VICTORIA R.

CHAPTER 48.

An Act for restitution of the ancient dignity and title of Earl of Mar. [6th August 1885.]

WHEREAS Isabella Countess of Mar in the peerage of Scotland, being by lawful descent from her ancestors entitled to the ancient territorial earldom of Mar, did, on the ninth day of December one thousand four hundred and four, intermarry with Alexander Stewart, and by a Charter of the same date (which was afterwards confirmed by a Charter of Robert the Third, King of the Scots), granted to the said Alexander Stewart the earldom of Mar and the lands therein mentioned, to hold to him and the heirs between him and herself begotten, whom failing, to her lawful heirs on either side:

And whereas the said Isabella Countess of Mar died in or soon after the year one thousand four hundred and seven without having had any issue; and during the interval between her death and the year one thousand five hundred and sixty-five the succession and inheritance to the said earldom which she had so inherited as aforesaid was treated by successive Kings of the Scots as if the same had been lawfully surrendered or merged in the Crown:

And whereas in the year one thousand five hundred and sixty-five, John, then Lord Erskine, was the lawful heir general of the said Countess Isabella who, if the said ancient territorial earldom of Mar, and the dignity of Earl of Mar in the peerage of Scotland, had not been by any lawful means extinguished, was then entitled thereto:

And whereas by a Charter bearing date the twenty-third day of June one thousand five hundred and sixty-five, after reciting that Isabella Countess of Mar was the hereditary proprietor of the earldom of Mar and of the lordship and regality of Garioch, and that the said John Lord Erskine had then the undoubted hereditary right of the said earldom, lordship, and regality, notwithstanding that his predecessors were kept out of the same partly by reason of the quarrels occurring at the time, and partly by the unjust refutations and hindrances made by obstinate and partial rulers and officers, refusing the reasonable prayers and petitions made by the predecessors of the said John Lord Erskine often and earnestly praying and soliciting their entry to the hereditary possession of the same, Mary, Queen of the Scots, did, for those and other considerations therein mentioned, and also as being moved by conscience to restore the lawful heirs to their just inheritances, give and grant to the said John Lord Erskine, his heirs and assigns hereditarily, all and whole the said earldom of Mar containing the lands therein mentioned, and all and singular the lands of the said lordship and regality of Garioch:

And whereas on and after the first day of August one thousand five hundred and sixty-five the said John Lord Erskine sat as Earl of Mar in the Privy Council of Scotland, and between that date and the time of the union between the Crowns of England and Scotland

he and his successors in the direct male line sat as Earls of Mar in the Parliament of Scotland:

And whereas from the time of the said union till the nineteenth day of January one thousand seven hundred and fifteen the descendants of the said John Lord Erskine in the direct male line continued to hold and to enjoy the title and dignity of Earls of Mar in the peerage of Scotland:

And whereas by an Act passed in the first year of King George the First, John, then Earl of Mar, was, as from the nineteenth day of January one thousand seven hundred and fifteen, attainted of high treason:

And whereas by another Act passed in the fifth year of King George the Fourth, after reciting that John Francis Erskine, Esquire, of Mar, was the grandson and lineal representative of the said John Earl of Mar, it was enacted that the said John Francis Erskine, and all other persons who would be entitled after him to succeed to the honours, dignities, and titles of Earl of Mar, in case the said Act of the first year of King George the First had not been made, should be and they were thereby restored to the honours, dignities, and titles of Earl of Mar, with all rights, privileges, and pre-eminences thereunto belonging, as fully, amply, and honourably as if the said Act had never been made, notwithstanding the said Act, or corruption of blood thereupon ensuing:

And whereas after the passing of the said last-mentioned Act the earldom of Mar thereby restored, descended successively to the son and grandson of the said John Francis Erskine; and, upon the death of his grandson John Francis Miller, Earl of Mar, without issue in the year one thousand eight hundred and sixty-six, the right of succession to the ancient honour and dignity of Earl of Mar was claimed by his nephew and heir general, John Francis Erskine Goodeve Erskine (who is now the lawful heir general of the said Isabella Countess of Mar and of the said John Lord Erskine respectively):

And whereas in the year one thousand eight hundred and sixty-seven Walter Coningsby Earl of Kellie, a grandson and then heir of the aforesaid John Francis Earl of Mar, the grandfather of the said John Francis Miller Earl of Mar (who was himself heir in the direct male line of the said John Lord Erskine), presented his petition to Her Majesty, claiming to be entitled to the honour and dignity of Earl of Mar, which petition was in the usual manner referred to the House of Lords, and was considered and heard by the Committee of Privileges of the House of Lords:

And whereas on such hearing and consideration the said Committee of Privileges was of opinion that the said Charter of restitution of Mary Queen of the Scots did not operate or extend to restore to John, then Lord Erskine, the ancient honour, dignity, and title of peerage of Earl of Mar, but only to restore to and re-vest in him the lands belonging to the said ancient territorial earldom; and that in the year one thousand five hundred and sixty-five a new honour, dignity, and title of peerage as Earl of Mar, descendible to the heirs male of his body, was created by Mary Queen of the Scots in favour of the said John Lord Erskine:

And whereas upon the twenty-sixth day of February one thousand eight hundred and seventy-five the House of Lords, upon the report of the said Committee of Privileges, resolved that Walter Henry Earl of Kellie (to whom, by the death of his father the said Walter Coningsby Earl of Kellie, the right and title of his said father had then descended) had made out his claim to the honour and dignity of Earl of Mar in the peerage of Scotland created in one thousand five hundred and sixty-five, and the right of the said Walter Henry Earl of Kellie to such last-mentioned honour and dignity was thereby established:

And whereas doubts may exist whether the said ancient honour, dignity, and title of peerage of Earl of Mar, which so descended to the said Isabella Countess of Mar as aforesaid, was or was not, previously to the said year one thousand five hundred and sixty-five, by any lawful means surrendered or merged in the Crown:

And whereas until the decision of the House of Lords upon the claim of the said Earl of Kellie the said ancient honour, dignity, and title of peerage of Earl of Mar was commonly reputed to be still subsisting, and to have been enjoyed and possessed by the said John Lord Erskine, his heirs and successors:

And whereas the said John Francis Erskine Goodeve Erskine hath upon all occasions conducted himself loyally and dutifully towards Your Majesty, and it is expedient that he should be placed by the authority of Parliament in the same position as if the honours, dignities, and titles of peerage which anciently belonged to the said territorial earldom of Mar had not been treated as if they had been surrendered or merged in the Crown, or had been by the said Charter of restitution of Mary Queen of the Scots expressly and effectually restored to the said John Lord Erskine:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Restitution of ancient honours, dignities, and titles of Mar.

1. The said John Francis Erskine Goodeve Erskine, and all other persons who would be entitled after him to succeed to the honours, dignities, and titles of peerage anciently belonging to or enjoyed and held with the territorial earldom of Mar, which so descended to Isabella Countess of Mar as aforesaid, in case the said honours, dignities, and titles had never been by any lawful means forfeited or surrendered, or in case (being so forfeited or surrendered) they had been expressly and effectually restored to the said John Lord Erskine and his lawful heirs general by the herein-before recited Charter of Mary Queen of the Scots, shall be, and they are hereby restored to the said ancient honours, dignities, and titles of peerage, as fully and effectually to all intents and purposes as if the same had, without any impediment, descended to the said John Lord Erskine, or had been duly expressly and effectually restored to the said John Lord Erskine and his lawful heirs general by the said Charter of Mary Queen of the Scots, or by other means effectual in law.

Saving rights of Walter Henry Earl of Mar and Kellie.

2. Nothing herein contained shall affect or in any manner prejudice the right or title of Walter Henry now Earl of Mar and Kellie, his heirs and successors, or other the heirs for the time being in the

direct male line of the said John Lord Erskine, to the honour and dignity of Earl of Mar in the peerage of Scotland, created in one thousand five hundred and sixty-five, or the right or title of the said Walter Henry Earl of Mar and Kellie or any other person to any lands or heritage in Scotland or elsewhere.

Order and precedence.

3. From and after the passing of this Act the earldom of Mar hereby restored shall be called at all elections of representative Peers for Scotland next after the Earldom of Sutherland; and the earldom of Mar now vested in the said Walter Henry Earl of Mar and Kellie shall be called at all such elections in the place and order properly belonging to an earldom created in the year one thousand five hundred and sixty-five; anything in the Decreet of Ranking made on the fifth day of March one thousand six hundred and six, under the Commission issued by James the Sixth, then King of the Scots, to the contrary thereof notwithstanding.

CHAPTER 49.

An Act to carry into effect an International Convention for the Protection of Submarine Telegraph Cables.

[6th August 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Submarine Telegraph Act, 1885.

Confirmation of Convention.

2. The Convention of the fourteenth of March one thousand eight hundred and eighty-four mentioned in the schedule to this Act as set forth in that schedule is hereby confirmed, and subject to the provisions of this Act the articles of such Convention (referred to in this Act as the Convention) shall be of the same force as if they were enacted in the body of this Act.

Punishment for violation of Article 2 of Convention.

3. (1.) A person shall not unlawfully and wilfully, or by culpable negligence, break or injure any submarine cable to which the Convention for the time being applies, in such manner as might interrupt or obstruct in whole or in part telegraphic communication.

(2.) Any person who acts or attempts to act in contravention of this section shall be guilty of a misdemeanour, and on conviction—

(*a.*) if he acted wilfully, shall be liable to penal servitude for a term not exceeding five years, or to imprisonment, with or without hard labour, for a term not exceeding two years and to a fine either in lieu of or in addition to such penal servitude or imprisonment; and

(*b.*) if he acted by culpable negligence, shall be liable to imprisonment for a term not exceeding three months, without hard labour, and to a fine not exceeding one hundred pounds either in lieu of or in addition to such imprisonment.

(3.) Where a person does any act with the object of preserving the life or limb of himself or of any other person, or of preserving the vessel to which he belongs or any other vessel, and takes all