and displacing Under Officers, Clerks, Servants, Agents, and Workmen, and in making all Contracts and Bargains touching the said Undertaking, so that no Purchase, Bargain, or other Matter be done or transacted without the Concurrence of a Majority of the said Committee as aforesaid then assembled.

XLVII. And

Committee empowered to make Calls.

XLVII. And be it further enacted, That the Committee for the Time being of the said Company shall have Power from Time to Time to make such Call or Calls for Money from the Proprietors of the said Undertaking, to defray the Expences of and to carry on the same, as they shall from Time to Time find necessary for those Purposes, so that no such Call do exceed the Sum of Five Pounds upon each Share, and so as no Calls be made but at the Distance of Two Months at the least 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 Name of the said Company, and such Monies shall thereafter be applied for the Use of the said Undertaking; and every Owner of One or more Shares in the said Company shall pay his or their Shares or Proportions 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 Twenty Days Notice at the least shall be given by written or printed Notices addressed to such Proprietor, and put into the Post Office of *Dundee*, or in such other Manner as the said

Recovery of Calls.

Company shall at any General Meeting direct or appoint; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for at the Time and Place appointed as aforesaid, it shall be lawful for the said Company, if such Person shall reside within *England* or *Ireland*, to sue for and recover the same, with the legal Interest thereof from the Time the same was payable, in any of His Majesty's Courts of Record at *Westminster* or *Dublin*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, or more than One Imparlance, shall be allowed; and if such Person or Persons shall reside within *Scotland*, by Action in the Court of Session, or any other competent Court; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for after the first Call as aforesaid, at the Time and Place so appointed as aforesaid, he, she, or they so neglecting or refusing shall forfeit any Sum not exceeding the Rate of Two Pounds Ten Shillings Sterling for each of his, her, or their respective Share or Shares in the said Company; and in case such Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for as aforesaid, for the Space of Three Calendar Months after the Time appointed for Payment thereof as aforesaid, and at the Place so to be appointed for Payment thereof as aforesaid, then he, she, or they so neglecting or refusing shall forfeit his, her, or their respective Share or Shares in the said Company, and all the Profit and Benefit thereof, and all Money advanced by him, her, or them; and all such Forfeitures shall be sold at a public Sale by the said Company for the most Money that they can get for the same, and the Produce 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 or Shares in the said Undertaking until Notice shall be given, by the Clerk or Treasurer of the said Company, to the Owner or Owners thereof, or Notice in Writing addressed to him, her, or them, and sent through the Post Office, nor unless the same shall be declared to be forfeited at some

General

General Meeting of the said Company which shall be held after Two Calendar Months after the Forfeiture shall happen to be made; and every such Forfeiture shall be an Indemnification and Discharge to and for every Proprietor or Proprietors so forfeiting, after such Share or Shares shall be deemed to be forfeited by a General Meeting, but not before, against all Actions, Suits, or Prosecutions whatsoever, to be commenced or prosecuted for any Breach of Contract or other Agreement between such Proprietor or Proprietors so forfeiting, and the rest of the Proprietors, with regard to carrying on the said Undertaking: Provided always, that it shall be lawful to and in the Power of the said Company, at such General Meeting as aforesaid, instead of declaring any Share or Shares to be forfeited, to sue for and recover the Sum or Sums of Money subscribed by any Person or Persons, and called for as aforesaid, in any Court of Law or Equity.

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

XLVIII. Provided also, and be it further enacted, That in case the Money produced by the Sale of any Share or Shares shall be more than sufficient to pay all such Arrears of Call as aforesaid, and lawful Interest thereon, with the Expences attending such Sale or Sales, the Surplus of such Money shall be paid, on Demand, to the Person or Persons to whom such Share or Shares shall have belonged; but the said Company shall not sell or transfer, or direct to be sold or transferred, any more of such Shares of such Proprietor or Proprietors so forfeiting as aforesaid than shall be sufficient, as near as may be at the Time of such Sale, to pay the Arrears due from such Defaulter or Defaulters for or on account of such Call or Calls, and the Interest and Expences attending the same; and from and after the Payment of all such Calls, and the Interest and Expences as aforesaid, any Share or Shares so vested in the said Company as aforesaid which shall remain in their Hands unsold shall revert to and again become the Property of the Person or Persons to whom such Share or Shares shall have belonged, immediately before such Forfeiture as aforesaid, in such Manner as if such Calls had been duly and regularly paid.

Actions for Calls.

XLIX. And be it further enacted, That in any Action brought by the said Company against any Owner or Owners of any Share or Shares in the said Undertaking, to recover any Sum or Sums of Money due or payable to the said Company, for or by reason of any Call or Calls made by virtue of this Act, it shall be sufficient for the said Company to declare and allege that the Defendant or Defendants, being a Proprietor or Proprietors of such and so many Share or Shares in the said Undertaking, is or are indebted to the said Company in such Sum or Sums of Money as the Call or Calls in arrear shall amount to, for such or so many Call or Calls of such or so many Sum or Sums of Money upon such or so many Share or Shares belonging to the said Defendant or Defendants, whereby an Action hath accrued to the said 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 Defendant or Defendants, at the Time of making such Call or Calls, was or were a Proprietor or Proprietors of such Share or Shares in the said Undertaking, and that such Call or Calls was or were in fact made, and that such Notice thereof was given as is directed by this Act, without proving the

Appointment of the Person or Persons who made such Call or Calls, or any other Matter whatsoever; and the said Company shall thereupon be entitled to receive 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.

Committees to report to General Meetings.

L. And be it further enacted, That the Committee for the Time being shall from Time to Time make Reports of the Proceedings to, and be subject to the Examination and Controul of the said General and Special Meetings of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises as shall from Time to Time be made by the said Proprietors at any such General or Special Meeting, such Orders and Directions not being contrary to any express Directions or Provisions in this Act contained.

Books to be kept.

LI. And be it further enacted, That proper Books of Accounts and other Matters relating to the said Undertaking shall be kept; and that all such Books and other Matters shall be deposited and kept, under the Direction of the Committee for the Time being, at such Place or Places as the said Company shall from Time to Time direct; and any Five or more Proprietors acting together shall at all seasonable Times, between the Hours of Twelve Noon and Three in the Afternoon, have free Access to the same, for his, her, or their Inspection, without Fee or Reward.

Officers to account.

LII. And be it further enacted, That every Officer and other Person who shall be appointed by virtue of this Act shall, from Time to Time when thereunto required by the said Company, by Notice in Writing to him or them respectively given, or left at his or their usual Place of Abode, or within Six Days next afterwards, make out and deliver to the said Company, or to such Person or Persons as they shall appoint to inspect and examine the same, a true and perfect Account in Writing under his or her Hand of all Monies which shall have been by him or her 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 or her to the said Company, to such Person or Persons as the said Company shall appoint to receive the same; and if any Officer or Person shall neglect or refuse to render 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 to such Person or Persons as they shall appoint, all Books, Papers, Writings, Matters, and Things in his or their Custody or Power relating to the Execution of this Act, or which they shall have disposed of without the Consent of the said Company, then and in every such Case, Complaint being made by the said Company where such Neglect or Refusal shall happen, or by any other Person or Persons on their Behalf, of any Neglect or Refusal, to the Sheriff Depute

or

or Sheriff Substitute for the County 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 or her appearing or not being to be found to hear and determine the Matter of such Complaint in a summary Way, and to settle the said Account, if produced, in such Manner as the said Company might have done; and if, upon the Confession of the Officer or Person against whom such Complaint shall be made, or by the Oath or Oaths of any Witness or Witnesses, 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 Poinding 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, keeping, and selling such Poinding, 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 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 Things as aforesaid, to be by him delivered over to the said Company, 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 or she shall live or reside, there to remain without Bail until he or she shall have delivered in and settled 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 the Hands of or owing from him or her to the said Company, and the reasonable Charges of such Poinding and Sale (if any) as shall in that respect have been made, or until he or she shall have compounded with the said Company for such Money or Charges, and paid the Composition Money to the said Company, or to such Person or Persons as they shall appoint to receive the same, and which Composition the said Company are hereby empowered to make, and shall have delivered up as aforesaid such Books, Papers, Writings, Tools, Matters, and Things as aforesaid, or have given to the said Company Satisfaction in respect thereof: Provided always, that no Person who shall be committed for Want of sufficient Distress only shall be detained in Prison for longer Time than Six Calendar Months.

Shares may be sold.

LIII. And be it further enacted, That it shall be lawful for the several Proprietors of the said Company, and his, her, or their respective Heirs, Executors, or Administrators, from and after Payment made of the Sum of Ten Pounds *per Centum* by him, her, or them, upon his, her, or their Share or Shares in the said Subscription, but not before, to sell and dispose of any Share or Shares to which he, she,

she, or they may be entitled therein, subject to the Rules and Conditions herein mentioned; and provided that the Form of Conveyance of such Sales shall be in the following Words (varying the Names and Descriptions of the contracting Parties as the Case may require):

Form of Conveyance of Shares.

'I in consideration of paid to me by do hereby 'bargain, sell, and transfer unto the said , Share [*or* 'Shares, *as the Case may be*], of the *Dundee* and *Newtyle* 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 [*or* Shares], subject 'to the same Rules, Orders, Restrictions, and Conditions. As witness 'our Hands the Day of ,

And on every such Sale the said Deed of Conveyance, executed by the Seller or Sellers and the Purchaser or Purchasers of such Share or Shares, shall be kept by the Clerk of the said Company, who shall deliver an attested Copy thereof to such Purchaser or Purchasers, at his, her, or their Expence, when required, and shall enter in a Book to be kept for 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 Deed of Sale or Transfer, for which no more than One Shilling shall be paid; and the said Clerk is hereby required to make such Entry or Memorial of such Transfer or Sale accordingly; and unless and until such Memorial shall have been made and entered as above directed, such Purchaser or Purchasers shall have no Part of the Profits of the said Undertaking, nor any Interest for such Share or Shares paid unto him or them, or any Vote as a Proprietor or Proprietors of the said Undertaking.

No Share to be sold till Call be answered.

LIV. And be it further enacted, That after any Call of such Money shall have been made by such Committee as aforesaid, no Person or Persons shall sell or transfer any Share or Shares which he, she, or they shall possess in the said Company, although Ten Pounds *per Centum* shall have been paid thereon, unless he, she, or they 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.

As to making up Accounts and Division of Profits annually.

LV. And, in order to ascertain the Amount of the clear Profits of the said Undertaking, be it further enacted, That the said Company or their 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 *Friday* of *May* in each Year, of the Money collected and received by the said Company, or their Committee or Treasurer, or otherwise, 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 Works, and of all others the Receipts or Expenditure of the said Company or Committee; and that at the

General Yearly Meeting of the Proprietors of the said 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 Undertaking, unless such Yearly Meeting shall declare otherwise; and such Dividend or Dividends shall be at and after the Rate of so much *per Centum* upon the several Sums invested by the Members thereof in the Joint Stock of the said Company, as such Meeting or Meetings shall think fit to appoint and determine: Provided always, that no Dividend shall be declared or paid until the General Yearly Meeting which shall be holden next after the Expiration of Twelve 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 or Shares, after the Day appointed for Payment of any Call for Money in respect thereof, until such Call shall have been paid.

Rates of Tonnage.

LVI. And in consideration of the great Charge and Expence which the said Company must incur and sustain in making and maintaining the said Railway and other Works hereby authorized to be made and maintained, and conveying Goods and other Commodities thereon, be it further enacted, That it shall and may be lawful for the said Company, from Time to Time and at all Times hereafter, to ask, demand, take, recover, and receive, to and for the Use and Benefit of the said Company, for all Goods, Wares, Merchandize, and other Things which shall be by them carried and conveyed upon the said Railway or upon any Part thereof, the Rates, Tolls, and Duties herein-after mentioned; that is to say, such Sum as the said Company shall from Time to Time direct and appoint, not exceeding the Sum of Sixpence *per* Ton *per* Mile, and so on in proportion of any less Distance than a Mile; and in all Cases where there shall be a Fraction of a Quarter of a Mile in the Distance which any Waggon, Cart, or other Carriage shall pass upon the said Railway or Tramroad, such Fraction shall be deemed and considered as a whole Quarter of a Mile, and any such Waggon, Cart, or Carriage travelling such Fraction of a Quarter of a Mile shall be charged with Tonnage Duty for one whole Quarter of a Mile; and in all Cases where there shall be a Fraction of a Ton a proportional Rate shall be demanded and taken for such Fraction; and in order to ascertain and calculate with greater Precision and Facility the Distance for which Tonnage shall be demanded and taken upon the said Railway, the said Company shall cause the said Railway to be measured, from End to End, and Stones or other conspicuous Marks, with proper Inscriptions, to be set up and for ever maintained on the Sides of the same, at the Distance of One Quarter of a Mile from each other.

Table of Tolls.

LVII. And be it further enacted, That after any Toll Gate shall be erected by virtue of this Act the said Company or their said Committee shall and they are hereby required to put up or cause to be put up, and afterwards to be continued, at every such Toll Gate, a Table, painted in distinct and legible Black Letters on a Board with a White Ground, containing at the Top thereof the Name of the Gate at which the same shall be put up, and also a List of all the Rates of Tonnage payable at every such Gate, distinguishing the several Rates to be paid by virtue of this Act, and to

renew such Boards whenever any of the Letters or Figures thereof shall be worn out, defaced, or obliterated: Provided always, that it shall not be lawful for the said Company to demand or take, or cause to be demanded or taken, any Rates for or in respect of any Goods, Wares, or Merchandize, or other Things, but for and during such Time as the Board so painted as aforesaid shall remain affixed at such Toll Gate.

Rates may be reduced partially or generally.

LVIII. Provided always, and be it further enacted, That it shall and may be lawful for the said Company and their Successors, for the Encouragement of the Trade on the said Railroad, from Time to Time, at any General Meeting of the said Company to be held as hereinbefore directed, with Consent of Three Fourths of the said Company voting at such Meeting, counting the Votes as before directed, to lessen or reduce all or any of the Rates, Tolls, and Duties hereinbefore granted on all or any Sort of Goods or other Articles passing upon the Whole or any Part of the said Railroad, and afterwards from Time to Time, at any General Meeting called as aforesaid, to advance all or any of the said Rates, Tolls, and Duties so lessened to any Sum or Sums not exceeding the Rates before mentioned.

Evasion of Rates.

LIX. And be it further enacted, That if any Person or Persons shall fraudulently carry or convey any Articles or Things whatsoever on the said Railway, on Payment of a lower Rate, Toll, or Duty than that to which such Articles or Things are hereby subject or liable, or shall commit any Deception or other fraudulent Act to the Loss or Prejudice or with Intent to injure the said Company, and shall thereof be convicted in manner herein-after directed, every such Person so offending shall for every such Offence forfeit and pay to the said Company or their Successors any Sum not exceeding Five Pounds, over and above the Rate, Toll, or Duty to which such Articles or Things are liable.

Company may establish Carriages for Passengers;

and may lease the same.

LX. And be it further enacted, That it shall and may be lawful to the said Company to provide and establish any Carriage or Carriages fit for the carrying and Accommodation of Passengers upon the said Railway, and to demand and receive such Rate for the Carriage of Passengers therein, not exceeding Three-pence *per* Mile for each Passenger carried in such Carriage, as the said Company shall think fit; and it shall and may be lawful to the said Company to lease to any Person or Persons the Right of establishing and running such Carriage or Carriages, and to grant Licences to Persons willing to establish and run the same, such Carriage or Carriages being properly constructed for travelling on the Railway, at such annual Sum or Rent as may be mutually agreed on by the said Company and such Person or Persons.

Power to make and use locomotive or moveable Engines on the Railway.

LXI. And be it further enacted, That it shall and may be lawful to and for the said Company, or any Person or Persons authorized or permitted by them, from and after the passing of this Act, to make and erect such and so many locomotive or moveable Engines as the said Company shall from Time to Time think expedient, and to use and employ the same in and upon the said Railway, for the Purpose of facilitating the Transport,

Conveyance, and Carriage of Goods, Merchandize, and other Articles and Things upon and along the same, and for the Conveyance of Passengers upon and along the same.

Skreens to be erected where the Railway approaches near to the Turnpike Road.

LXII. And be it further enacted, That where the said Railway shall approach so near to the Turnpike Road between *Dundee* and *Coupar Angus*, or the Branch Road to *Meigle*, as to create Apprehension that any Danger or Risk may arise from the Horse or Horses of any Person or Persons travelling either of the said Roads being alarmed or startled by the Steam Engines, either stationary or locomotive, to be used by the said Company on the said Railway, it shall and may be lawful to the Sheriff Depute of *Forfarshire*, or his Substitute, on Complaint or Application made to him by any Two or more of the Trustees on the said Roads or any of them, to cause a Survey to be made by any Engineer not connected with the said Railway, and upon being satisfied that any such Risk or Danger exists, to order fit and sufficient Skreens, or other Works adequate to provide against the same, to be erected and maintained by and at the Expence of the said Company.

Collectors to put up their Names.

LXIII. And be it further enacted, That every Collector appointed, either by the said Company, or by any Lessee or Lessees under them, to collect the Rates payable at any Gate to be erected by virtue of this Act, shall and he is hereby required to place his Christian and Surname, painted on a Board in legible Characters, in the Front or on some other conspicuous Part of the Toll House or Toll Gate immediately upon his coming on Duty, each of the Letters of such Name to be at least Four Inches in Length, and of a Breadth in proportion, and painted either in White Letters on a Black Ground or Black Letters on a White Ground, and shall continue the same so placed during the whole Time he shall be upon such Duty; and if any Collector of the said Rates shall not place such Board as aforesaid, and keep the same there during the Time aforesaid, or shall demand or take a greater or less Rate from any Person or Persons than he shall be authorized to do by virtue of the Powers of this Act, or shall refuse to permit or suffer or shall in anyways hinder any Person or Persons from reading such Christian or Surname, or shall refuse to tell his Christian or Surname to any Person or Persons who shall demand the same, on having been paid the said Rates or any of them, or shall give a false Name or Names, on such Demand, or shall refuse or neglect to deliver a Ticket *gratis* denoting the Payment of the Rate, and naming and specifying the several Gates freed by such Payment, or shall swear, curse, or make use of any scurrilous Language to any Person travelling upon the said Railway, or shall without sufficient Cause detain or delay any Person or Persons travelling thereon, then and in every such Case every such Collector shall forfeit and pay any Sum not exceeding Five Pounds for every such Offence.

On Payment of Rate a Ticket to be delivered.

LXIV And be it further enacted, That upon the Payment of the Rates granted by this Act at any Gate erected by virtue thereof the Collector or Receiver thereof respectively shall and he is hereby required to deliver *gratis* to the Person paying such Rate a Note or Ticket denoting such Payment, and stating the Weight paid for, and which Note or Ticket shall be

be provided by the said Company, and there shall be printed and specified thereon the Name of the Gate or Gates freed from such Payment.

Rates how to be levied.

LXV. And be it further enacted, That the Rates herein authorized to be demanded and taken shall be paid to such Person or Persons, at such Place or Places at or near the said Railway, in such Manner, and under such Regulations, as the said Company at some General or Special Meeting or Meetings shall direct or appoint; and in case of Denial or Neglect of Payment of any such Rates, or any Part thereof, on Demand, to the Person or Persons appointed to receive the same as aforesaid, the said Company may sue for the same by Action in any Court competent in *Scotland*, or the Person or Persons to whom the Rates ought to have been paid may and he or they is and are hereby authorized to seize the Goods or other Things for or in respect whereof any such Rates ought to have been paid, or any Part thereof, and retain the same until such Payment shall be made, together with the reasonable Charges for such Seizure and Detention, and if such Goods or other Articles shall not be redeemed within Three Days next after the taking thereof, the same shall be poinded and sold, on a Warrant to be summarily granted by any Justice of the Peace, returning the Overplus (if there any be), upon Demand, to the Owners thereof, after such Rates, and the reasonable Charges of poinding, keeping, or selling the same, shall be deducted and paid.

For settling Disputes.

LXVI. And be it further enacted, That if any Dispute shall happen about the Amount of the Rates granted by this Act, or the Charges of making, keeping, or selling any Poinding, the Collector, or the Constable or other Person so poinding, shall immediately lodge such poinded Articles, or the Money arising from the Sale, in the Hands of the Sheriff Clerk of the County, or his Depute, in whose Hands it shall remain, until the Amount of the Rates due, and the Charges of the Poinding and Sale, and of keeping the poinded Articles, be ascertained by the Sheriff Depute or his Substitute for the County or Place wherein such Dispute shall happen to arise, who, upon Application made to him for that Purpose, shall examine the Matter on the Oath of the Parties or other Witness or Witnesses, and shall determine the Amount of the Rates due, and shall award such Costs and Charges to either Party as to him shall appear right and proper; all which Costs and Charges shall and may be levied and recovered, in case of Nonpayment thereof forthwith, by Warrant under the Hand of such Sheriff, rendering the Overplus (if any), upon Demand, after deducting the Costs and Charges of making such Poinding and Sale, to the Person or Persons whose Goods and Effects shall have been so poinded and sold.

May enter into Contracts.

LXVII. And be it further enacted, That it shall and may be lawful to the said Company or their Committee, at any Time or Times, to enter into Contracts with any Person or Persons willing to contract for the driving or dragging of the Waggons and other Carriages, laden or not laden, on the said Railway, or any Part or Parts thereof, or for the providing or maintaining of Horses, or of all or any other Matters and Things

Things connected with the said Railway, and the Conveyance of Goods and other Articles 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.

Rates may be leased.

LXVIII. And be it further enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered, at any of their General Meetings, by Writing under their Common Seal, at any Time or Times to let to farm the said Railway or any Part or Parts thereof, or the Privilege of using such Railway or any Part or Parts thereof, either exclusively or along with others, and the Rates hereby made payable upon the Whole or any Part or Parts of the said Railway, unto any Person or Persons, 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 or Lessees thereof, and also such Person or Persons as such Lessee or Lessees shall appoint to collect and receive the Rates so let, during the Continuance of every such Lease, shall be deemed Collectors of the Rates so let, but for the proper Use of such Lessee or Lessees, and shall have the same Power and Authority for collecting and receiving the same as if they had been appointed for that Purpose by the said Company of Proprietors.

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

LXIX. And be it further enacted, That if any Person or Persons (save and except the Agents and Servants employed by the said Company or others having their Authority) shall lead, ride, or drive, or cause to be ridden, led, or driven thereon, any Horse, Cow or other Neat Cattle, Sheep, Swine, or other Beast or Animal, except only in directly crossing the same at Places to be appointed for that Purpose, or for the necessary Occupation of the respective Farms through which the said Railway may be laid, he, she, or they shall forfeit and pay to the said Company any Sum not exceeding Two Pounds: Provided always, that nothing herein contained shall extend or be construed to extend to subject any Person or Persons having any Goods or Merchandize carried along the said Railway to any Penalty for passing along the same, or riding along the same on Horseback, for the *bonâ fide* Purpose of superintending the Carriage and Delivery of such Goods.

Penalty for damaging the Works.

LXX. And be it further enacted, That if any Person shall carelessly, wilfully, or maliciously break, throw down, derange, or destroy any Part of the said Railway or other Works to be erected and made by virtue of this Act, every Person so offending, and being thereof lawfully convicted, shall forfeit and pay for every such Offence any Sum not exceeding Ten Pounds Sterling, nor less than Two Pounds, over and above the full Amount of Damages thereby done to the said Railway and other Works.

Gates, Bridges, &c. to be placed.

LXXI. And be it further enacted, That the said Company shall, at their own proper Costs and Charges, after any Part of the said Railway shall be laid out and formed, make, erect, and set up, and from Time to Time maintain, such and so many convenient Gates in and upon the said Railway, and also all Bridges, Arches, Culverts, Ditches, Drains, and Passages over and by the Side of the said Railway, of such Dimensions and in such Manner

Manner as the said Company shall at their Meetings from Time to Time judge necessary and appoint, for the Use of the Owners and Occupiers of the Lands and Grounds through which such Railway shall be made, or for protecting the said Lands and Grounds from Trespass, and the Cattle and other Property of the Owner or Occupiers thereof from straying or escaping thereout by reason of such Railway, or any other Matter or Thing to be done in pursuance of this Act; and all such Gates, Bridges, Arches, Ditches, Drains, and Passages so to be made as aforesaid shall from Time to Time and at all Times thereafter be supported, maintained, and kept in sufficient Repair and Condition by the said Company; and in case the said Company shall refuse or neglect to make, erect, and set up such Gates, Bridges, Arches, Ditches, Drains, and Passages as herein-before directed, or to maintain and support the same or any of them, when erected, set up, and made in manner as aforesaid, for the Space of Thirty Days next after being thereto required by the Owners and Occupiers of the contiguous Lands and Grounds, then and in every such Case it shall be lawful for every or any of the Owners or Occupiers of the said Lands and Heritages, who shall find himself, herself, or themselves aggrieved by such Neglect or Refusal, to make, erect, and set up all such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages, and to maintain, repair, and support the same from Time to Time as Occasion shall require, so that in making and maintaining such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid the said Railway and other Things hereby authorized to be made or erected by the said Company shall not be obstructed or injured for any longer Space of Time or in any other Manner than shall be necessary for the doing thereof; and all the reasonable Costs and Charges thereof shall be repaid to the respective Owners or Occupiers of said Lands or Heritages, who shall have so erected and made, repaired or maintained, such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid, by the said Company, within the Space of Ten Days next after the same shall have been so completed or repaired, and an Account and Demand in Writing shall have been made and delivered thereof; and in Default of Payment of the said Costs and Charges within the Time aforesaid, the Sheriff Depute for the County of *Forfar*, or his Substitute, shall be and he is hereby required, upon the Application of such Owners or Occupiers, by Warrant under his Hand, to levy the said Costs and Charges by Poinding and Sale of the Goods and Effects of the said Company, for the Use of such Person or Persons who shall have so incurred such Costs and Charges, rendering to the said Company the Overplus (if any) after deducting the reasonable Charges of making such Poinding 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 against them or any of them, for the Recovery thereof, by Action at Law, to be commenced and prosecuted in such Manner as in other Cases is by this Act directed.

Gates, &c. may be maintained by Owners of Land.

LXXII. Provided always, and be it further 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 or Times here-

after apprehend that any of the Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages 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 for the Time being, or in case of the Neglect or Refusal for the Space of Twenty Days next after such Request made, then to make, fix, and erect, at their own Costs and Charges, any such other Gates, Bridges, Arches, Culverts, Ditches, Drains, or Passages, in, upon, or near to the said 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 through or along the said Railway be not prevented or obstructed thereby for any longer Space of Time or in other Manner than the same would have necessarily been if such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages had been made or erected by the said Company.

Company to erect Fences.

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

The Fences to be made on the Owners Lands.

LXXIV. Provided also, and be it enacted, That where Fences shall be made by the said Company, the same shall be made on the Lands of the adjacent Owners of Lands, and not upon the Space allowed for the Breadth of the said Railway and other Works, unless the said Company shall prefer it.

Company to pay Owners for fencing their Lands.

LXXV. And be it further enacted, That if the Owners of inclosed Lands or Grounds taken for the Use of the said Railway shall so require

require it, the said Company are hereby required, over and above the Value of the Land so occupied by the said Railway, to pay to the respective Owners of such inclosed Lands as aforesaid such Sums of Money as the said Company shall judge reasonable, for the Purpose of making and erecting proper and sufficient Fences, and keeping the same in repair, on the Side of the said Railway, for the whole Length of the inclosed Lands or Grounds of such Owners over and along which the said Railway shall be made; and if the Sum offered by the said Company shall not be deemed sufficient, or be refused to be accepted of by such Owner or Owners of inclosed Lands or Grounds, then and in that Case the Amount of the Sum or Sums to be paid to such Owner or Owners shall be ascertained by a Jury, in the same Manner and with the like Effect as herein-before directed in case of the Disagreement of the said Company and the Owners of Lands taken for the Purposes of this Act, touching the Value or Price of such Land: Provided also, that in case of the Money being so paid for erecting Fences to such Owners of inclosed Lands or Grounds, such Owners shall and they are hereby required to make and erect such Fences in a good and sufficient Manner within Twelve Months after such Money shall have been paid to them by the said Company, and thereafter to keep and maintain the same in proper and sufficient Repair; and if such Fences shall not be so made within such Time, or if the same be hereafter allowed to fall into Disrepair, it shall and may be lawful for the said Company to make and erect and repair such Fences, at the Expences of such Owner or Owners to whom such Money shall have been so paid, to be levied and recovered from such Owner or Owners and their Successors in the said Lands in the same Manner as is herein-after directed with regard to the Recovery of Penalties or Forfeitures.

Gates to be shut.

LXXVI. And be it further enacted, That every Person opening any Gate set up across the said Railway shall and he and she is hereby directed and required to shut and fasten the same so soon as he or she, and the Waggon or other Carriage, Waggons or Carriages, 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.

Owners of Land may make Railways to cross the Railway.

LXXVII. And be it further enacted, That nothing herein contained shall be construed to prevent any Owner or Occupier of any Ground through which the said Railway may pass from carrying, at his or their own Expence, any Railway or other Road, or any Cut or Canal, which such Owner or Occupier is entitled to make in his or her Lands or Grounds, across the said main Railway, within the respective Lands or Grounds of such Owner or Occupier: Provided always, that no Injury or Obstruction shall be thereby done or caused to the said main Railway; and that in case any Cut or Canal shall be made across the said Railway, the Owner or Occupier making the same shall erect and provide, at his or her Expence, such sufficient and commodious Bridge or Bridges as may be necessary for the said Railway; and, before commencing any Operations affecting

affecting such Railway, shall give at least Ten Days previous Notice in Writing to the said Company or their Clerk, and shall also, at his or her Expence, provide such Works and Conveniences as will enable the said Company to continue to use the said Railway without Interruption, while the permanent Bridge or Bridges are in course of being erected, so that no Interruption may at any Time take place.

Penalty on Officers showing Partiality.

LXXVIII. And be it further enacted, That if any Wharfinger or other Servant belonging to the said Company shall give any Preference or show any Partiality to any Person or Persons in loading or unloading any Goods or Commodities at any of the Wharfs, Warehouses, Weigh Beams, 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.

Company not to use private Wharfs.

LXXIX. And be it further enacted, That nothing herein contained shall authorize and empower the said Company or any other Person or Persons, to make use of any Wharfs, Cranes, Weigh Beams, or Warehouses, which shall be set out, erected, or made by the Owner or Owners of any Lands or Grounds adjoining or near to the said Railway, for his, her, or their own private Use only, or to set up, erect, or use any Cranes or Weighing Machines in or upon any such Wharfs, without the Consent of such Owner or Owners, unless such private Wharfs shall be by the said Company deemed necessary for the Purposes of the said Undertaking, in which Case the same shall or may be used in the same Manner as if the same had been set out, erected, or made in pursuance and for the general Purposes of this Act.

Rates of Wharfage.

LXXX. And be it further enacted, That no more than the Sum of One Halfpenny *per* Ton shall be demanded or taken by any such Land Owner or Owners, who shall make, erect, or build any such Wharf or Depôts in pursuance of the Notice to be given by or on behalf of the said Company to such Owner or Owners for that Purpose as aforesaid or by the said Company, under the Power herein-before for that Purpose contained (as the Case may be), for the Wharfage of any Coals, Culm, Lime, Limestone, Clay, Ironstone, Stone, Bricks, Gravel, Hay, Straw, Corn in the Straw, or Manure, nor more than One Halfpenny *per* Ton for the Wharfage of any Iron, Lead Ore or other Ore, Tin, Timber, Tiles and Slates, nor more than Two-pence *per* Ton for the Wharfage of any other Goods, Wares, Merchandize, or Things whatsoever, where the same shall be respectively placed and remain upon any such Wharf or Depôt, and shall not continue thereupon for a longer Space of Time than Six Months: Provided nevertheless, that in case any of the said Articles shall be left and remain in and upon any such Wharf for the Space of Six Days over and above the said Six Months, then the Owner or Owners of such Articles shall pay the Proprietors of such Wharfs the following Rates of Wharfage *per* Month, and so in proportion for more or less than a Month, for the Time which the same shall remain on the Wharf after the Expiration of the said Six Months; (*viz.*) For any Coals, Culm, Lime, Limestone, Clay, Ironstone, Stone, Bricks, Gravel, Hay,

Hay, Straw, Corn in the Straw, or Manure, One Farthing *per* Ton, and for Iron, Lead Ore or any other Ore, Tin, Timber, Tiles, and Slates, One Halfpenny *per* Ton; and for any other Goods, Wares, Merchandize, or Things, One Penny *per* Ton: Provided always, that it shall be lawful for the said Company to erect, repair, and use any Cranes or Weighing Machines upon any such Wharfs last mentioned, for the more convenient loading and unloading and weighing of any such Minerals or other Goods, Wares, Merchandize, or Commodities, in case the Proprietors of such Wharfs shall neglect or refuse to make and erect the same for the Space of Six Calendar Months, after they shall have received Notice in Writing for that Purpose from the said Company, or when so erected shall neglect or refuse to keep the same in repair; any thing in this Act contained to the contrary thereof notwithstanding.

How Damages not provided for to be recovered.

LXXXI. And be it further enacted, That if at any Time or Times hereafter any Person shall sustain any Damage in his, her, or their Lands, Tenements, Heritages, or Property, by reason of the Execution of any of the Powers hereby given, and for which no Remedy is herein-before provided, then and in every such Case the Recompence 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.

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

Costs may be recovered from Treasurer.

LXXXIII. And be it further enacted, That when and as often as any Sum or Sums of Money shall be directed or ordered to be paid in pursuance of the Directions of this Act, as or by way of Compensation or Satisfaction for any Lands, Houses, Materials, or Costs, or for any Damage, Spoil, or Injury of any Nature or Kind whatsoever done or committed by the said Company, or any Person or Persons acting by or under their Authority, and such Sum or Sums of Money shall not be paid by the said Company to the Party or Parties entitled to receive the same within Ten Days after Demand, in Writing, shall have been made from the Clerk of the said Company or their Treasurer, in which Demand the Order of the Sheriff or Justice 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 their Treasurer for the Time being, under a Warrant to be issued for that Purpose by any such Sheriff or Justice, under his Hand and Seal or their Hands and Seals, on Application made to him or them for that

Purpose by the Party or Parties entitled to receive the same Sums of Money as or by way of Compensation or Satisfaction for any such Lands, Houses, Materials, Costs, Damages, Spoil, or Injury as aforesaid; and in case any Overplus shall remain after Payment of such Sum or Sums of Money, and the Costs and Expences of hearing and determining the Matter in dispute, and also the Costs and Expences of such Distress and Sale, then and in such Case such Overplus shall be returned on Demand to the said Company, or to their Treasurer for the Time being, as the Case may be: Provided always, that it shall and may be lawful for such Treasurer to retain, out of the Monies which he shall have received or shall receive in pursuance of this Act, all such Damages, Costs, Charges, and Expences as he shall have sustained or be put unto by virtue of any such Warrant as aforesaid.

Penalties how to be recovered.

LXXXIV. And be it further enacted, That all Penalties or Forfeitures for Offences against this Act, or any Rule, Bye Law, or Order to be made by the Company of Proprietors or their Committee as aforesaid, shall upon Proof of the Offences respectively before the Sheriff Depute or Sheriff Substitute for the County where the Matter of Complaint may arise, either by the Confession of the Party or Parties, or by the Oath of any credible Witness, be levied and recovered by Poinding and Sale of the Goods and Effects of the Party or Parties offending, by Warrant under the Hand of such Sheriff, which Warrant such Sheriff is hereby empowered and required to grant, and the Overplus, after such Penalties or Forfeitures and the Charges of such Poinding and Sale are recovered and deducted, shall be returned upon Demand to the Owner or Owners of such Goods and Effects; and in case such Penalties and Forfeitures and Charges shall not be forthwith paid upon Conviction, and if by the Confession of the Offender or the Report of a Sheriff's Officer or Constable it shall appear that no sufficient Goods and Effects can be found in any Place within the said County known to such Officer or Constable, then it shall be lawful for such Sheriff, by a Warrant under his Hand to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction for the said County where the Matter of Complaint may arise, or for the nearest Burgh in such County, there to remain without Bail for such Time as such Sheriff shall direct, not exceeding Two Calendar Months, unless such Penalties or Forfeitures, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied; and such Penalties and Forfeitures, the Application whereof is not hereinbefore particularly directed, shall go and belong to the said Company, and be applied for the Purposes of this Act.

Poinding not to be deemed unlawful for Want of Form.

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

LXXXVI. And

Proceedings not to be quashed for Want of Form.

LXXXVI. And be it farther 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.

Form of Conviction.

LXXXVII. And for the more easy and speedy Conviction of Offenders against this Act, be it farther enacted, That all and every Sheriff or Sheriffs before whom any Person or Persons shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up in the following Form of Words, or in any other Form to the same Effect; *videlicet*,

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

Appeal.

LXXXVIII. And be it further enacted, That any Person or Persons thinking himself, herself, or themselves aggrieved by any Order or Judgment made or given in pursuance of any Rule, Bye Law, or Order by the said Company, or by the Order or Determination of any Sheriff Substitute, may, within Two Calendar Months after such Order or Determination shall have been made or given, appeal to the Sheriff Depute of the County, first giving Fourteen Days Notice at the least, in Writing, of such Intention to appeal, to the Parties interested in such Complaint, and the said Sheriff Depute 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 such Rule, Bye Law, Order, or Determination; 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 aggressing as such Sheriff, in his Judgment, shall think just and reasonable.

Limitation of Actions.

LXXXIX. And be it further enacted, That no Action, Suit, or Complaint shall be brought, commenced, or prosecuted against any Person or Persons for any thing done or to be done in pursuance of this Act, or in execution of any of the Powers or Authorities or any of the Orders made, given, or directed in, by, or under this Act, unless One Month's previous Notice in Writing shall be given by the Person or Persons intending to commence and prosecute such Action, Suit, or Complaint, to the said Company, or to their Clerk for the Time being; or unless such Action, Suit, or Complaint shall be brought and commenced within Three Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damage, then within Three Calendar Months next after the doing or committing such Damage shall cease, and not afterwards; and the Defender or Defenders in such Action, Suit, or Complaint,

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 or Defenders; 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 or Pursuers, the Defender or Defenders shall have Double 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.

Act to be null as to any Part of the Works not executed within Seven Years.

XC. And whereas the whole of the said Railway may be completed, if not prevented by inevitable Accident, within the Space of Three Years from the Commencement thereof, according to an Estimate of the probable Time within which the same may be completed; be it therefore enacted, That if the said Railway shall not have been completed so as to answer the Objects of this Act within the Space of Seven 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 as shall have been completed within the said Space of Seven Years.

Subscriptions to be paid up.

XCI. And be it further enacted, That all and every Person or Persons who have or hath already subscribed or who shall hereafter subscribe any Money for and towards the making and maintaining the said Railway, and the other Works hereby authorized to be made as aforesaid, shall and they are hereby required to pay the Sum or Sums of Money by him, her, or them respectively subscribed or to be subscribed, or such Part or Parts thereof as shall from Time to Time be called for by the Committee of the said Company, by virtue of the Powers and pursuant to the Directions of this Act, at such Time and Times and Place and Places as shall be appointed for that Purpose by the said Committee; and in case any Person or Persons shall neglect or refuse to pay the Sum or Sums so to be called for from him, her, or them, at the Time or Times, Place or Places, and in the Manner to be appointed for that Purpose, it shall be lawful for the said Company to sue for and recover the same in any Court of Law or Equity.

Proprietors not to be liable beyond their Subscriptions.

XCII. Provided always, and be it enacted, That, notwithstanding of any thing herein contained, no Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who is, are, or shall be Proprietor or Proprietors of the Stock of the said Company, or Contributor or Contributors thereto, nor his, her, or their Real or Personal Estate, shall be chargeable with or made liable for any Debt or Demand whatsoever due or to become due from the said Company beyond the Extent of his, her, or their Capital Stock or Share or Shares in the Stock of the said Company, any Law, Custom, or Usage to the contrary notwithstanding.

Public Act.

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

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