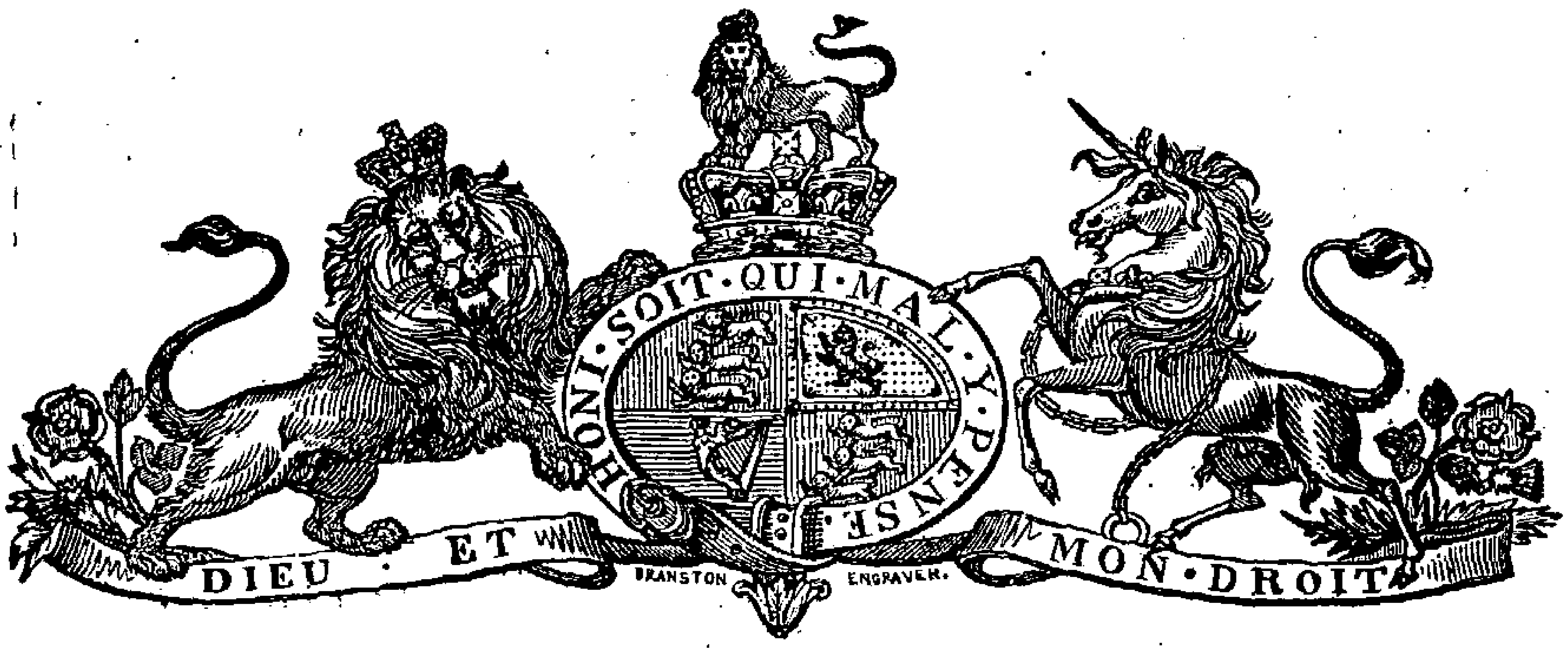


ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

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Cap. cvi.

An Act for making and maintaining a Reservoir at *Deerhope* or *Fairliehope* on the River *North Esk* in the Counties of *Edinburgh* and *Peebles;* and for other Purposes relating thereto.

[22d *August* 1843.]

WHEREAS the Supply of Water in the River or Stream called the *North Esk* is frequently very deficient and irregular, particularly during the Summer Months, when the same becomes stagnant and impure, and injurious to Health: And whereas it would be of great Advantage to the Public, and to the Owners and Occupiers of Mills, Factories, and other Works on the said Stream called the *North Esk*, and on the River *Esk*, into which the said Stream called the *North Esk* flows, as well as to the Proprietors along the Banks of the said Streams or Rivers, and to the numerous Population in the Neighbourhood, if a better and more regular Supply of Water were provided in the said Streams or Rivers for the Purpose of cleansing the said River *North Esk* when stagnant as aforesaid, as well as the said River *Esk*, and for the Use of the Mills, Factories, and other Works upon the said Streams: And whereas the same may be provided by storing the surplus or flood Waters of the said Stream called the *North Esk*, and other Streams flowing thereto, in a Reservoir, to be formed near the Sources

thereof, and letting out from the same the Water stored therein when the ordinary Discharge of the said Stream shall be deficient: And whereas the Persons herein-after named are willing, at their own Expence, to carry such Undertaking into execution; but as the same cannot be accomplished without the Aid and Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That Sir *Francis Walker Drummond* Baronet, *Charles Cowan* on behalf of *Alexander Cowan* and Sons, *John Cameron* on behalf of *Cameron* and Company, *Alexander Annandale* on behalf of *Alexander Annandale* and Son, *William Sommerville* junior on behalf of *William Sommerville* and Son, and *James Brown*, and all other Parties who have already subscribed or shall hereafter subscribe to the said Undertaking, and their Executors, Administrators, Successors, and Assigns respectively, shall be united into a Company for the Purposes herein-after mentioned, and for such Purposes shall be incorporated by the Name of "The *North Esk* Reservoir Company," and by that Name shall be a Body Corporate, with perpetual Succession and a Common Seal, and shall have Power to purchase and hold Lands within the Restrictions herein-after contained.

Incorporation of Company.

Purposes of the Company.

II. And be it enacted, That the Company shall be established for the Purpose of making a Reservoir on the River or Stream called the *North Esk* at or near a Place called *Deerhope* or *Fairliehope* in the Parish of *Penicuik* and County of *Edinburgh*, and in the Parish of *Linton* and County of *Peebles*, with all other Works necessary for collecting and storing the Water of the said River and other Streams flowing thereto, and for regulating the Discharge thereof from the said Reservoir into the said River *North Esk*, for the Purpose of cleansing the said Rivers *North Esk* and *Esk*, and for supplying the Mills, Factories, and other Works erected or to be erected on the said Rivers, in manner herein-after provided.

Capital.

III. And whereas the estimated Expence of making the said Reservoir and Works is Eight thousand eight hundred and thirty-five Pounds Six Shillings and Eight-pence; be it enacted, That Ten thousand Pounds shall be the Capital of the Company.

Shares.

IV. And be it enacted, That the said Capital shall be divided into Two hundred Shares, each of the Amount of Fifty Pounds Sterling; and such Shares shall be numbered in arithmetical Progression, beginning with Number One, and every such Share shall be distinguished by its appropriate Number.

Shares to be Personal Estate.

V. And be it enacted, That all Shares in the Undertaking shall be Personal Estate, and transmissible as such, and shall not be of the Nature of Real Estate.

Shareholders.

VI. And be it enacted, That every Person who shall have subscribed or shall subscribe the Sum of Fifty Pounds or upwards to the Capital of the Company shall be deemed a Shareholder of

the Company, and shall be entitled to have One Share therein allotted to him in respect of every Sum of Fifty Pounds so subscribed by him.

Registry of Shareholders.

VII. And be it enacted, That the Company shall keep a Book, to be called the "Register Book of Shareholders;" and in such Book shall be fairly and distinctly entered from Time to Time the Names of the several Corporations, and the Names and Additions of the several Persons being Shareholders of the Company, with their several Places of Abode, the Number of Shares to which each Shareholder shall be respectively entitled, distinguishing each Share by its Number, and the Amount of the Subscriptions paid on such Shares; and such Book shall be authenticated by the Common Seal of the Company being affixed thereto, and such Authentication shall take place at the First Ordinary Meeting or at some subsequent Meeting of the Company.

Certificates of Shares.

VIII. And be it enacted, That on Demand of the Holder of any Share the Company shall cause a Certificate of the Proprietorship of such Share to be delivered to such Shareholder, and such Certificate shall have the Common Seal of the Company affixed thereto, and such Certificate shall specify the Share in the Undertaking to which such Shareholder is entitled, and the same may be according to the Form in the Schedule (A.) to this Act annexed, or to the like Effect; and for such Certificate the Company may demand any Sum not exceeding Two Shillings and Sixpence.

Certificate to be Evidence.

IX. And be it enacted, That such Certificate shall be admitted in all Courts as *primâ facie* Evidence of the Title of such Shareholder, his Executors, Administrators, Successors, or Assigns, to the Share therein specified; nevertheless, the Want of such Certificate shall not prevent the Holder of any Share from disposing thereof.

Certificate to be renewed if worn out or lost.

X. And be it enacted, That if any such Certificate be worn out or damaged, then, upon the same being produced at some Meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar Certificate shall be given to the Party in whom the Property of such Certificate and of the Share therein mentioned shall be at the Time vested; or if such Certificate be lost or destroyed, then, upon Proof thereof, a similar Certificate shall be given to the Party entitled to the Certificate so lost or destroyed; and in either Case a due Entry of the substituted Certificate shall be made by the Clerk in the Register of Shareholders; and for every such Certificate so given or exchanged the Company may demand any Sum not exceeding Two Shillings and Sixpence.

Transfers of Shares to be registered, &c.

XI. And with respect to the Transfer of Shares, be it enacted, That, subject to the Regulations herein contained, every Shareholder may sell and transfer his Shares in the Company, and the Instrument of Transfer may be according to the Form in the Schedule (B.) to this Act annexed, or to the like Effect; and such Instrument (when duly executed) shall be delivered to the Clerk of the Company, and be kept by him, and he shall enter a Memorial thereof in a Book to be

be called the "Register of Transfers," and shall endorse such Entry on the Instrument of Transfer, and for every such Entry and Endorsement the Company may demand any Sum not exceeding Two Shillings and Sixpence; and on the Request of the Purchaser of any Share an Endorsement of such Transfer shall be made on the Certificate of such Share, instead of a new Certificate being granted, and for such Endorsement the Company may demand any Sum not exceeding Two Shillings and Sixpence; and such Endorsement, being signed by the Clerk, shall be considered in every respect the same as a new Certificate; and until such Transfer have been so delivered to the Clerk as aforesaid the Purchaser of the Share shall not be entitled to receive any Share of the Profits of the said Undertaking, or to vote in respect of such Share.

Shares to be sold shall first be offered to the Company.

XII. Provided always, and be it enacted, That, previous to the Sale or Transfer of any Share of the Capital Stock of the Company, the Shareholder desirous of selling or transferring shall first make offer of the Share or Shares so to be sold or transferred in Writing to the Company, at a certain Price to be stated in such Offer, and which Offer the Directors shall have Power to accept or reject; and if such Offer shall be declined or not accepted by the Company within the Period of Fourteen Days after such Offer shall have been made, then the Shareholder making the Offer shall be entitled to sell or transfer such Share or Shares at or above the Price demanded for the same from the Company, but the Shareholder shall not be entitled to make such Sale or Transfer at a lower Price than that demanded from the Company until a new written Offer at such lower Price shall have been first made to the Company and declined, or not accepted as aforesaid.

Transfer not to be made until all Calls paid.

XIII. And be it enacted, That no Shareholder shall be entitled to transfer any Share until he shall have paid all Calls for the Time being due on every Share held by him.

Transmission of Shares by other Means than Transfer to be authenticated by a Declaration.

XIV. And with respect to the Registration of Shares the Interest in which may have become transmitted in consequence of the Death or Bankruptcy or Insolvency of any Shareholder, or in consequence of the Marriage of a Female Shareholder, or by any other legal Means than by a Transfer according to the Provisions of this Act, be it enacted, That no Person claiming by virtue of any such Transmission shall be entitled to receive any Share of the Profits of the said Undertaking, nor to vote in respect of any such Share as the Holder thereof, until such Transmission have been authenticated by a Declaration in Writing, or in such other Manner as the Directors shall require; and every such Declaration shall state the Manner in which and the Party to whom such Share shall have been so transmitted, and shall be made and signed by some credible Person before some Justice of the Peace or Sheriff, or other Judge or Magistrate; and such Declaration shall be left with the Clerk, and thereupon he shall enter the Name of the Person entitled under such Transmission in the Register Book of Shareholders of the Company; and for every such Entry the Company may demand any Sum not exceeding Two Shillings and Sixpence.

XV. And

Notices to joint Proprietors of Shares.

XV. And be it enacted, That with respect to any Share to which several Persons may be jointly entitled all Notices directed to be given to the Shareholders shall be given to such of the said Persons whose Name shall stand first in the Register of Shareholders, and Notice so given shall be sufficient Notice to all the Proprietors of such Share.

Receipts for Money payable to Minors, &c.

XVI. And be it enacted, That if any Money be payable to any Shareholder, being a Minor, Idiot, or Lunatic, the Receipt of the Guardian or Curator, or other Person having the Charge of such Minor, Idiot, or Lunatic, shall be a sufficient Discharge to the Company for the same.

Power to make Calls.

XVII. And for the Purpose of enforcing Payment of the Capital subscribed by the Shareholders, be it enacted, That from Time to Time the Company may make such Calls of Money upon the respective Shareholders, in respect of the Amount of Capital respectively subscribed or owing by them, as they shall think fit, provided that Twenty Days Notice at the least be given of each Call, and that no Call exceed the Amount of Ten Pounds *per* Share, and that successive Calls be not made at less than the Interval of Three Months; and every Shareholder shall be liable to pay the Amount of the Calls so made in respect of the Shares held by him to the Persons and at the Times and Places from Time to Time appointed by the Company.

Interest on Calls unpaid.

XVIII. And be it enacted, That if before or on the Day appointed for Payment any Shareholder do not pay the Amount of any Call to which he may be liable, then such Shareholder shall be liable to pay Interest for the same at the Rate of Five *per Centum per Annum* from the Day appointed for the Payment thereof to the Time of the actual Payment.

Enforcement of Calls by Action.

XIX. And be it enacted, That if at the Time appointed by the Company for the Payment of any Call the Holder of any Share fail to pay the Amount of such Call, the Company may sue such Shareholder for the Amount thereof in any Court competent, and may recover the same, with Interest at the Rate of Five *per Centum per Annum* from the Day on which such Call may have been payable.

Allegation or Declaration in Action for Calls.

XX. And be it enacted, That in any Action to be brought by the Company against any Shareholder to recover any Money due for any Call it shall not be necessary to set forth the special Matter, but it shall be sufficient for the Company to declare or allege that the Defender is a Holder of One Share or more in the Company, (stating the Number of Shares,) and is indebted to the Company in the Sum of Money to which the Calls in arrear shall amount in respect of One Call or more upon One Share or more, (stating the Number and Amount of each of such Calls,) whereby an Action hath accrued to the Company by virtue of this Act.

Matter to be proved in Action for Calls.

XXI. And be it enacted, That in such Action it shall be sufficient to prove that the Defender at the Time of making such Call was a Holder of One Share or more in the Company, and that such Call was in fact made, and such Notice thereof given as is directed by this Act, and it shall not be necessary to prove the Appointment of the Directors who made such Call, nor any other Matter whatsoever, and thereupon the Company shall be entitled to recover what shall be due upon such Call, with Interest thereon, unless it shall appear either that any such Call exceeds the Amount of Ten Pounds *per* Share, or that due Notice of such Call was not given, or that the Interval of Three Months between Two successive Calls had not elapsed.

Proof of Proprietorship.

XXII. And be it enacted, That the Production of the Register Book of Shareholders of the Company shall be *primâ facie* Evidence of such Defender being a Shareholder, and of the Number and Amount of his Shares.

Forfeiture of Shares for Nonpayment of Calls.

XXIII. And be it enacted, That if the Holder of any Share fail to pay a Call payable by him in respect thereof, together with the Interest, if any, that shall have accrued thereon, the Directors, at any Time after the Expiration of Thirty Days from the Day appointed for Payment of such Call, may declare such Share forfeited, and that whether the Company have sued for the Amount of such Call or not.

Notice of Forfeiture to be given before Declaration thereof.

XXIV. And be it enacted, That before declaring any Share forfeited the Directors shall cause Notice of such Intention to be left at the usual or last Place of Abode of the Person appearing by the Register Book of Shareholders to be the Proprietor of such Share; and if the Holder of any such Share be abroad, or if the Interest in any such Share shall be known by the Directors to have become transmitted otherwise than by Transfer as herein-before mentioned, but a Declaration of such Transmission shall not have been registered as aforesaid, and so the Address of the Parties to whom the same may have been transmitted shall not be known to the Directors, the Directors shall give public Notice of such Intention in the *Edinburgh Gazette* and any one of the *Edinburgh* Newspapers; and such Notices shall be given Twenty-one Days at least before the Directors shall make such Declaration of Forfeiture.

Forfeiture to be confirmed by a General Meeting.

XXV. And be it enacted, That such Declaration of Forfeiture shall not take effect so as to authorize the Sale or other Disposition of any Share until the Declaration of Forfeiture has been confirmed at some General Meeting of the Company to be held after the Expiration of Twenty Days at the least from the Day on which such Notice of Intention to make such Declaration of Forfeiture shall have been given to the Party interested; and it shall be lawful for the Company to confirm such Forfeiture at any such Meeting, and, by an Order at such Meeting, or at any subsequent General Meeting, to direct the Share so forfeited to be sold or otherwise disposed of; and after such Confirmation the Directors may sell the forfeited Share, either by public Auction or private Contract, and if there

Sale of forfeited Shares.

be more than Ten such forfeited Shares, then, either separately or together, as to them shall seem fit; and any Shareholder may purchase any forfeited Share so sold.

Evidence as to Forfeiture of Shares.

XXVI. And be it enacted, That the Receipt of the Treasurer or Clerk of the Company for the Price of such Share shall constitute a good Title to such Share, and thereupon such Purchaser shall be deemed the Holder of such Share, discharged from all Calls prior to such Purchase; and a Certificate of Proprietorship shall be delivered to such Purchaser, and he shall not be bound to see to the Application of the Purchase Money, nor shall his Title to such Share be affected by any Irregularity in the Proceedings in reference to any such Sale.

No more Shares to be sold than sufficient for Payment of Calls.

XXVII. And be it enacted, That the Company shall not sell or transfer more of the Shares of any such Defaulter than will be sufficient, as nearly as can be ascertained at the Time of such Sale, to pay the Arrears then due from such Defaulter on account of any Calls, together with Interest, and the Expences attending such Sale, and Declaration of Forfeiture; and if the Money produced by the Sale of any such forfeited Share be more than sufficient to pay all Arrears of Calls, and Interest thereon, due at the Time of such Sale, and the Expences attending the Declaration of Forfeiture, and Sale thereof, the Surplus shall, on Demand, be paid to the Defaulter or his Representatives.

On Payment of Calls forfeited Shares to revert.

XXVIII. And be it enacted, That if Payment of such Arrears of Calls, and Interest and Expences, be made before any Share so forfeited and vested in the Company shall have been sold, such Share shall revert to the Party to whom the same belonged before such Forfeiture, in such Manner as if such Calls had been duly paid.

Extent of Liability of Shareholders.

XXIX. And with respect to the Liability of the Shareholders to the Engagements of the Company, be it enacted, That no Shareholder of the Company shall be liable for or charged with the Payment of any Debt or Demand due from the Company beyond the Extent of his Share in the Capital of the Company not then paid up; and upon the whole of his Capital being paid up no Shareholder or Director shall be liable for any Debt or Demand against the Company whatever.

Execution against Shareholders to the Extent of Capital not paid up.

XXX. And be it enacted, That if any legal Execution shall have been issued, taken out, or used against the Lands, Property, or Effects of the Company, and if there cannot be found sufficient whereon to levy such Execution, or to recover the Debt sued for, then Action or Execution may be issued against any of the Shareholders of the Company to the Extent of their Shares respectively in the Capital of the Company not then paid up; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person entitled to any such Execution, at all reasonable

reasonable Times, to inspect the Register Book of Shareholders without Fee.

Reimbursement.

XXXI. And be it enacted, That if by means of any such Action or Execution any Shareholder shall have paid any Sum of Money beyond the Amount then due from him in respect of Calls, he shall forthwith be reimbursed such additional Sum by the Directors out of the Funds of the Company.

Power to borrow Money.

XXXII. And be it enacted, That after One Half of the original Capital of the Company shall have been paid up it shall be lawful for the Company to borrow on Mortgage or Bond such Sums of Money as shall from Time to Time be authorized to be borrowed by an Order of a General Meeting of the Company, not exceeding in the whole the Sum of Five thousand Pounds; and for securing the Repayment of the Money so borrowed, with Interest, to mortgage or convey in security the Property and Works to be acquired and constructed under Authority of this Act, and the Rates and Assessments or other Revenues authorized to be levied by this Act, and the future Calls on the Shareholders of the Company, as to them shall seem meet and convenient, or give Bond in manner hereinafter mentioned.

Reborrowing.

XXXIII. And be it enacted, That if after having borrowed any Part of the Money so authorized to be borrowed on Mortgage or Bond, the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time; but such Power of reborrowing shall not be exercised without the Authority of a General Meeting of the Company, unless the Money be so reborrowed in order to pay off any existing Mortgage or Bond.

Evidence of Authority for borrowing.

XXXIV. And be it enacted, That the Certificate of the Sheriff of the County of *Edinburgh* that One Half of the original Capital has been paid up, together with a Copy of the Order of a General Meeting of the Company authorizing the borrowing of any Money, certified by Two of the Directors, or by the Clerk, to be a true Copy, shall be sufficient Evidence of the Fact of the Capital required to be paid up having been so paid up, and of the Order for borrowing Money having been made; and upon Production to the Sheriff of the Books of the Company, or of such other Evidence as he shall think sufficient, such Sheriff shall grant the Certificate aforesaid.

Mortgages and Bonds.

XXXV. And be it enacted, That every Mortgage and Bond for securing Money borrowed by the Company shall be by Deed, under the Hands of any Two of the Directors of the Company and the Common Seal of the Company, duly stamped, and wherein the Consideration shall be truly stated; and every such Mortgage Deed or Bond may be according to the Form in the Schedules (C.) or (D.) to this Act annexed, or to the like Effect.

XXXVI. And

Rights of Mortgagees and Bondholders.

XXXVI. And be it enacted, That the respective Mortgagees or Bondholders shall be entitled one with another to their respective Proportions of the Property, Works, Rates, and Assessments, or other Revenues comprised in such Mortgages or Bonds, and of the future Calls payable by the Shareholders of the Company, according to the respective Sums in such Mortgages or Bonds mentioned to be advanced by such Mortgagees or Bondholders respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of Priority of the Date of any such Mortgage or Bond, or of the Meeting at which the same was authorized, or on any other Account whatsoever.

Application of Calls notwithstanding Mortgage.

XXXVII. And be it enacted, That no such Mortgage or Bond (although it should comprise future Calls on the Shareholders) shall preclude the Company from receiving, and applying to the Purposes of the Company, any Calls to be made by the Company, so long as the Amount of the Calls still remaining to be made is not less than One Half of the Principal Money due on Mortgage.

Register of Mortgages and Bonds.

XXXVIII. And be it enacted, That a Register of Mortgages and Bonds shall be kept by the Clerk, and within Fourteen Days after the Date of any such Mortgage or Bond an Entry or Memorial specifying the Number and Date of such Mortgage or Bond, and the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times by any of the Shareholders, or by any Mortgagee or Bond Creditor of the Undertaking, or by any Person interested in any such Mortgage or Bond, without Fee or Reward.

Transfer of Mortgages and Bonds.

XXXIX. And be it enacted, That from Time to Time any Party entitled to any such Mortgage or Bond may transfer his Right and Interest therein to any other Person, by Deed duly stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (E.) to this Act annexed, or to the like Effect.

Entry of Transfers of Mortgages and Bonds.

XL. And be it enacted, That within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Clerk, who thereupon shall cause an Entry or Memorial thereof to be made in the same Manner as in the Case of the original Mortgage; and after such Entry every such Transfer shall entitle the Transferee, his Executors, Administrators, or Assigns, to the full Benefit of the original Mortgage or Bond in all respects; and no Party, having made such Transfer, shall have Power to make void, release, or discharge the Mortgage or Bond so transferred, or any Money thereby secured; and for such Entry the Company may demand a Sum not exceeding the Amount of Two Shillings and Sixpence.

Payment of Interest on Loans.

XLI. And be it enacted, That the Interest of the Money borrowed upon any such Mortgage or Bond shall be payable and paid half-

half-yearly to the several Parties entitled thereto, and in preference to any Dividends payable to the Shareholders of the Company.

Transfers of Interest to be stamped.

XLII. And be it enacted, That the Interest on any such Mortgage or Bond shall not be transferrable, except by an Instrument duly stamped.

Access to Account Books by Mortgagees.

XLIII. And be it enacted, That at all reasonable Times the Books of Account of the Company shall be open to the Inspection of the Mortgagees and Bond Creditors thereof, with Liberty to take Extracts therefrom, without Fee or Reward.

Application of Capital.

XLIV. And be it enacted, That all the Money raised by the Company, whether by Subscriptions of the Shareholders, or by Loan, or otherwise, shall be applied, firstly, in paying the Costs and Expences incurred in obtaining this Act, and all Expences preparatory or relating thereto; and, secondly, in carrying the Purposes of the Company into execution.

Ordinary Meetings to be held half-yearly.

XLV. And with respect to General Meetings of the Company, be it enacted, That the First General Meeting of the Shareholders of the Company shall be held in the Month of *November* One thousand eight hundred and forty-three, and the future General Meetings shall be held in the Months of *May* and *November* in each Year, and on such Day of the said Months as the Directors may appoint; and the Meetings so appointed to be held as aforesaid shall be called "Ordinary Meetings;" and all Meetings, whether ordinary or extraordinary, shall be held in the City of *Edinburgh*.

Business at Ordinary Meetings.

XLVI. And be it enacted, That no Matters, except such as are appointed by this Act to be done at an Ordinary Meeting, shall be transacted at any such Meeting, unless special Notice of such Matters have been given in the Advertisement convening such Meeting.

Extraordinary Meetings.

XLVII. And be it enacted, That every Meeting of the Shareholders, other than an Ordinary Meeting, shall be called an "Extraordinary Meeting;" and such Meetings may be convened by the Directors at such Times as they may think fit.

Business at Extraordinary Meetings.

XLVIII. And be it enacted, That no Extraordinary Meeting shall enter upon any Business not set forth in the Requisition or in the Notice upon which it shall have been convened.

Extraordinary Meetings may be required by Shareholders.

XLIX. And be it enacted, That it shall be lawful for Three or more Shareholders holding in the aggregate Twenty Shares, by Writing under their Hands, at any Time to require the Directors to call an Extraordinary Meeting of the Company; and such Requisition shall fully express the Object of the Meeting required to be called, and shall be left at the Office of the Clerk of the Company, or given to at least Three Directors, or left at their last or usual Places of Abode; and forthwith upon the Receipt of such

Requisition the Directors shall convene a Meeting of the Shareholders; and if, for One Month after such Notice, the Directors fail to call such Meeting, the said Number of Shareholders, qualified as aforesaid, may call such Meeting by giving Fourteen Days public Notice thereof.

Notice of Meetings.

L. And be it enacted, That Eight Days public Notice at the least of all Meetings, whether ordinary or extraordinary, shall be given by Advertisement, which shall specify the Place, the Day, and the Hour of meeting; and every Notice of an Extraordinary Meeting, or of an Ordinary Meeting if any other Business than the Business hereby appointed for Ordinary Meetings is to be done thereat, shall specify the Purpose for which the Meeting is called.

Quorum for a General Meeting.

LI. And be it enacted, That in order to constitute a Meeting (whether ordinary or extraordinary) Three shall be a Quorum, who shall either themselves be Shareholders or the Proxies of Shareholders, the aggregate Amount of their Shares being at least Thirty; and such Meeting shall proceed in the Execution of the Powers of the Company with respect to the Matters for which such Meeting shall have been convened, and to those only; and if within One Hour from the Time appointed for such Meeting the said Number of Shareholders or other Persons, qualified as aforesaid, be not present, no Business shall be transacted at the Meeting, but the same shall be held to be adjourned *sine Die*.

Chairman at General Meetings.

LII. And be it enacted, That at every Meeting of the Company one or other of the following Persons shall preside as Chairman; (that is to say,) the Chairman of the Directors, or in his Absence some one of the Directors of the Company to be chosen for that Purpose by the Meeting, or in the Absence of the Chairman and of all the Directors any Shareholder to be chosen for that Purpose at such Meeting.

Adjourned Meetings.

LIII. And be it enacted, That every Meeting of the Shareholders may be adjourned from Time to Time, and no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which such Adjournment took place.

Votes of Shareholders.

LIV. And be it enacted, That at all General Meetings of the Company every Shareholder shall be entitled to vote according to the Scale of voting herein-after mentioned; (that is to say,) every Shareholder possessing any Number of Shares not exceeding Five shall have One Vote in respect of each Share, and every Shareholder possessing more than Five Shares shall have One Vote for every Two Shares possessed by such Shareholder beyond such Five Shares: Provided always, that no Shareholder shall be entitled to vote at any Meeting unless he shall have paid all the Calls then payable upon the Shares held by him.

Manner of voting.

LV. And be it enacted, That such Votes may be given either personally or by Proxies, authorized by Writing according to the Form

Form in the Schedule (F.) to this Act annexed, or in a Form to the like Effect, under the Hand of the Shareholder nominating such Proxy, or if such Shareholder be a Corporation then under their Common Seal; and every Proposition at any such Meeting shall be determined by the Majority of Votes of the Parties present, including Proxies, the Chairman of the Meeting being entitled to vote, not only as a Principal or Proxy, but to have a casting Vote if there be an Equality of Votes.

Votes of joint Shareholders.

LVI. And be it enacted, That if several Persons be jointly entitled to a Share the Person whose Name stands first in the Register of Shareholders as one of the Holders of such Share shall, for the Purpose of voting at any Meeting, be deemed the sole Proprietor thereof, and on all Occasions the Vote of such first-named Shareholder, either in Person or by Proxy, shall be allowed as the Vote in respect of such Share, without Proof of the Concurrence of the other Holders thereof.

Votes of Lunatics and Minors, &c.

LVII. And be it enacted, That if any Shareholder be a Lunatic or Idiot, such Lunatic or Idiot may vote by his Curator bonis, or other Person appointed to manage his Estate, and if any Shareholder be a Minor he may vote by his Guardians, Tutors, or Curators, or any one of them, or by his Factor loco tutoris; and every such Vote may be given either in Person or by Proxy.

Chamberlain or Factor in certain Cases to be deemed a Shareholder.

LVIII. Provided always, and be it enacted, That the Chamberlain or Factor for the Time being of any Shareholder of the Company who shall be the Owner of Lands on or near to the said Rivers *North Esk* and *Esk*, the real annual Rent of which shall amount to at least One thousand Pounds, shall at all Meetings of the Company, in the Absence of such Shareholder, possess and enjoy the same Rights and Privileges as the Shareholder for whom he acts; and that such Chamberlain or Factor shall also be eligible as a Director of the Company so long as the Shareholder for whom he acts shall possess the requisite Number of Shares to qualify a Director as herein-after provided.

First Directors.

LIX. And be it enacted, That the Number of Directors shall be Seven, and that *Charles Cowan*, *James Brown*, *John Cameron*, *William Somerville* junior, *Alexander Annandale*, *Robert Scott Moncrieff*, and *John Cowan* shall be the first Directors of the Company.

Election of future Directors.

LX. And be it enacted, That the Directors appointed by this Act shall continue in Office until the Second Ordinary Meeting to be held in the Year One thousand eight hundred and forty-four; and at such Meeting the Shareholders present, personally or by Proxy, may either continue in Office the Directors appointed by this Act, or may elect a new Body of Directors, the Directors appointed by this Act being eligible as Members of such new Body; and at the Second Ordinary Meeting to be held every Year thereafter the Shareholders present, personally or by Proxy, shall elect Persons to supply the Places of the Directors then retiring from Office, agreeably to the Provisions herein-after contained; and the several Persons elected

elected at any such Meeting, being neither removed nor disqualified nor having resigned, shall continue to be Directors until others are elected in their Stead as herein-after mentioned.

Qualifications and Disqualifications of Directors.

LXI. And be it enacted, That no Person shall be capable of being a Director unless he be a Shareholder or the Partner of a Company being Shareholders, or the Chamberlain or Factor of a Shareholder being a Landowner, as herein-before provided, possessed of Three Shares; and that no Person holding an Office or Place of Trust or Profit under the Company, or interested in any Contract with the Company, shall be capable of being a Director; and that no Director shall be capable of accepting any other Office or Place of Trust or Profit under the Company, or of being interested in any Contract with the Company, during the Time he shall be a Director.

Failure of Meeting for Election of Directors.

LXII. And in order to provide for the Event of a sufficient Number of Shareholders or Proxies not being present at any Meeting at which Directors are to be elected, be it enacted, That if at any Meeting at which an Election of Directors ought to take place Three Shareholders holding in the aggregate Thirty Shares shall not be present, personally or by their several and respective Proxies, within One Hour from the Hour appointed for the Meeting, no Election of new Directors or Re-election of existing Directors shall be made, nor shall any Business be transacted, but in such Case, at the Expiration of One Week from the Day of such intended Meeting, another Meeting shall be held at the same Hour and Place; and if at such other Meeting the said Number of Shareholders, so qualified as aforesaid, be not present, personally or by Proxy, within One Hour from the Hour fixed for the Meeting, such Meeting shall stand adjourned to the following Day, at the same Hour and Place; and if at the Meeting so adjourned the said Number of Shareholders or other Persons so qualified as aforesaid be not present within One Hour from the Hour appointed for the Meeting, the existing Directors shall continue to act and retain their Powers until new Directors be appointed at the First Ordinary Meeting of the following Year.

Rotation of Directors first elected.

LXIII. And be it enacted, That the Directors appointed by this Act and continued in Office as aforesaid, or the Directors elected to supply their Places as aforesaid, shall retire from Office at the Time and in the Proportions following, the Individuals to retire being in each Instance determined by Ballot among the Directors; (that is to say,)

At the End of the first Year after the first Election of Directors one of such Directors shall go out of Office:

At the End of the second Year one of the remaining Number of such Directors shall go out of Office:

And in each Instance the Place of the retiring Director shall be supplied by a Shareholder or other Person qualified as aforesaid.

Permanent Rotation of Directors.

LXIV. And be it enacted, That at the First Ordinary Meeting in every subsequent Year one of the Directors, being he who is at the Top of the List of those longest in Office, shall go out of Office and cease to be a Director, and his Place shall be supplied in like Manner; nevertheless, every Director so retiring from Office may be re-elected

immediately or at any future Time, and after such Re-election shall, with reference to the going out by Rotation, be considered as a new Director.

Cases in which Office of Director shall become vacant.

LXV. And be it enacted, That if any of the Directors at any Time subsequently to his Election accept or continue to hold any other Office or Place of Trust or Profit under the Company, or be either directly or indirectly concerned in any Contract with the Company, or participate in any Manner in the Profits of any Work to be done for the Company, or if such Director at any Time cease to be a Holder of Three Shares in the Company, or otherwise become disqualified under the Provisions of this Act, then in any of the Cases aforesaid the Office of such Director shall become vacant, and thenceforth the Person in respect of whom the Office of Director shall so have become vacant shall cease from voting or acting as a Director.

Occasional Vacancies in Office of Director to be filled up by the other Directors.

LXVI. And be it enacted, That if any Director of the Company die or resign, or become disqualified or incompetent to act as a Director, or cease to be a Director by any other Cause than that of going out of Office by Rotation as aforesaid, the remaining Directors, if they think proper so to do, may elect in his Place some other Shareholder, duly qualified, to be a Director; and the Shareholder so elected to fill up any such Vacancy shall continue in Office as a Director so long only as the Person in whose Place he shall have been elected would have been entitled to continue if he had remained in Office.

Powers of the Company to be exercised by the Directors.

LXVII. And be it enacted, That the Directors shall have the Management and Superintendence and may lawfully exercise all the Powers of the Company, except as to such Matters as are directed by this Act to be transacted by a General Meeting of the Company; but all the Powers so to be exercised shall be exercised in accordance with and subject to the Provisions of this Act in that Behalf; and the Exercise of all such Powers shall be subject also to the Control and Regulation of any General Meeting specially convened for the Purpose, but not so as to render invalid any Act done by the Directors prior to any Resolution passed by such General Meeting.

Powers of the Company not to be exercised by the Directors.

LXVIII. And be it enacted, That the following Powers of the Company, (that is to say,) the Choice and Removal of Directors, the Determination as to the borrowing of Money on Mortgage or Bond, as to leasing the Rates or Assessments, the Declaration of Dividends, and the fixing and appropriating the Sinking Fund, shall be exercised only at a General Meeting of the Company.

Meetings of Directors.

LXIX. And be it enacted, That the Directors shall hold Meetings at such Times as they shall appoint for the Purpose, and they may meet and adjourn as they think proper from Time to Time and from Place to Place; and at any Time any Two of the Directors may require the Clerk to call a Meeting of the Directors; and in order to constitute a Meeting of Directors there shall be present at the least Three of the Directors, and all Questions, Matters, and Things considered

considered at any such Meeting shall be determined by a Majority of Votes; and no Director, except the Chairman, shall have more than One Vote at any such Meeting, and if there be an equal Division of Votes upon any Subject entertained by such Meeting the Chairman, in addition to his Vote as one of the Directors, shall have a casting Vote as Chairman.

Permanent Chairman of Directors.

LXX. And be it enacted, That at the first Meeting of the Directors held after the passing of this Act, and at the first Meeting of the Directors held after each annual Appointment of Directors, the Directors present at such Meeting shall choose one of the Directors to act as Chairman of the Directors for the Year following such Choice; and if the Chairman die or resign, or become disqualified to act, or otherwise cease to be a Director, the Directors present at the Meeting next after the Occurrence of such Vacancy shall choose some other of the Directors to fill such Vacancy; and every such Chairman so to be elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Death, Resignation, Removal, or Disqualification had not happened.

Occasional Chairman of Directors.

LXXI. And be it enacted, That if at any Meeting of the Directors the Chairman shall not be present the Directors present shall choose some one of their Number to be Chairman of such Meeting.

Proceedings to be entered in a Book, and to be open for Inspection.

LXII. And be it enacted, That the Directors shall cause Notes, Minutes, or Copies, as the Case may require, of all Appointments made or Contracts entered into by the Directors, and of the Orders and Proceedings of all Meetings, as well ordinary as extraordinary, of the Company and of the Directors, to be duly entered in Books to be from Time to Time provided for the Purpose, which shall be kept under the Superintendence of the Directors; and every such Entry shall be signed by the Chairman of the Meeting at which the Matter in respect of which such Entry is made was moved or discussed; and such Entry, so signed, shall be received as Evidence in all Courts, and before Judges, Justices, and others, without Proof of such respective Meetings having been duly convened, or of the Persons making or entering such Orders or Proceedings being Shareholders or Directors, or of the Signature of the Chairman, all of which last-mentioned Matters shall be presumed; and all such Books shall at all reasonable Times be open to the Inspection of any of the Shareholders.

Informalities in Appointment of Directors not to invalidate Proceedings.

LXXIII. And be it enacted, That all Acts done by any Meeting of the Directors, or by any Person acting as a Director, shall, notwithstanding it may be afterwards discovered that there was some Defect or Error in the Appointment of any Person attending such Meeting as a Director, or acting as aforesaid, or that such Person was disqualified, be as valid as if such Person had been duly appointed and qualified to be a Director.

Indemnity of Directors.

LXXIV. And be it enacted, That no Director, by being Party to, or making, signing, or executing, in his Capacity of Director, any Contract

Contract or other Instrument on behalf of the Company, or otherwise lawfully executing any of the Powers given to the Directors, shall be subject to be sued or prosecuted, either collectively or individually, by any Person whomsoever; and the Bodies or Goods or Lands of the Directors or any of them shall not be liable to Execution of any legal Process by reason of any Contract or other Instrument so entered into, signed, or executed by them or any of them, or by reason of any other lawful Act done by them or any of them in the Execution of any of their Powers as Directors; and the Directors, their Heirs, Executors, and Administrators, shall be indemnified out of the Capital of the Company for all Payments made or Liability incurred in respect of any Acts done by them, and for all Losses, Costs, and Damages which they may incur in the Execution of the Powers granted to them; and the Directors for the Time being of the Company shall apply the existing Funds and Capital of the Company for the Purposes of such Indemnity, and shall, if necessary for that Purpose, make Calls of the Capital remaining unpaid.

Company to appoint a Clerk and a Treasurer.

LXXV. And be it enacted, That at the First General Meeting after the passing of this Act the Company shall elect a Clerk and a Treasurer, and employ an Engineer or Engineers, Surveyor or Surveyors, or such other Officers as they shall think necessary for carrying this Act into execution, and any subsequent General Meeting may remove from Office any such Clerk or Treasurer or other Officers; and if any such Clerk or Treasurer or other Officers die or resign, or be so removed, another Clerk or Treasurer or other Officers shall be elected in his Place at a General Meeting; and from Time to Time any such Meeting may fix the Salary or other Emoluments to be allowed to such Clerk or Treasurer or other Officer respectively, as they think proper.

Suspension of Treasurer or Clerk.

LXXVI. And be it enacted, That the Directors may at any Time suspend either the Treasurer or Clerk from his Office, and may appoint some Person temporarily to fill the Office of the Treasurer or Clerk so suspended, or when vacant from any other Cause, with such Salary as they may think fit; but in any such Case they shall forthwith call an Extraordinary Meeting of the Company for the Purpose of taking into consideration the Propriety of removing from his Office any Treasurer or Clerk so suspended, or of electing a new Treasurer or Clerk, as the Case may require.

Separation of Offices of Clerk and Treasurer.

LXXVII. And be it enacted, That neither the Person who shall hold the Office of Clerk, nor the Partner of such Clerk, nor any Person in the Service or Employ of such Clerk or of his Partner, shall be eligible to be the Treasurer; and that neither the Person who shall hold the Office of Treasurer, nor the Partner of such Treasurer, nor any Person in the Service or Employ of such Treasurer or of his Partner, shall be eligible to be the Clerk; and if any Person offend in any of the following Cases he shall for every such Offence forfeit One hundred Pounds; that is to say,

Penalty.

If any Person accept both the Offices of Clerk and Treasurer:

If any Person, being the Partner of such Clerk, or in the Service

or Employ of such Clerk or of his Partner, accept the Office of Treasurer, or act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer:

If any Person, being the Partner of such Treasurer, or in the Service or Employ of such Treasurer or of his Partner, accept the Office of Clerk, or act as Deputy of the Clerk, or in any Manner officiate for the Clerk:

If any such Treasurer or Clerk hold any Place of Profit or Trust under the Company other than that of Treasurer or Clerk, as the Case may be:

And any Person may sue for such Penalties by ordinary Action, and shall, on Recovery thereof, be entitled to full Costs of Suit.

Security to be taken from certain Officers.

LXXVIII. And be it enacted, That before any Person intrusted with the Custody or Control of Monies, whether Treasurer or other Officer of the Company, shall enter upon his Office, the Directors shall take sufficient Security from him for the faithful Execution of his Office.

Officers to account on demand.

LXXIX. And be it enacted, That every Officer or Person in the Service of the Company at the Time of the passing of this Act, or who may be hereafter employed by the Company, shall from Time to Time when required by the Directors make out and deliver to them, or to any Person appointed by them for that Purpose, a true and perfect Account in Writing under his Hand of all Monies received by him on behalf of the Company; and such Account shall state how, and to whom, and for what Purpose such Monies shall have been disposed of; and, together with such Account, such Officer shall deliver the Vouchers and Receipts for such Payments; and every such Officer shall pay to the Directors, or to any Person appointed by them to receive the same, all Monies which shall appear to be owing from him upon the Balance of such Accounts.

Summary Remedy against Parties failing to account.

LXXX. And be it enacted, That if any such Officer fail to render such Account, or to produce and deliver up all the Vouchers and Receipts relating to the same, in his Possession or Power, or to pay the Balance thereof, when thereunto required, or if for Three Days after being thereunto required he fail to deliver up to the Directors, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this Act, or belonging to the Company, then, on Complaint thereof being made to the Sheriff or a Justice of the Peace, such Sheriff or Justice shall summon such Officer to appear before such Sheriff or any Two or more Justices, at a Time and Place to be set forth in such Summons, to answer to such Charge; and upon the Appearance of such Officer, or in his Absence upon Proof that such Summons was personally served upon such Officer, or left at his last known Residence or Place of Abode, such Sheriff or Justices may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, either upon Confession of such Officer, or upon Evidence, or upon Inspection of the Account, that any Monies of the Company are in the Hands of such Officer, or owing

by him to the Company, such Sheriff or Justices may order such Officer to pay the same; and if he fail to pay the Amount it shall be lawful for such Sheriff or Justices to grant a Warrant to levy the same by Poinding and Sale, or in default thereof to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months; and in any of the following Cases; (that is to say,)

If any such Officer do not appear before the Sheriff or Justices at the Time and Place appointed for that Purpose; or

If such Officer appear, but fail to make out such Account in Writing; or

If such Officer refuse to produce and deliver to the Sheriff or Justices the several Vouchers and Receipts relating to such Account; or

If such Officer refuse to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Company;

Such Sheriff or Justices may lawfully commit such Offender to Gaol; and in every such Case of Commitment the Prisoner shall remain in Custody, without Bail, until he have made out and delivered such Accounts, and delivered up the Vouchers and Receipts, if any, relating thereto, in his Possession or Power, and have delivered up such Books, Papers, Writings, Property, Effects, Matters, and Things, if any, in his Possession or Power: Provided always, that if any Director or other Person acting on behalf of the Company shall make Oath that he has good Reason to believe and does believe that it is the Intention of such Officer to abscond, it shall be lawful for the Sheriff or the Justice before whom the Complaint is made, instead of issuing his Summons, to issue his Warrant for the bringing such Officer before such Sheriff or any Two or more Justices; but no Person executing such Warrant shall keep such Officer in Custody longer than Twelve Hours without bringing him before such Sheriff or Justices to answer to the Charge as herein-before directed.

Sureties not to be discharged.

LXXXI. And be it enacted, That no such Proceeding against or dealing with any such Officer as aforesaid shall deprive the Company of any Remedy which they might otherwise have against any Surety of such Officer.

Executors and Administrators of Officers deceased to give up Books and Papers of the Company.

LXXXII. And be it enacted, That in case of the Death of any Treasurer, Collector, Clerk, Engineer, Surveyor, or other Officer acting under the Authority of this Act the respective Executors or Administrators of such Treasurer, Collector, Clerk, Engineer, Surveyor, or other Officer shall immediately, upon being thereunto required, produce and deliver up to the Directors, or such other Person or Persons as they may appoint to receive the same, all Books, Accounts, Writings, and Papers whatsoever which shall or may be in the Custody or Power of such Executors or Administrators respectively in anywise relating to the Purposes of this Act.

Accounts to be kept.

LXXXIII. And be it enacted, That full and true Accounts shall be kept of all Sums of Money received or expended on account of the Company by the Directors, and all Persons employed by or

under them, and of the Articles, Matters, and Things for which such Sums of Money shall have been received or delivered and paid.

Books to be balanced.

LXXXIV. And be it enacted, That the Books of the Company shall be brought to a Balance Fourteen Days at least before the Ordinary General Meeting appointed to be held in the Month of *May;* and forthwith on the Books being so balanced an exact Balance Sheet shall be made up, which shall exhibit a true Statement of the Capital, Stock, Credits, and Property of every Description belonging to the Company, and the Debts due by the Company at the Date of making such Balance Sheet, and a distinct View of the Profit or Loss which shall have arisen on the Transactions of the Company in the course of the preceding Year; and previously to such Ordinary Meeting such Balance Sheet shall be examined, audited, and docqueted by the Directors, or any Three of them, and shall be signed by the Chairman of the Directors.

Inspection of Accounts by Shareholders at stated Times.

LXXXV. And be it enacted, That the Books so balanced, together with such Balance Sheet as aforesaid, shall for Seven Days previous to such Ordinary Meeting, and for One Month thereafter, be open for the Inspection of the Shareholders at the principal Office or Place of Business of the Clerk of the Company, but the Shareholders shall not be entitled at any Time, except during the aforesaid Period after each Ordinary Meeting, to demand the Use or Inspection of such Books, unless in virtue of a written Order signed by Three of the Directors.

Balance Sheet to be produced.

LXXXVI. And be it enacted, That at such Ordinary Meeting the Directors shall produce to the Shareholders assembled such Balance Sheet as aforesaid applicable to the Period immediately preceding such Meeting.

Annual Account to be made up, and a Copy transmitted to the Sheriff Clerk.

LXXXVII. And be it enacted, That the Company shall every Year cause an annual Account in abstract to be prepared, showing the total Receipts and Expenditure of all Funds levied by virtue of this Act for the Year ending on the Thirty-first Day of *December*, or some other convenient Day in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account duly audited and certified by the Clerk for the Time being of the Company, and shall transmit a Copy of the said Account, free of Charge, to the Sheriff Clerk of the County of *Edinburgh*, on or before the Sixty Days then next, which Account shall be open to the Inspection of the Public at all seasonable Hours on Payment of the Sum of Two Shillings for every such Inspection: Provided always, that if the Company shall omit to prepare or transmit such Account as aforesaid they shall forfeit for every such Omission the Sum of Five Pounds.

Declaration of Dividends.

LXXXVIII. And be it enacted, That previously to every Ordinary Meeting the Directors shall cause a Scheme to be prepared, showing the Profits, if any, of the Company for the Period current since the immediately preceding Ordinary Meeting, and apportioning the same among the Shareholders according to the Shares held by them

them respectively, and shall exhibit such Scheme at such Ordinary Meeting, and at such a Meeting a Dividend may be declared according to such Scheme, or of such Sum as the Company may at such Meeting determine; but the Company shall not make any Dividend whereby their Capital Stock will be in any degree reduced; and before apportioning the Profits aforesaid the Directors may, if they think fit, set aside thereout such Sum as they may think proper to meet Contingencies, or for enlarging, repairing, or improving the Works connected with the Reservoir, or any Part thereof, and may divide the Balance only among the Proprietors; and no Dividend shall be paid in respect of any Share until all Calls then due in respect of that or of any other Share held by the Person to whom such Dividend may be payable shall have been paid.

Dividend not to reduce Capital.

Fund for Contingencies.

Dividend not to be paid unless all Calls paid.

Sinking Fund.

LXXXIX. And in order to provide a Sinking Fund to meet any Contingency or extraordinary Casualty which may arise to the Works by this Act authorized, be it enacted, That it shall be lawful for the said Company and they are hereby authorized from Time to Time, and as often as Occasion may require, to set apart such Portion of the Monies to arise from the Assessments to be levied under this Act, for the Purposes aforesaid, as they shall think proper: Provided always, that such Sum shall in no one Year exceed Two hundred Pounds; and the Fund so provided shall be deposited in one of the chartered Banks in *Scotland* to the Credit of the "Contingent or Sinking Fund of the Company," and shall only be appropriated by a Majority of Shareholders at any Ordinary or Extraordinary Meeting held for the Purpose.

Limiting Dividend of Shareholders.

XC. And be it enacted, That the Company shall not be entitled to take or receive a Dividend upon their Capital Stock exceeding the Sum of Six Pounds *per Centum per Annum*.

Power to make Bye Laws for Officers of Company.

XCI. And with respect to the Power of the Company to make Bye Laws, be it enacted, That, in addition to the Powers herein-after given to the Company to make Rules and Regulations for regulating the Use of the Reservoir and Works, it shall be lawful for the Company from Time to Time to make such Bye Laws as they shall think fit, for the Purpose of regulating the Conduct of the Officers and Servants of the Company, and for providing for the due Management of the Affairs of the Company in all respects whatsoever, and from Time to Time to alter or repeal such Bye Laws, and make others, provided such Bye Laws be not repugnant to the Laws of *Scotland*, or to the Provisions of this Act; and such Bye Laws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Company; and a Copy of such Bye Laws shall be given to every Officer and Servant of the Company.

Fines for Breach of Bye Laws.

XCII. And be it enacted, That the Company may impose such reasonable Fines and Forfeitures upon all Persons, being Officers and Servants of the Company, offending against such private Bye Laws as the Company think fit, not exceeding Five Pounds for any one Offence, and such Fines and Forfeitures may be recovered in the Manner herein-after provided.

XCIII. And

Evidence of Bye Laws.

XCIII. And be it enacted, That the Production of a written or printed Copy of the Bye Laws of the Company, having the Common Seal of the Company affixed thereto, shall be sufficient Evidence of such last-mentioned Bye Laws in all Cases of Prosecution under the same.

Service of Notices upon Company.

XCIV. And with respect to the Service of Notices upon the Company, be it enacted, That any Summons or other Proceeding at Law requiring to be served upon the Company may be served by the same being given personally to the Clerk of the Company, or being left at the Office of the Clerk of the Company, or being delivered to some Inmate at the Place of Abode of such Clerk, or in case there be no Clerk, or the Place of Abode of the Clerk shall not be found, then by being given to any one Director of the Company, or by being delivered to some Inmate of the Place of Abode of any such Director.

Service by Company on Shareholders.

XCV. And with respect to any such Notice required to be served by the Company upon the Shareholders, be it enacted, That unless any such Notice be expressly required to be served personally it shall be sufficient to transmit the same by Post, directed according to the registered Address or other known Address of the Shareholder, within such Period as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the giving of such Notice; and in proving such Service it shall be sufficient to prove that such Notice was properly directed, and that it was so put into the Post Office; and all Notices required by this Act to be given by Advertisement in a Newspaper shall be advertised twice in any Two Newspapers published in *Edinburgh*.

Notices by Advertisement.

Authentication of Notices.

XCVI. And be it enacted, That every Summons, Demand, or Notice, or other such Document requiring Authentication by the Company, may be signed by One Director, or by the Treasurer or the Clerk of the Company, and need not be under the Common Seal of the Company, and the same may be in Writing or in Print, or partly in Writing and partly in Print.

Releases to Witnesses.

XCVII. And be it enacted, That in all legal Proceedings under this Act general or other Releases for the Purpose of qualifying any Person in the Service of the Company to give Evidence as a Witness may be granted by any One or more of the Directors, and every such Release or Discharge under the Hands of any One or more of the Directors shall be as effectual for the Purpose aforesaid as if made under the Common Seal of the Company.

Proof of Debts in Bankruptcy.

XCVIII. And with respect to the Proof and Recovery of Debts or other Proceedings against the Estates of Bankrupts or Insolvents, be it enacted, That if any Person against whom the Company shall have any Claim or Demand become bankrupt, or take the Benefit of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Clerk or Treasurer of the Company, and they are hereby severally empowered, in all Proceedings instituted or prosecuted by the Company against the Estate of such Bankrupt or Insolvent, to

represent the Company, and act in their Behalf in all respects as if such Claim or Demand had been the Claim or Demand of such Clerk or Treasurer, and not of the Company.

Power to purchase Lands.

XCIX. And be it enacted, That, subject to the Provisions of this Act, it shall be lawful for the Company to agree with the Owners of the Lands which they are hereby authorized to enter into and take for the Purposes of the Reservoir and other Works for the absolute Purchase for a Consideration in Money of any such Lands, or such Parts thereof as they shall think proper, and of all subsisting Leases therein, and of all Rent-charges, Annuities, Mortgages, or Incumbrances affecting any such Lands, and all commonable or other Rights to which such Lands may be subject, and all other Estates or Interests in such Lands of what Kind soever.

Parties under Disability enabled to sell and convey.

C. And be it enacted, That it shall be lawful for all or any of the following Parties, being infeft in, possessed of, or entitled to any such Lands, or any such Estate or Interest therein as aforesaid, to sell and dispose, and feu, convey, or lease the same to the Company, and to enter into, grant, and deliver all necessary Agreements, Deeds, and Writings for that Purpose; (that is to say,) all Corporations, Heirs of Entail, Life-renters, Tutors, Curators, Factors loco tutoris, and other Guardians, judicial Factors, Curators bonis, Trustees for charitable or other Purposes, Executors and Administrators, Husbands, and Married Women infeft or interested in their own Right absolutely, or entitled to Terce, or otherwise interested; and the Power so to sell, feu, convey, and lease as aforesaid may lawfully be exercised by all such Parties, not only on behalf of themselves and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in Reversion, Remainder, or Expectancy after them, if incapacitated, unborn, or not to be found, and as to such Married Women as if they were unmarried, and as to such Tutors, Curators, Factors loco tutoris, and Guardians, on behalf of their Wards, and as to such judicial Factors and Curators bonis on behalf of the Lunatics and Idiots or other Parties for whom they act respectively, and that to the same Extent as such Wives, Wards, Lunatics, Idiots, or other Parties respectively could have exercised the same Power under the Authority of this Act if they had respectively been under no Disability, and as to such Trustees, Executors, and Administrators, on behalf of the Infants, Issue unborn, Lunatics, Married Women, or other Persons interested in such Lands, or such Estate or Interest therein, and that to the same Extent as such Parties respectively could have exercised the same Powers under the Authority of this Act if they had respectively been under no Disability.

Acceptance of Compensation for Price of or Damage to Lands.

CI. And be it enacted, That the Owners of any such Lands, or of any such Estate or Interest therein as aforesaid, and all Parties by this Act enabled to convey any such Lands, may agree to accept, and, subject to the Restrictions in this Act contained as to the Payment thereof, may accept, Satisfaction for the Value of such Lands, or any Interest therein to which such Party shall be entitled; and, in addition to Compensation for the Value of such Lands or of the

Interest therein to be so conveyed, such Parties shall be entitled to and may in like Manner accept Compensation for any Damage by them sustained by reason of the severing or dividing of such Lands, or otherwise owing to the Exercise of the Powers of this Act.

Amount of Compensation to be ascertained by Valuation in case of Parties under Disability.

CII. And with respect to the Consideration Money to be paid for any Lands to be purchased from any Party under any Disability or Incapacity, and not having Power to sell or convey except under the Provisions in this Act contained, and the Compensation Money to be paid for any permanent Damage or Injury to any such Lands, be it enacted, That such Consideration Money or Compensation shall not, except where the same shall have been determined by the Verdict of a Jury, under the Provisions herein-after contained, be less than shall be determined by the Valuation of Two able practical Surveyors or other well qualified Persons, one of whom shall be nominated by the Company, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Surveyor as the Sheriff shall for that Purpose nominate; and each of such Two Surveyors, if they agree, or if not, then the Surveyor nominated by the Sheriff, shall annex to the Valuation a Declaration of the Correctness thereof.

Compensation to absent Parties to be ascertained by Valuation.

CIII. And with respect to the Compensation Money to be paid for any Lands to be purchased from any Party who, by reason of Absence, or from any other Incapacity or Accident, is prevented from treating, or cannot be found, and the Compensation Money to be paid for any permanent Injury to such Lands, be it enacted, That such Consideration or Compensation shall not be less than shall be determined by the Valuation of such able practical Surveyor or other qualified Person as the Sheriff shall nominate for that Purpose; and such Surveyor shall annex to the Valuation a Declaration of the Correctness thereof.

Form of Conveyances.

CIV. And be it enacted, That all Conveyances of Lands so to be purchased as aforesaid may be according to the Form in the Schedule (G.) to this Act annexed, or as near thereto as the Circumstances of the Case will admit; and all such Conveyances, being registered in the General Register of Sasines, or in the Particular Register of Sasines for the District in which the Lands are situate, within Sixty Days from the last Date thereof, which the respective Keepers of such Registers are hereby authorized and required to do, shall be effectual to vest the Lands thereby conveyed in the Company, and shall operate to bar and to destroy all entailed Rights, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever of and in the Lands comprised in such Conveyances as shall have been purchased or compensated for by the Consideration therein mentioned.

Validity of Titles provided for.

CV. And be it enacted, That in all Cases where the said Company shall have acquired Land and entered into Possession thereof, and shall have settled and paid the Price and Compensation due on account of the same, and the Amount of any Damage, temporary or permanent, on account of their Operations thereon, or otherwise, to

to the true Owner of such Lands, and shall have acquired a Title in Terms of this Act, the same shall be held valid and effectual to all Intents and Purposes, and shall not be liable to any Challenge at the Instance of any Party whatsoever on the Ground that the said true Owner or Person capacitated to treat and agree under this Act had not made up or been invested with Feudal Titles to the foresaid Lands or any Part thereof, or any other Ground of Law whatsoever.

Costs of Conveyances.

CVI. And with respect to the Costs of the Conveyance of any such Lands purchased or taken by the Company, be it enacted, That the Conveyances shall be prepared by the Agent for the Company, and that all such Costs shall be borne by the Company, and such Costs shall include all reasonable and necessary Charges and Expences incurred on the Part as well of the Seller as of the Purchaser of all Conveyances of any such Lands, and of any Interest therein, and of the Investigation of the Title to such Lands or Interests therein; and before the Company enter into Possession of the Lands so purchased or taken they shall pay the Amount of such Costs, and if there be any Dispute about the same they shall apply for the Taxation thereof as herein-after provided; nevertheless, if within Seven Days after Notice in Writing from the Company the Parties from whom such Lands shall have been purchased do not deliver a Bill of their Costs to the Company, then the Company shall not be prevented from entering into the Possession of such Lands by reason of the Nonpayment of such Costs, or by reason of an Application for Taxation thereof not having been presented.

Taxation of Costs.

CVII. And be it enacted, That if the Company and the Party entitled to any such Costs shall not agree as to the Amount thereof, such Costs shall be ascertained by the Court of Session, and for that Purpose either Party may apply to the Court by Petition, and thereupon the Court shall remit such Costs to the Auditor of Court to be taxed in the usual Manner; and upon Proof of such Service the Auditor shall proceed to tax such Costs accordingly, Notice of such Taxation being given to the other Party; and after such Taxation thereof it shall be lawful to the Court to order the Amount at which the same shall be so taxed, together with the Costs of Taxation, or so much of the same as shall be payable by the Company, to be paid to the Party entitled thereto, and the same shall be paid accordingly; and the Expence of taxing such Costs, including the Expences of applying to the Court, shall be borne by the Company, unless on the Taxation One Sixth Part of the Costs be disallowed, in which Case the Expence shall be borne by the Party from whom the Lands shall have been purchased or taken.

Purchase Money payable to Parties under Disability, amounting to 200*l.*, to be deposited in Bank.

CVIII. And for the Purpose of providing for the Deposit and Application of the Purchase Money or Compensation to be paid in respect of any such Lands which may belong to Parties under Disability, be it enacted, That if any such Purchase Money or Compensation shall be payable in respect of any such Lands, or any Interest therein, which any Corporation, Heir of Entail, Life-renter, Tutor, Curator, Factor loco tutoris, or other Guardian, judicial Factor, Curator bonis, Executor, Administrator, Husband, or Married Woman,

Woman, or Person under any Disability, shall be entitled to, and shall, under the Powers of this Act, be enabled to convey or dispose of, the same shall, if it amount to or exceed the Sum of Two hundred Pounds, be consigned in One of the chartered Banks of *Scotland*, without any previous Application to the Court of Session; and the Books of the said Bank shall bear that the Money so consigned has been consigned for the Purposes of this Act, subject to the Orders and Control of the Court of Session, without which Orders no Monies so deposited shall be removed from the said Bank, in the Way and to the Intent herein provided; and such Monies shall remain so deposited or consigned until the same be applied to some One or more of the following Purposes; (that is to say,)

Application of Monies to be deposited.

In the Purchase or Redemption of the Land Tax, or the Discharge of any Debt or Incumbrance affecting the Land in respect of which such Money shall have been paid, or affecting other Lands settled therewith to the same or the like Uses, Trusts, or Purposes; or

In the Purchase of other Lands, to be conveyed, limited, and settled upon the like Uses, Trusts, and Purposes, and in the same Manner, as the Lands in respect of which such Money shall have been paid stood settled; or

In Payment to any Party becoming absolutely entitled to such Money.

Order for Application.

CIX. And be it enacted, That such Money may be so applied as aforesaid upon an Order of the Court of Session made on the summary Petition of the Party who would have been entitled to the Rents and Profits of the Lands in respect of which such Money shall have been deposited, and the Interest, Dividends, and annual Proceeds thereof shall from Time to Time be paid to the Party who would for the Time being have been entitled to the Rents and Profits of the Lands; and the Order for such Investment and Application of the Interest, Dividends, and annual Proceeds thereof may be made on the like Petition.

Sums from 20*l.* to 200*l.* to be deposited, or invested in Trustees.

CX. And with respect to any such Purchase Money or Compensation which shall not amount to the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, be it enacted, That the same shall either be paid into one of the Banks aforesaid, and applied in the Manner herein-before directed with respect to Sums amounting to or exceeding Two hundred Pounds, or the same may lawfully be paid to Two Trustees, to be nominated by the Parties entitled to the Rents or Profits of the Lands in respect whereof the same shall be payable, such Nomination to be signified by Writing under the Hands of the Parties so entitled; but such last-mentioned Application of the Monies shall not be made unless the Company approve thereof, and of the Trustees named for the Purpose, such Approval to be signified in Writing under their Common Seal; and the Money so paid to such Trustees, and the Produce arising therefrom, shall be by such Trustees applied in the Manner herein-before directed with respect to Money paid into any of the Banks aforesaid, but it shall not be necessary to obtain any Order of the Court for that Purpose.

Sums not exceeding 20*l.* to be paid to Parties.

CXI. And with respect to any such Money which shall not exceed the Sum of Twenty Pounds Sterling, be it enacted, That the same shall be paid to the Parties who would for the Time being have been entitled to the Rents and Profits of the Lands in respect whereof the same shall be payable.

Where Parties refuse to convey, or do not show Title, the Purchase Money to be deposited.

CXII. And for the Purpose of providing for the Payment and Application in certain Cases of the Purchase Money or Compensation to be paid in respect of any such Lands not belonging to Parties under Disability, be it enacted, That in the following Cases; (that is to say,)

If the Owner of any such Lands, or of any Interest therein, on Tender of the Purchase Money or Compensation either agreed or awarded to be paid, refuse to accept the same; or

If any such Person fail to make out a Title to the Lands in respect whereof such Purchase Money or Compensation shall be payable, or to the Interest therein claimed by him, to the Satisfaction of the Company; or

If such Owner be gone out of the Kingdom, or cannot be found, or be not known, or refuse to convey or release such Lands as directed by the Company;

It shall be lawful for the Company to deposit the Purchase Money or Compensation payable in respect of such Lands, or any Interest therein, in one of the Banks aforesaid, without any previous Application to the Court of Session, to the Credit of the Parties interested in such Lands (describing them, so far as the Company can do), subject to the Control and Disposition of the said Court; and upon Receipt of such Money the Cashier of such Bank shall give to the Company, or to the Party paying in such Money, a Receipt for such Money, specifying therein for what and for whose Use (described as aforesaid) the same shall have been received, and in respect of what Purchase the same shall have been paid in; and upon such Receipt being registered as aforesaid in the General Register of Sasines, or in the Particular Register for the District in which such Lands are situate, which the respective Keepers of such Registers are hereby required to do, all the Interest in such Lands in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Company.

Application of Monies so deposited.

CXIII. And be it enacted, That upon the Application by Petition of any Party making claim to the Money so deposited as last aforesaid, or any Part thereof, the said Court may in a summary Way, as to such Court shall seem fit, order the same to be laid out or invested in the Public Funds, or may order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estates, Titles, or Interests of the Parties making claim thereunto, and may make such other Order in the Premises as to such Court shall seem fit.

Regulating the Application and Reinvestment of Money

CXIV. And be it enacted, That when any Purchase Money or Compensation payable by the said Company shall have been consigned in any of the chartered Banks of *Scotland*, and shall, by Order of the Court of Session, be directed to be laid out in the Purchase of

of other Lands as herein mentioned, it shall not be necessary to engross or repeat *verbatim*, in any of the Titles of the new Lands which shall be purchased in lieu and place of those taken, used, or injured by the said Company, the Conditions and Provisions of the Entail or other Investiture of the said old Lands, or to mention specifically the Uses, Trusts, Intents, and Purposes to, for, and upon which the said new Lands are to be held, but it shall be sufficient to state the Dates of executing and recording the Deed or Deeds containing the Provisions and Conditions subject to which, or the Uses, Trusts, Intents, and Purposes to, for, and upon which, the said old Lands were held, and to declare that the said new Lands shall be held subject to the same Provisions and Conditions, and to, for, and upon the like Uses, Trusts, Intents, and Purposes, and to record the Title, containing such general Reference, in the Register of Taillies, Sasines, or other proper Record, according to the Circumstances, which the Keepers of the said Records are hereby authorized and required to do without a special Order to that Effect: Provided always, that upon the first Occasion of completing Titles to the said entailed Estates, by Service or otherwise, the Lands acquired to the Estates under this Act may be introduced into the Titles so then completed, after which they shall descend regularly as Part and Portion of the entailed Estate.

consigned in Bank.

CXV. Provided always, and be it enacted, That where any such Purchase Money or Compensation so paid into any of the said Banks shall have been paid in respect of any Lease for Lives or Years, or any Estate in Lands less than the whole Fee Simple thereof, or of any Reversion dependent on any such Lease or Estate, it shall be lawful for the said Court of Session, on the Petition of any Party interested in such Money, to order that the same shall be laid out, invested, accumulated, and paid in such Manner as the said Court may consider will give to the Parties interested in such Money the same Benefit therefrom as they might have legally had from the Lease, Estate, or Reversion in respect of which such Money shall have been paid, or as near thereto as may be.

Court of Session may direct Investment or Payment of Money in respect of Leases for Lives, Years, &c., or Reversions, as they may think just.

CXVI. And be it enacted, That if any Question arise respecting the Title to the Lands in respect whereof such Monies shall have been paid or deposited as aforesaid, the Parties respectively in Possession or Receipt of the Rents of such Lands at the Time of such Lands being purchased or taken shall be deemed to have been lawfully entitled to such Lands until the contrary be shown to the Satisfaction of the Court; and unless the contrary be shown as aforesaid the Parties so in Possession, and all Parties claiming under them, or consistently with their Possession, shall be deemed entitled to the Money so deposited, and to the Dividends or Interest of the Annuities or Securities purchased therewith, and the same shall be paid and applied accordingly.

Party in Possession deemed to be the Owner.

CXVII. And with respect to Costs in Cases of Monies deposited as aforesaid, be it enacted, That the Court of Session may in all such Cases, except where Monies shall have been so deposited by reason of the wilful Refusal of any Party entitled thereto to receive the same,

Costs in Cases of Money deposited.

same, or to convey or release the Lands in respect whereof the same shall be payable, order the Costs of the following Matters, including therein all reasonable Charges and Expences incident thereto, to be paid by the Company; (that is to say,) the Costs of the Purchase or of the taking or using of the Lands, or which shall have been incurred in consequence thereof, other than such Costs as are herein otherwise provided for, and the Costs of the Investment of such Monies in the Purchase of other Lands, and also the Costs of obtaining the proper Orders for any of the Purposes aforesaid, and of the Orders for the Payment of the Dividends and Interest of the Government or Real Securities upon which such Monies shall be invested, and for the Payment out of Court of the Principal of such Monies, or of the Government or Real Securities whereon the same shall be invested, and of all other Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants.

Payment of Price to be made previous to Entry, except to survey, &c.

CXVIII. And be it enacted, That the Company shall not, except by Consent of the Owner and Occupier, enter upon any Lands which shall be required to be purchased or permanently used for the Purposes of this Act until they shall either have paid to every Party having any Interest in such Lands, or deposited in Bank, in the Manner herein mentioned, the Purchase Money or Compensation agreed or awarded to be paid such Parties respectively for their respective Interests therein: Provided always, that for the Purpose merely of surveying and taking Levels of such Lands it shall be lawful for the Company to enter upon the same without the previous Consent of the Owners, making Compensation for any Damage thereby occasioned to the Owners or Occupiers of such Lands.

Penalty on Company entering upon Lands without Consent before Payment of the Purchase Money.

CXIX. And be it enacted, That if the Company or any of their Contractors shall, except as aforesaid, wilfully enter upon and take possession of any Lands which shall be required to be purchased or permanently used for the Purposes of this Act, without such Consent as aforesaid, or without having made such Payment or Deposit as aforesaid, the Company shall forfeit to the Party in Possession of such Lands the Sum of Fifty Pounds, over and above the Amount of any Damage done to such Lands by reason of such Entry and taking possession as aforesaid, such Penalty and Damage respectively to be recovered before the Sheriff; and if the Company or their Contractors shall, after Conviction in such Penalty as aforesaid, or after Notice from the Party in Possession of such Lands, continue in unlawful Possession of any such Lands, the Company shall be liable to forfeit the Sum of Five Pounds for every Day they or their Contractors shall so remain in Possession as aforesaid, such Penalty to be recoverable by the Party in Possession of such Lands, with full Costs of Suit, in the Sheriff Court: Provided always, that nothing herein contained shall be held to subject the Company to the Payment of any such Penalties as aforesaid if they shall *bonâ fide* and without Collusion have paid or deposited the Compensation agreed or awarded to be paid in respect of the said Lands to any Person whom the Company may have reasonably believed to be entitled thereto, although such Person may not have been legally entitled thereto.

CXX. And

Decision of Sheriff not conclusive as to Company's Right.

CXX. And be it enacted, That in any Action for any such Penalty as aforesaid the Decision of the Sheriff under the Provision herein-before contained shall not be held conclusive as to the Right of Entry on any such Lands by the Company.

Notice of Intention to take Lands.

CXXI. And be it enacted, That when the Company shall require to purchase any of the Lands which by this Act they are authorized to purchase or take, they shall give Notice thereof to all the Parties interested in such Lands, or enabled by this Act to sell and convey or release the same, or such of them as shall be known to the Company, and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in such Lands, and of the Claims made by them in respect thereof; and every such Notice shall be in Writing, and shall state the Particulars of the Lands so required, and shall state that the Company are willing to treat for the Purchase of the Interest of such Party in such Lands, and as to the Compensation to be made for the Damage that may be sustained by him by reason of the making of the Reservoir.

Parties interested in Lands to state their Claims.

CXXII. And be it enacted, That if for Twenty Days after the Receipt of such Notice any such Party shall fail to state the Particulars of his Claim in respect of any such Land, or to treat with the Company in respect of his Interest therein, or if such Party and the Company shall differ as to the Amount of the Compensation to be paid to such Party for any such Interest, or for any Damage that may be sustained by him by reason of the Execution of the Reservoir, the Amount of such Compensation shall be settled in the Manner herein-after provided for settling Cases of disputed Compensation.

Proceedings in case of Refusal to deliver Possession of Lands.

CXXIII. And be it enacted, That where, according to the Provisions of this Act, the Company are authorized to enter upon and take possession of any Lands required for the Purposes of the Reservoir and other Works, if the Owner or Occupier of any such Lands, or any other Person, refuse to give up the Possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to make Application, by summary Petition, to the Sheriff of the County wherein such Lands lie to deliver Possession of the same to the Person named in such Petition to receive the same; and upon the Receipt of such Petition the said Sheriff shall deliver Possession of any such Lands accordingly; and the Costs accruing by reason of the issuing and Execution of such Petition, to be settled by the Sheriff, shall be paid by the Persons refusing to give Possession; and such Costs, if not paid on Demand, shall be levied by Poinding and Sale, and the Sheriff shall issue his Warrant accordingly.

Dispute as to Compensation to be settled by a Jury.

CXXIV. And for the Purpose of making Provision for settling Cases of disputed Compensation arising under this Act, be it enacted, That if any Difference shall arise, or if no Agreement can be come to, between the Company and the Owners of any Lands, or of any Interest in any such Lands, taken or required for or injuriously affected by the Execution of the Reservoir and other Works (including

(including among such Owners all Parties by this Act enabled to sell or convey Lands), as to the Value of such Lands or of any Interest therein, or as to the Compensation to be made in respect thereof, or if by reason of Absence any such Owner be prevented from treating, or if any such Owner fail to disclose or prove his Title to any such Lands or any Interest therein, or if by reason of any Impediment or Disability any such Owner be incapable of making any Agreement, Conveyance, or Release necessary for enabling the Company to take such Lands, or to proceed in making the Reservoir or Works, or if any such Difference arise as to the Amount of the Damages occasioned to any Lands by the temporary Occupation thereof in the making of the Reservoir, or otherwise in exercise of the Powers given by this Act, and for which any Party may be entitled to demand Compensation according to the Provisions of this Act, the Amount of Compensation to be paid by the Company in every such Case shall be settled by the Verdict of a Jury in manner herein-after mentioned.

Claims not exceeding 100*l.* to be settled by Sheriff.

CXXV. Provided always, and be it enacted, That if the Compensation claimed in any of the Cases last herein-before mentioned shall not exceed One hundred Pounds the same shall be settled by the Sheriff of the County of *Edinburgh*, and whose Decision shall be final, without being subject to Review.

Notice by Company of Intention to have a Jury summoned.

CXXVI. And be it enacted, That where it shall be necessary to refer any such Question to the Determination of a Jury, by reason of any such Difference as aforesaid, then, Ten Days at the least before issuing their Warrant for summoning a Jury as herein-after provided, the Company shall give Notice in Writing to the Party with whom such Difference shall have arisen, of their Intention to cause such Jury to be summoned; and in such Notice the Company shall state what Sum of Money they are willing to give such Party for his Interest in such Lands, and for the Damage to be sustained by him by the Execution of the Reservoir and other Works.

Requisition by Party claiming Compensation that a Jury be summoned.

CXXVII. And be it enacted, That if any Party who shall be entitled to any Compensation in respect of any Lands, or of any Interest therein, taken for or injuriously affected by the making of the Reservoir and other Works, shall desire the Amount of such Compensation to be determined by a Jury, it shall be lawful for such Party to give Notice in Writing to the Company of such his Desire, and he shall in such Notice state the Nature of the Interest claimed by him in such Lands, and the Amount of the Compensation claimed by him in respect thereof; and unless the Company be willing to pay the Amount of Compensation so claimed, and shall enter into a written Agreement for that Purpose, then, within Twenty Days after the Receipt of any such Notice from any Party so entitled, they shall present a Petition to the Sheriff to summon a Jury accordingly in the Manner herein mentioned.

Petition for summoning Jury to be addressed to the Sheriff.

CXXVIII. And be it enacted, That in every Case in which any such Question of disputed Compensation shall be required to be determined by the Verdict of a Jury the Company or the Party

claiming Compensation may present their Petition to the Sheriff, requiring him to summon a Jury for that Purpose; and upon the Receipt of such Petition the Sheriff shall summon a Jury of Thirty indifferent Persons, duly qualified to act as Jurymen in the Sheriff Court, to meet at the Time and Place named in the Warrant for that Purpose; and out of the Jurors appearing upon such Summons a Jury of Thirteen Persons shall be drawn by the Sheriff in such Manner as Juries for Trials of Issues joined in the Sheriff Court are by Law required to be drawn; and if a sufficient Number of Jurymen do not appear in obedience to such Summons the Sheriff shall return other indifferent Men, duly qualified as aforesaid, of the Bystanders, or others that can speedily be procured, to make up the Jury to the Number aforesaid; and all Parties concerned may have their lawful Challenges against any of the Jurymen, but no such Party shall challenge the Array.

Summoning of Jurymen.

Impannelling of Jury.

CXXIX. And be it enacted, That Fourteen Days Notice of the Time and Place of the Inquiry shall be given in Writing by the Company to the other Party; and upon the said Inquiry the Sheriff shall preside, and the Party claiming Compensation shall be deemed the Pursuer, and the Form of Procedure shall be the same as in Criminal Trials by the Law of *Scotland;* and if either Party so request, in Writing, the Sheriff shall summon before him any Person considered necessary to be examined as a Witness touching the Matters in question; and on the like Request the Sheriff shall order the Jury, or any Three or more of them, to view the Place or Matter in controversy, in like Manner as Views may be had in the Trial of Actions in the Sheriff Court; and before the Jury proceed to inquire of and assess the Compensation or Damage in respect of which their Verdict is to be given they shall make Oath that they will truly and faithfully inquire of and assess such Compensation or Damage; and the Sheriff shall administer such Oaths, as well as the Oaths of all Persons called upon to give Evidence.

Notice of Inquiry.

Sheriff to preside.

Witnesses to be summoned.

Jurymen to make Oath.

CXXX. And be it enacted, That the Verdict of the Majority of such Jury shall be the Verdict of such Jury, and such Verdict shall be delivered for the Sum of Money to be paid for the Purchase of the Lands required for the Reservoir or other Works, or of any Interest therein belonging to the Party with whom such Questions of disputed Compensation shall so have arisen, and also the Sum of Money to be paid for the Injury done to the Lands of any such Party by the Severance from such Lands of the Lands required by the Company, and also the Sum of Money to be paid by way of Compensation for the Damage occasioned to any such Lands by the Execution of the Works, whether it be for Damage sustained before the Time of the Inquiry, or for future Damage, either temporary or permanent, or for any recurring Damage, of which the Cause is then only in part obviated, and which cannot or will not be further obviated by the Company; and the Sums of Money to be paid for the Injury done by any such Severance as aforesaid, or by way of Compensation for any such Damage as aforesaid, shall in every Case be assessed separately from the Value of the Lands, or the Sum to be paid for the Purchase thereof, or of any Interest therein.

Verdict of Jury to be for Purchase of Lands and for Damage, assessed separately.

CXXXI. And

Value of Interests previously purchased to be deducted.

CXXXI. And be it enacted, That in assessing the Sum of Money to be paid for the Purchase of any such Land sthe Value of any Interest in such Lands as shall have been heretofore rightfully purchased by the Company shall be first deducted.

Verdict and Judgment to be recorded.

CXXXII. And be it enacted, That the Sheriff shall give Judgment for the Purchase Money or Compensation assessed by such Jury; and the said Verdict or Judgment shall be signed by the Sheriff, and being so signed shall be kept by the Sheriff Clerk; and such Verdicts and Judgments shall be deemed Records, and the same or true Copies thereof shall be good Evidence in all Courts and elsewhere; and all Persons may inspect the said Verdicts and Judgments, and may have Copies thereof or Extracts therefrom, on paying for each Inspection thereof One Shilling, and for every One hundred Words copied or extracted therefrom Sixpence.

Costs of the Inquiry.

CXXXIII. And be it enacted, That on every such Inquiry before a Jury, where the Verdict of the Jury shall be given for the same or a greater Sum than the Sum previously offered by the Company, the whole of the Costs of such Inquiry shall be borne by the Company, but if the Verdict of the Jury be given for a less Sum than the Sum previously offered by the Company then One Half the Costs of the Company as well as his own Costs shall be defrayed by the Owner of the Lands: Provided always, that in every Case where, by reason of Absence in Foreign Parts, or of any Disability, the Owner of the Land shall have been prevented from treating with the Company, the whole of the Costs shall be borne by the Company.

Particulars of the Costs.

CXXXIV. And be it enacted, That such Costs shall be settled by the Sheriff, and such Costs shall include all reasonable Costs, Charges, and Expences incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry, and also the Expences of the Bond, if any, given by the Party at whose Instance the Inquiry shall have been taken, [for prosecuting his Claim and securing the Costs of such Inquiry; and with respect to any such Costs payable by the Company, if within Thirty Days after Demand such Costs be not paid to the Party entitled to receive the same, the same shall be recoverable by Poinding and Sale, and on Application to the Sheriff he shall give his Warrant accordingly; and with respect to any such Costs payable by the Owner of the Lands, or of any Interest therein, the same may be deducted out of any Money awarded by the Jury to be paid to such Owner as so much Money advanced for his Use, and the Payment of the Remainder of such Money shall be a good Payment and Satisfaction of the whole thereof.

Penalty on Sheriff and Jury for Default.

CXXXV. And be it enacted, That if the Sheriff make default in any of the Matters herein-before required to be done by him in relation to any such Trial or Inquiry he shall forfeit Five Pounds for every such Offence; and if any Person summoned and returned upon any Jury under this Act, whether common or special, do not appear,

appear, or appear but refuse to make Oath, or in any other Manner unlawfully neglect his Duty, he shall, unless he show reasonable Excuse to the Satisfaction of the Sheriff, forfeit a Sum not exceeding Five Pounds; and every such Penalty payable by a Sheriff or Juryman shall be applied in satisfaction of the Costs of the Inquiry, so far as the same will extend; and in addition to the Penalty hereby imposed every such Juryman shall be subject to the same Regulations, Pains, and Penalties as if such Jury had been returned for the Trial of any Issue joined in the Court of Session.

Penalty on Witnesses making default.

CXXXVI. And be it enacted, That if any Person duly summoned to give Evidence upon any such Inquiry, and to whom a Tender of his reasonable Expences shall have been made, fail to appear at the Time and Place specified in the Summons, without sufficient Cause, or if any Person, whether summoned or not, who shall appear as a Witness, refuse to be examined on Oath touching the Subject Matter in question, every Person so offending shall forfeit a Sum not exceeding Five Pounds.

Special Jury to be summoned at the Request of either Party.

CXXXVII. And be it enacted, That if either Party desire any such Question of disputed Compensation as aforesaid to be tried before a Special Jury, and before either of them has presented his Petition to the Sheriff give Notice in Writing of such Desire, such Question shall be so tried, and for that Purpose either of the Parties may, by Petition to the Sheriff, require him to nominate a Special Jury for such Trial; and thereupon the Sheriff shall, as soon as conveniently may be after the Receipt by him of such Petition, summon both the Parties to appear before him, by themselves or their Agents, at some convenient Time and Place (not being less than Five Days from the Service of such Summons) appointed by him, for the Purpose of nominating a Special Jury; and at the Place and Time so appointed the Sheriff shall proceed to nominate and strike a Special Jury in the Manner in which such Juries shall be required by the Laws for the Time being in force to be nominated or struck by the proper Officers of the Court; and the Sheriff shall appoint a Day for the Parties or their Agents to appear before him to reduce the Number of such Jury, and shall give Four Days Notice thereof to the Parties; and on the Day so appointed the Sheriff shall proceed to reduce the said Special Jury to the Number of Twenty in the Manner used and accustomed by the proper Officers of the said Court.

Deficiency of Jurymen.

CXXXVIII. And be it enacted, That the Special Jury on such Inquiry shall consist of Thirteen of the said Twenty who shall first appear on the Names being called over, the Parties having their lawful Challenges against any of the said Jurymen; and if a full Jury do not appear, or if after such Challenges a full Jury do not remain, then, upon the Application of either Party, the Sheriff shall add to the List of such Jury the Names of any other disinterested Persons qualified to act as Special Jurymen, who shall not have been previously struck off the aforesaid List, and who may then be attending the Court, or can speedily be procured, so as to complete such Jury, all Parties having their lawful Challenges against such

Persons; and the Sheriff shall proceed to the Trial and Adjudication of the Matters in question by such Jury; and such Trial shall be attended in all respects with the like Incidents and Consequences as herein-before provided in the Case of a Trial by Common Jury.

Other Inquiries before same Special Jury by Consent.

CXXXIX. And be it enacted, That any other Inquiry than that for the Trial of which such Special Jury may have been struck and reduced as aforesaid may be tried by such Jury, provided the Parties thereto respectively shall give their Consent to such Trial.

Reference of Dispute as to Compensation to Sheriff.

CXL. And with respect to any such Question of disputed Compensation, or other Matter of Difference by this Act authorized to be referred to the Determination of the Sheriff, be it enacted, That either Party may apply to such Sheriff in respect to any such Matter, and thereupon such Sheriff, in Presence of the Parties, or such of them as shall appear, being duly summoned for that Purpose, shall examine into the Matter in dispute, and shall award such an Amount of Compensation, or shall make such Determination in respect of the Matter so referred to him, as to him shall seem fit; and the Costs of every such Inquiry shall be in the Discretion of such Sheriff, and he shall settle the Amount thereof; and in default of Payment of such Costs as directed by such Sheriff the same shall be levied by Poinding and Sale, and the said Sheriff shall issue his Warrant accordingly.

Company empowered to purchase the Interest in Lands the Purchase whereof may have been omitted by Mistake.

CXLI. And be it enacted, That if at any Time after the Company shall have entered upon any Lands which under the Provisions of this Act they were authorized to purchase, and which shall be permanently required for the Purposes of the Reservoir, any Party shall appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands which the Company shall have failed or omitted duly to purchase or to pay Compensation for, then, whether the Period granted for the Purchase of Lands shall have expired or not, the Company shall remain in the undisturbed Possession of such Lands, provided that, within Six Months after Notice in Writing to the Company of such Estate, Right, Interest, or Charge, in case the same shall not be disputed by the Company, or in case the same shall be disputed then within Six Months after the Right thereto shall have been finally established by Law in favour of the Party claiming the same, the Company shall purchase or pay Compensation for the same, and shall also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the Profits or Interest which would have accrued to such Parties respectively in respect thereof during the Interval between the Entry of the Company thereon and the Time of the Payment of such Purchase Money or Compensation by the Company, so far as such Profits or Interests may be recoverable in Law or Equity; and such Purchase Money or Compensation shall be agreed on or awarded and paid in like Manner as, according to the Provisions of this Act, the same respectively would have been agreed on or awarded and paid in case the Company had purchased such Estate, Right, Interest, or Charge before their entering upon such Lands, or as near thereto as Circumstances will admit.

CXLII. And

How Value of such Lands to be estimated.

CXLII. And be it enacted, That in estimating any Compensation to be given for any such last-mentioned Lands, or any Estate or Interest in the same, or for any Profits thereon, the Jury shall assess the same at such Price as they shall find to be the Value of such Lands, Estate, or Interest, and Profits, without regard to any Improvements or Works made in the said Lands by the Company, and as though the Reservoir and other Works had not been constructed.

Company not to be entitled to Minerals.

CXLIII. And with respect to any Mines of Coal, Ironstone, Lime, Slate, or other Minerals under any Land purchased by the Company, be it enacted, That the Company shall not be entitled to any such Mines or Minerals, except only such Parts thereof as shall be necessary to be dug or carried away, or used in the Construction of the Reservoir, unless the same shall have been expressly purchased; and all such Mines, excepting as aforesaid, shall be deemed to be excepted out of the Conveyance of such Lands, unless they shall have been expressly named therein, and be thereby conveyed.

Parties not to be required to sell Part of a House.

CXLIV. And be it enacted, That no Party shall at any Time be required to sell or convey to the Company a Part only of any House or other Building or Manufactory if such Party be willing to sell and convey the whole thereof.

Where Part only of Lands under Lease are taken the Rent to be apportioned.

CXLV. And with respect to any Lands which shall be comprised in a Lease for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of this Act, be it enacted, That the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands; and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Company on the other Part; and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by the Sheriff; and after such Apportionment the Lessee of such Lands shall, as to all future accruing Rent, be liable only to so much of the Rent as shall be so apportioned in respect of the Lands not required for the Purposes of this Act; and the Lessor shall have all the same Rights and Remedies for the Recovery of such Rent as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of this Act, in the same Manner as they would have done in case such Part of the Land had been included in the Lease.

Tenants to be compensated.

CXLVI. And be it enacted, That every such Lessee as last aforesaid shall be entitled to receive from the Company Compensation for the Damage done to him in his Tenancy by reason of the Severance of the Lands required from those not required, or otherwise by reason of the Execution of any such Works.

CXLVII. And

Production of Leases.

CXLVII. And be it enacted, That if any Party claim Compensation in respect of any unexpired Term or Interest under any Lease or Grant of any such Lands, the Company may require such Party to produce the Lease or Grant in respect of which such Claim shall be made, or the best Evidence thereof in his Power; and if, after Demand made in Writing by the Company, such Lease or Grant, or the best Evidence thereof, be not produced within a reasonable Time, the Party so claiming Compensation shall be considered as a Tenant holding only from Year to Year, and be entitled to Compensation accordingly.

Power of compulsory Purchase limited to Five Years.

CXLVIII. And be it enacted, That the Powers of the Company for the compulsory Purchase or taking of Lands for the Purposes of this Act shall not be exercised after the Expiration of Five Years from the passing thereof.

The estimated Expence to be subscribed for before the compulsory Powers of the Act are put in force.

CXLIX. And whereas the probable Expence of making the said Reservoir and the other Works hereby authorized will not exceed the Sum of Eight thousand eight hundred and thirty-five Pounds Six Shillings and Eight-pence, and more than Three Fourth Parts thereof have been subscribed for by Parties under Contract binding themselves, their Heirs, Executors, and Administrators, for the Payment of the several Sums by them respectively subscribed; be it therefore enacted, That the whole of the said Sum of Eight thousand eight hundred and thirty-five Pounds Six Shillings and Eight-pence shall be subscribed for in like Manner before any of the Powers given by this Act in relation to the compulsory taking of Land for the Purposes of the said Reservoir shall be put in force.

Certificate under the Hand of the Sheriff to be Evidence that the whole of the Money has been subscribed.

CL. Provided always, and be it enacted, That a Certificate under the Hand of the Sheriff of the County of *Edinburgh*, that the whole of the said Sum of Eight thousand eight hundred and thirty-five Pounds Six Shillings and Eight-pence has been subscribed as aforesaid, (and which Certificate such Sheriff is hereby authorized and required to grant on Application made to him by the said Company, and upon such Evidence as he may deem sufficient,) shall for all Purposes whatsoever be conclusive Evidence that the whole of the said Sum of Eight thousand eight hundred and thirty-five Pounds Six Shillings and Eight-pence has been subscribed.

Lands not wanted to be sold.

CLI. And for the Purpose of making Provision respecting the Sale of Lands acquired by the Company under the Provisions of this Act, but which shall not be required for the Purposes thereof, be it enacted, That the Company shall sell all such superfluous Lands in such Manner as they may deem most advantageous, and convey the same to the Purchasers thereof by Deed subscribed by any Two of the Directors, and under the Common Seal of the Company; and such Sales and Conveyances shall take place within Ten Years after the passing of this Act.

Lands to be first offered to original or adjoining Owners.

CLII. Provided always, and be it enacted, That before the Company dispose of any such superfluous Lands they shall first offer to sell the same to the Person then entitled to the Lands (if any) from

which the same were originally severed; or if such Person refuse to purchase the same, or cannot be found, then the like Offer shall be made to the Person or to the several Persons whose Lands shall immediately adjoin the Lands so proposed to be sold, such Persons being capable of entering into a Contract for the Purchase of such Lands; and where more than one such Person shall be entitled to such Right of Pre-emption, such Offer shall be made to such Persons in succession one after another in such Order as the Company shall think fit; and if such Persons respectively be desirous of purchasing such Land, then within Sixty Days after such Offer of Sale they shall signify their Desire in that Behalf to the Company, or if they decline such Offer, or if for Sixty Days they neglect to signify their Desire to purchase such Lands, the Right of Pre-emption of every such Person so declining or neglecting in respect of the Lands included in such Offer shall cease; and thereupon a Declaration in Writing, made before the Sheriff by some Person not interested in the Matter in question, stating that the Person or all the Persons entitled to the Right of Pre-emption were out of the Country, or could not be found, or were not capable of entering into a Contract for the Purchase of such Lands, or that such Offer was made and was refused, or not accepted within Sixty Days from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence of the Facts therein stated.

Right of Pre-emption to be claimed within Sixty Days.

CLIII. And be it enacted, That if the Company do not sell such superfluous Lands within the Period aforesaid then such Lands remaining unsold at the Expiration of such Period shall thereupon vest in and become the Property of the Owners of the Lands adjoining thereto, in proportion to the Extent of their Lands respectively adjoining the same.

Lands not so sold to vest in Owners of adjoining Lands.

CLIV. And be it enacted, That upon Payment or Tender to the Company of the Purchase Money so agreed upon or determined for such superfluous Lands they shall convey such Lands to the Party who has purchased the same with Warrandice against the Facts and Deeds of the Company; and every such Conveyance shall be effectual for vesting the Lands comprised therein in the Purchaser thereof for the Estate which shall so have been purchased by him; and the Money produced by the Sale of such Lands shall be applied by the Company for the Purposes of the Works.

Upon Payment or Tender of Purchase Money for such Lands the Company to convey.

CLV. And be it enacted, That for any of the following Purposes it shall be lawful for the Company, in addition to the Lands authorized to be compulsorily taken by them as aforesaid, to contract with any Party willing to sell the same for the Purchase of any Land not exceeding in the whole Fifty Acres, to be taken and used in such Places as shall be deemed eligible for the Purpose of obtaining Water from Springs, or of protecting such Springs from Injury or Deterioration, or of making and providing additional Reservoirs, Tanks, Aqueducts, and other Buildings and Conveniences, or for making convenient Roads or Ways to the said Works, or for any other Purpose connected with the said Works which the Company may think beneficial

Power to purchase Lands required for additional Reservoirs, &c.

beneficial to the Undertaking; and it shall be lawful for all Parties who, under the Provisions herein-before contained, would be enabled to sell and convey Lands required for the said Undertaking to sell and convey Lands required for any such additional Purpose as aforesaid.

Authority to Company to sell and re-purchase such Lands.

CLVI. And be it enacted, That it shall be lawful for the Company to sell the additional Lands which they at any Time shall have so acquired, or any Part thereof, in such Manner, and for such Considerations, and to such Persons as the Company may think fit, and again to purchase other Lands for the like Purposes, and afterwards sell the same, and so from Time to Time; but the total Quantity of Land to be held at any one Time by the Company for the Purposes aforesaid shall not exceed Fifty Acres.

Restraint on Purchase from incapacitated Persons.

CLVII. And be it enacted, That the Company shall not, by virtue of the Power to purchase Land for additional Purposes, purchase more than Fifty Acres from any Party under legal Disability, or who would not be able to sell and convey such Lands except under the Powers of this Act; and if the Company purchase the said Quantity of Land from any Party under such legal Disability, and afterwards sell the Whole or any Part of the Land so purchased, it shall not be lawful for any Party being under legal Disability to sell to the Company any other Lands in lieu of the Land so sold or disposed of by the Company.

Company empowered to make the Reservoir according to deposited Plan,

CLVIII. And be it enacted, That, subject to the Provisions and Restrictions in this Act contained, it shall be lawful for the Company to make and maintain the said Reservoir and Works in the Line and upon the Lands delineated and described on the Plan and in the Books of Reference herein-after mentioned, and for that Purpose to enter upon, take, and use such of the Lands so delineated and described as shall be necessary for making and constructing the said Reservoir and Works.

Deposited Plans and Books of Reference to be open to Inspection.

CLIX. And whereas Plans and Sections of the Reservoir and other Works, showing the Line and Levels thereof, and also Books of Reference containing the Names of the Owners, Lessees, and Occupiers, or reputed Owners, Lessees, and Occupiers, of the Lands through or in which the same are intended to be made, have been deposited with the Sheriff Clerk of the County of *Edinburgh* at *Edinburgh*, and also with the Sheriff Clerk of the County of *Peebles* at *Peebles*; be it enacted, That all Persons interested may at all seasonable Times inspect such Plans, Sections, and Books of Reference, and may require to be furnished by the Sheriff Clerk with Extracts therefrom or Copies thereof; and such Clerk shall give Access to such Documents, and, if required, furnish Copies thereof or Extracts therefrom, and certify the same to be true Copies or Extracts; and in respect thereof he shall be entitled to One Shilling for every Inspection of such Document, and One Shilling for every Hour such Inspection shall continue beyond the first Hour, or Sixpence for every One hundred Words copied or extracted therefrom, in the

Option of the said Clerk; and if any such Clerk shall fail to comply with any of the Provisions aforesaid he shall forfeit for every such Offence a Sum not exceeding Five Pounds.

Errors and Omissions to be corrected.

CLX. And for the Purpose of making Provision for correcting any Omission, Mis-statement, or erroneous Description of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the said Plans or in the said Books of Reference, be it enacted, That the Correction of any such Matter may be referred by the Company to the Determination of the Sheriff; and if it shall appear to such Sheriff that such Omission, Mis-statement, or erroneous Description arose from Mistake he shall certify the same accordingly; and he shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Sheriff Clerk of the County, and Copies or Extracts thereof shall also be deposited with the Schoolmasters of the Parish in which the Lands affected thereby shall be situate, and if there shall be no Schoolmaster, with the Session Clerk of the said Parish; and such Certificate, and such Extracts or Copies respectively, shall be kept by such Sheriff Clerk and Schoolmasters or Session Clerks respectively along with the Documents to which they relate, and thereupon such Document shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Company to make the Reservoir in accordance with such Certificate.

Copies of Plans to be Evidence.

CLXI. And be it enacted, That true Copies of such Plans and Books of Reference, or of any Correction thereof or Extracts therefrom, certified by any such Sheriff Clerk, shall be received in all Courts of Justice or elsewhere as Evidence of the Contents thereof.

Company not to deviate beyond the Limits of Deviation marked upon the Plan.

CLXII. And be it enacted, That the Company in making the said Reservoir and Works shall not deviate to any greater Distance than the Limits of Deviation marked on the said Plan, nor into the Lands of any Person not mentioned in the said Book of Reference, without his previous Consent in Writing, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in manner herein-before provided; and the Company shall not construct the Embankments or Heads of the Reservoir in such Manner as to extend the Level of the Top of the Water of the Reservoir beyond the Limits of the said Deviation without the previous Consent in Writing of the Owners and Occupiers of the Lands over which the Water may so extend.

Houses and inclosed Grounds not to be taken, unless specified in Book of Reference.

CLXIII. And be it enacted, That the Company shall not take or injure any Property of the following Kinds, except such as shall be specified in the Books of Reference deposited as aforesaid, without the Consent in Writing of the Owners and Occupiers thereof, unless the Omission in such Book of Reference be certified, according to the Provisions herein-before contained, to have proceeded from Mistake; (that is to say,) any House or Building erected on or before the Thirtieth Day of *November* Eighteen hundred and forty-two,

two, or any Ground on or before that Day inclosed or set apart and used as a Garden, Orchard, Nursery Ground, Yard, Paddock, Plantation, planted Walk, or Avenue to a House.

Reservoir and other Works to be made.

CLXIV. And be it enacted, That it shall and may be lawful to the said Company and they are hereby authorized and empowered to form, make, and maintain a Reservoir on the said River or Stream called the *North Esk* at or near to a Place called *Deerhope* or *Fairliehope* in the Parish of *Penicuik* and County of *Edinburgh*, and in the Parish of *Linton* and County of *Peebles*, with Sluices, Embankments, Dams, Cuts, Tunnels, Feeders, Byewashes, Spillwaters, Weirs, Banks, Drains, and such other Works as the Company shall think necessary for the Purpose of taking, collecting, and storing the surplus or flood and other Waters of the said River or Stream called the *North Esk*, and of the other Streams flowing thereto, and for regulating the Discharge thereof from the said Reservoir into the said River *Esk* for the Purpose of cleansing the said Rivers *North Esk* and *Esk*, and for supplying the Mills, Factories, or other Works erected or to be erected on the said Rivers; and also to erect and build in some convenient Situation near the said Reservoir, and in all Time thereafter to keep in good Repair, a House or Houses and other necessary Buildings for the Habitation of a Person to be from Time to Time appointed by the Directors as Superintendent of the said Reservoir, and also to make suitable Roads and Ways for Access to and from the said Reservoir and Works.

Power to divert the surplus Water of Brooks adjoining the Reservoir, with the Consent of the Owners and Occupiers of adjoining Property.

CLXV. And be it enacted, That it shall be lawful for the Company (if they shall judge the same expedient or advisable) to make Feeders or Channels, with such Catchwater Drains and other Works as shall be proper, for collecting and conducting into the said Reservoir the surplus Waters of any other Brooks or Springs near thereto, and of the tributary Streams and Rivulets of any such Brooks or Springs over and above what shall be sufficient for the Supply of the Lands or Works through or near to which the said Brooks respectively flow: Provided always, that the surplus Waters of such Brooks or Springs, Streams or Rivulets, shall not be so diverted without the Consent in Writing of the Owners and Occupiers of the Lands and Works thereby affected,

Power to take temporary Possession of Land without previous Payment of Price.

CLXVI. And be it enacted, That, subject to the Provisions herein contained, it shall be lawful for the Company at any Time before the Expiration of the Period by this Act limited for the Completion of the Reservoir, without making any previous Payment, Tender, or Deposit, to enter upon and use any existing private Roads, and also to enter upon any Lands near to the said Reservoir and other Works, and not being a Garden, Orchard, Park, Plantation, planted Walk, Avenue, or Ground planted and set apart as a Nursery for Trees, and not being nearer than Five hundred Yards to the Mansion House of the Owner of any such Lands, and to occupy the said Lands during the Construction or Repair of the Reservoir and other Works, and to use the same for any of the following Purposes; (that is to say,)

For

For the Purpose of taking Earth or Soil by Side Cuttings therefrom;

For the Purpose of obtaining Materials therefrom for the Formation of the Reservoir; or

For the Purpose of forming Roads thereon to or from the Reservoir:

And in exercise of the Powers aforesaid it shall be lawful for the Company to deposit, and also to manufacture and work upon such Lands, Materials of every Kind used in constructing the Reservoir and other Works, and also to dig and take from out of any such Lands any Clay, Stone, Gravel, Sand, or other Things that may be found therein useful or proper for constructing the Reservoir or any such Roads as aforesaid.

Company to lodge Description of Reservoir.

CLXVII. And be it enacted, That the said Company shall be and they are hereby required before commencing the said Reservoir to deposit in the Office of the Sheriff Clerk of the County of *Edinburgh* a precise Specification or Description of the said Reservoir, mentioning the Contents thereof, and the Depth of the Water that may be collected therein at any Time, and the Kind of Work proposed in constructing, and all other Particulars respecting the same necessary for the Information of the Parties concerned; and after such Specification or Description shall have been so lodged as aforesaid the Sheriff of the County of *Edinburgh* shall appoint an Engineer or Engineers, who shall consider the said Specification or Description, and shall declare by Writing under his or their Hands that in his or their Opinion the Work, if constructed agreeably to such Specification or Description, will be a sufficient Security against any Damage arising from the Embankment or Head of the Reservoir bursting or giving way, or otherwise.

Sheriff may direct an Engineer to inspect and report the Progress of the Work if required.

CLXVIII. And be it enacted, That the said Sheriff shall, on the Application of the Company, or of any Party interested in the Security of the said Reservoir and Works, name an Engineer or Engineers, whose Duty it shall be to visit the Works while in progress, and from Time to Time to report to the said Sheriff, by Writing under his or their Hand or Hands, that the Execution of the said Reservoir is proceeding according to the Terms of the Specification or Description thereof, or the contrary, as the Case may be; and in case of any material Deviation from the said Specification not specially authorized in Writing by the said Engineer or Engineers, the said Sheriff shall forthwith issue his Order to stop the Works so executing contrary to the said Specification or Description.

Engineers to certify as to the Sufficiency of the the Works.

CLXIX. And be it enacted, That when the Embankments or Heads of the said Reservoir are completed the Engineer or Engineers appointed by the said Sheriff in manner before mentioned shall inspect such Embankments or Heads of the Reservoir, and certify by a Writing under his or their Hand that the Works have been completed according to the Specification or Description thereof, and that in his or their Opinion they form a sufficient Security against any Damage being done by the bursting of the said Embank-

ments or Heads, or their giving way, or the contrary Opinion, as the Case may be; and until such Report or Reports is or are made, certifying the Works to be completed and sufficient, it shall not be lawful to or for the said Company to abstract or divert the Water of the *North Esk*, or any Part thereof, nor obstruct the present Course of the same; and the whole Expence of the Examination of the Engineers and Inspection of and Attention to the Works shall be borne and paid by the said Company; and the said Specifications or Descriptions, and the Reports and Opinions of the Engineers, shall remain in the Office of the Sheriff Clerk of the County of *Edinburgh*, open to the Inspection and Perusal of all Parties concerned.

Company to appoint a proper Person for regulating the Supply of Water from the said Reservoir.

CLXX. And be it enacted, That the said Company shall from Time to Time appoint a proper Person as Superintendent or Keeper of the said Reservoir and Works, with a competent Salary to be paid by them for the Protection and Management of the same, who shall at all Times reside in the Dwelling House to be built or provided near to the said Reservoir, and who shall draw up and put down and otherwise manage and regulate the said Sluices, Valves, Weirs, and other Works, and mete out the Water according to written Instructions to be from Time to Time drawn up for the Purpose by the Company; but in case such Superintendent or Keeper shall neglect or refuse to attend to or comply with such written Instructions, he shall, on Complaint being made to the Company, and Proof given by any of the Owners or Occupiers of Mills, Factories, or other Works, or by any other Person interested, of such Neglect or Refusal, be forthwith dismissed by the Company, who shall without Delay appoint some other Person in his Stead; and such other Person shall be liable to be dismissed in like Manner on a like Complaint being made and proved against him.

Power to make Rules for regulating Management of Reservoir.

CLXXI. And be it enacted, That it shall be lawful for the Company to make such Rules and Regulations for the Management of the said Reservoir, Sluices, Valves, and other Works, and for regulating at all Times the Flow of Water into or from the said Reservoir, as they may see fit, and from Time to Time to alter such Rules and Regulations in such Manner as shall seem most desirable or advantageous; and such Rules and Regulations shall be entered in the Minute Book of the Company, and signed by the Chairman of the Meeting at which the same are made; and such Minute, so signed, shall be received as Evidence in all Courts, and before all Judges, without Objection.

Rules, &c. to be published.

CLXXII. And be it enacted, That a written or printed Copy of the Rules and Regulations to be so made, signed by the Chairman of the Meeting at which the same were passed, shall be posted up on some convenient Place in or near to the Dwelling House of the Superintendent or Person who shall have Charge of the said Reservoir and of the Works connected therewith, and also that a written or printed Copy of such Rules and Regulations shall be transmitted by the Clerk of the Company, through the Post Office, to the Owner or Occupier of every Mill using the Water from the said Reservoir.

CLXXIII. Pro-

Appeal to Sheriff against such Rules.

CLXXIII. Provided always, and be it enacted, That if any such Millowner or other Party interested in the said Rivers or Streams shall think himself aggrieved by any such Rules or Regulations it shall be lawful for him to appeal to the Sheriff against the same, provided such Appeal be made within Two Months after the Date of such Rules and Regulations, and that Ten Days previous Notice be given in Writing to the Clerk of the Company of such Intention to appeal, and in which Notice the Grounds of Complaint shall be specifically stated; and the Sheriff is hereby authorized to hear and determine such Appeal, and to make such Decree, Order, or Award thereon, and to allow such Expences to either Party as he may judge reasonable; and the Determination of such Sheriff shall be final and conclusive, without being subject to Review in any Manner howsoever.

Ordinary Discharge to be allowed to run down the River.

CLXXIV. And be it enacted, That in order to cleanse out the Channels of the said Rivers *North Esk* and *Esk* the Company shall be obliged and are hereby required at all Times to let out and discharge from the said Reservoir, and allow to flow down the said River, a Quantity of Water equal to the average ordinary Discharge (as ascertained in manner herein-after provided) of the said River and Streams flowing into the Reservoir, or at least as much Water as shall at the Time be flowing into the same, if less than the average ordinary Discharge of the said River and Streams.

Average Discharge into the Reservoir to be ascertained.

CLXXV. And in order to ascertain the average ordinary Discharge of the said River and Streams flowing into the Reservoir, and what shall be considered as flood or surplus Waters, be it enacted, That the Sheriff of the County of *Edinburgh* shall and he is hereby authorized, upon the Application of the Company, to appoint an Engineer, or other qualified Person, who is hereby required, as often as he may see necessary, at least once in the Months of *May*, *June*, *July*, *August*, *September*, and *October*, to measure, gauge, and ascertain, in such Manner as to him may seem proper, the average ordinary Discharge of the said River and Streams flowing into the said Reservoir, exclusive of flood Waters, and to determine on the Situation or Situations, Construction and Dimensions, of a Gauge or Gauges, Sluice or Sluices, to be so placed as to ascertain the Quantity of Water flowing into the said Reservoir, if not exceeding the average ordinary Discharge of the said River and Streams; and a Certificate or Certificates of the average ordinary Discharge of the said River and Streams, under the Hand of the said Engineer or other Person, being lodged with the Sheriff Clerk of the said County, the same shall be held final and conclusive in so far as regards the average ordinary Discharge of the said River and Streams; and the said Sheriff is hereby authorized and required to order and direct the Erection of the said Gauge or Gauges, Sluice or Sluices, within such reasonable Time as he may think proper, at the Cost and Expence of the Company.

Power to store up surplus or flood Water.

CLXXVI. And be it enacted, That when the Water flowing into the said Reservoir shall, by Flood or Rains or other Causes, be raised or increased beyond the average ordinary Quantity ascertained as

as aforesaid, such Increase shall be considered as surplus or flood Waters, and it shall be lawful to the said Company to collect and store up such surplus or flood Waters in the said Reservoir, and also to let out and discharge the same from the said Reservoir, in such Manner as the Company shall think expedient: Provided always, that no such surplus or flood Water shall be so collected or stored up until the average ordinary Discharge of the said River and Streams shall have been ascertained, and the said Gauge or Gauges, Sluice or Sluices, erected as above provided.

Expences of Engineers, &c. to be borne by the Company.

CLXXVII. Provided always, and be it enacted, That all the Expences of the Engineers or Surveyors, or other Persons to be appointed as aforesaid, and of obtaining the Direction of the Sheriff in manner herein-before mentioned, shall be paid and defrayed by the Company, and the Appointments of the Sheriff in the said Matters shall be final to all Intents and Purposes whatsoever against all Persons, and shall not be subject to Review in any Manner howsoever.

Present Roads, Drains, &c. to be restored.

CLXXVIII. And be it enacted, That the Company shall, at their own Expence, and in case of Difference to the Satisfaction of the Sheriff or Surveyor named by him, make and provide a sufficient Number of convenient Roads, Ways, Watering Places, Wells, Watercourses, Drains, and Channels for Irrigation, for the Use and Occupation of the adjoining Lands, and for irrigating the same, in lieu of any existing Roads, Ways, Watering Places, Wells, Watercourses, Drains, and Channels, which may, in consequence of the Works authorized by this Act, be taken away, interrupted, or injured by them, and thereby rendered inconvenient or useless, and where the same cannot be well and sufficiently restored.

Power to take Materials to repair Works.

CLXXIX. And be it enacted, That in case it shall happen at any Time, from Floods or any unforeseen Accident, that the Embankment or Head of the Reservoir or Sluices or other Works shall give way or break down, or may be in danger of so doing, it shall be lawful to the Company and they are hereby empowered from Time to Time, by their Officers, Engineers, and Workmen, without any Delay or Interruption from any Person whatever, to enter into any Lands or other Property adjoining or near the said Reservoir or Rivers or Streams, not being the Ground whereon a House stands, nor being a Garden, Orchard, Yard, Park, planted Walk or Nursery for Trees, or Avenue to a House, and to dig, work, get, and carry away and use all such Stones, Gravel, and other Materials as may be necessary or proper for the Purposes aforesaid, without any previous Treaty whatever with the Owners or Occupiers or other Persons interested in such Lands or other Property, doing as little Damage thereby as the Nature of the Works will admit of, and making Recompence for such Damages as may be done to the Owners or Occupiers or other Persons interested in such Lands and other Property by taking and using such Materials as aforesaid.

Power to apply to the Sheriff in case

CLXXX. And be it enacted, That the Embankments or Heads of the Reservoir, and the said Gauge or Gauges, Sluice or Sluices, being

being completed in a sufficient Manner, the same shall be kept in proper Repair by the said Company in all Time thereafter, and failing their doing so it shall be lawful to any of the Owners of Lands, Mills, or Works on the said Rivers *North Esk* and *Esk* to apply to the Sheriff of the said County, alleging that the said Embankments, Heads of the said Reservoir, Gauge or Gauges, Sluice or Sluices, or any of them, have become insufficient, or want Repair, whereupon the said Sheriff shall cause Inquiry to be made into the Truth of such Allegation by a skilful Person or Persons, and thereupon make such Orders for the Repairs thereof or otherwise, binding on the said Company, as the Case may require, so as that the said Embankments, Heads, and Reservoir may be always kept in a sufficient State of Repair.

of the Works falling into Disrepair.

CLXXXI. And for carrying the several Purposes of this Act into execution, be it enacted, That it shall be lawful for the Company and they are hereby authorized and empowered from Time to Time to make, assess, and levy such Rates or Assessments as are hereinafter mentioned, to commence at such Time or Times, and to be payable at such yearly or half-yearly Periods, as the said Company shall think proper, upon all Occupiers of Mills, Factories, or other Premises now erected or hereafter to be erected deriving any Benefit or Advantage from the Waters flowing from and along the Line or Course of the said Rivers called the *North Esk* and *Esk*, or Streams flowing therefrom, who shall hold, occupy, or employ any Fall of Water now taken up or hereafter to be taken up giving Motion to any Wheel, Engine, or other Machinery, or affording any Benefit or Advantage to such Mills, Factories, or other Premises situate between the Site of the Reservoir, Embankments, and other Works hereby authorized to be made, and the Firth of *Forth* at *Musselburgh*.

Power to assess and levy Rates for carrying the Purposes of the Act into execution.

CLXXXII. Provided always, and be it enacted, That no Rate shall be levied or assessed until the said Reservoir shall be actually made and in use, and Water supplied or ready to be supplied therefrom.

No Rate to be assessed before Reservoir actually in use.

CLXXXIII. And be it enacted, That, except as herein-after mentioned, Rates shall be imposed on all such Occupiers of Mills, Factories, and other Works as aforesaid in proportion to the Measurement and Depth by Feet and Inches of the Fall of Water occupied by them respectively for the Purpose of giving Motion to any Wheel, Machine, or Engine, and also according to the annual Value of such Mills, Factories, and other Works.

Rates to be in proportion to the Fall occupied, and Value of Mills.

CLXXXIV. Provided always, and be it enacted, That all Mills, Factories, and other Works, the gross annual Rent of which shall not exceed Thirty Pounds, and the Occupier of which shall not at the same Time be the Tenant or Occupier of any other Mill on the said Rivers or Streams, shall be and the same are hereby exempted from the said Rate or Assessment; but where more than One such Mill or other Work shall be occupied by or on behalf of the same Person or Persons, the cumulo annual Rent of which shall exceed

Mills under 30*l.* Rent to be exempted from Assessment.

Thirty Pounds, such Mills or other Works shall be treated as One Mill within the Meaning of this Act, and shall be subject and liable to Assessment accordingly.

Rate how to be levied.

CLXXXV. Provided always, and be it enacted, That Part of the said Rate or Assessment shall be charged and levied at the Sum of Two Pounds Sterling annually *per* Foot of Fall of Water, and so on for a greater or less Quantity than a Foot, and that the Remainder of the said Rate or Assessment shall be charged and levied on the annual Value of the said Mills, Factories, and other Works, to be ascertained in manner herein-after provided, but so that the same shall not exceed in any one Year the Sum of Three Shillings *per* Pound on such annual Value.

Annual Value of Mills to be ascertained.

CLXXXVI. And be it enacted, That the annual Value of such Mills, Factories, and other Works shall be taken to be the Rent at which the same would be reasonably expected to let for upon a Lease of ordinary Endurance, as the same shall be fixed and ascertained by an Engineer or Engineers to be appointed by the Company in manner after mentioned: Provided always, that in all Cases in which any propelling Power shall be used in any such Mills, Factories, and other Works other than the Water Power derived from the said Rivers or Streams, a Deduction shall be made from the Rental thereof for the annual Value of such propelling Power other than Water Power, and such Deduction shall be in the Proportion that such propelling Power other than the said Water Power may bear to the whole Power of such Mills, Factories, and other Works.

Company to appoint One or more Engineers to ascertain the Falls and Water Power, &c.

CLXXXVII. And in order the better to ascertain the Scale for Assessment as herein-before provided, be it enacted, That the Company shall and are hereby authorized and required, after the said Reservoir shall have been completed, and Water flowing therefrom as aforesaid, and thereafter from Time to Time as often as the Company may think it necessary, to appoint One or more competent and impartial Engineer or Engineers to inspect and survey the whole of the said Rivers and Streams between the said intended Reservoir and the Firth of *Forth* at *Musselburgh*, and the Falls supplied with Water from them or any of them, and to determine the Levels of the said Rivers and Streams and Falls respectively, and also to inspect the said Mills, Factories, and other Works, and ascertain the annual Value thereof, and the Extent of propelling Power which they may have, and for that Purpose it shall be lawful for such Engineer or Engineers from Time to Time to enter upon the Lands and Works adjoining or near to the said Rivers and Streams respectively with his and their respective Assistants; and the said Engineer or Engineers shall make up a Report upon Oath to be administered to him or them by the Chairman of the Directors at any Meeting held by them, which Report shall set forth the Height in Feet and Inches of the respective Falls of Water occupied on the said Rivers and Streams, and the propelling Power of such Falls expressed in Horse Power, and also the Amount, expressed in Horse Power, of any propelling Power other than the Power derived from the said Falls on the

the said Rivers which may be used in the Mills, Factories, or other Works constructed upon the said Rivers or Streams at the Time, and in which Report the said Engineer or Engineers shall also state what in his or their Opinion is the annual Value of such Mills, Factories, and other Works, ascertained in manner before mentioned; and such Report shall be authenticated by the Directors or their Chairman, and delivered to the Clerk of the Company, and shall be the Rule for fixing and levying the said Rate or Assessment in the first instance, and thereafter for the Year to which such Report shall be applicable.

First Assessment.

CLXXXVIII. And be it enacted, That the first Assessment under this Act shall be imposed by the Company as soon as conveniently may be after the Report of the Engineers fixing the Scale to be adopted as aforesaid, and the Company shall at the same Time fix the Term or Terms of Payment thereof: Provided always, that due Notice shall be given by the Clerk to the Company of such Assessment and Term of Payment, as well as of the Report of the Engineers, by Letter addressed to every Person so assessed, and either delivered at their usual Place of Abode, or put into the Post Office, and such Assessment shall be final; and the Company shall and they are hereby authorized to recover Payment from the several Persons assessed at the Term or Terms fixed for that Purpose, unless in any Case Notice of Appeal shall be given in manner herein-after provided.

Subsequent Assessments.

CLXXXIX. And with respect to subsequent Assessments, be it enacted, That the Company shall and they are hereby authorized, in every Year, at their annual General Meeting to be held in the Month of *May*, or at any Meeting at which the previous Year's Affairs of the Company shall have been ascertained, to impose such Assessment on the Owners and Occupiers of Mills, Factories, and other Works taking or using any of the Water in the Falls of the said Rivers or Streams for the ensuing Year as the previous Expenditure and Demands of the Company may appear to require; and the Scale for such Assessment shall be ascertained, and Notice thereof shall be given and Payment recovered, all in manner herein-before directed with regard to the first Assessment under this Act.

Provision for concurrent Occupiers of Falls.

CXC. Provided always, and be it enacted, That where any Two Persons shall be concurrent Occupiers for any such Purpose as aforesaid of any Part of the said Streams, Rivers, or the Fall thereof, or the Water derived therefrom, the Proportion in which such Persons shall be liable to be assessed to the Rates hereby authorized to be imposed shall be determined by the Engineer employed by the Company.

Occupiers removing from or entering Mills to pay a Portion of the Rate.

CXCI. And be it enacted, That in all Cases where any Person shall remove from or quit any Mill which shall be rated by virtue of this Act, such Person shall be liable to pay such Rate in proportion to the Time for which he occupied the same; and in all Cases where any Person shall come into the Occupation of or occupy any Mill out of or from which any other Person rated as aforesaid shall have removed,

removed, or which at the Time of making such Rate was unoccupied, and not rated under the Authority of this Act, he shall for and in respect of his Occupation thereof be liable to such Rate, in proportion to the Time that he shall occupy the same, in the same Manner as if he had been originally rated for such Mill; which said respective Proportions, in case of Dispute, shall be determined by the Company.

Provision as to certain Mills.

CXCII. And whereas it may be just and reasonable that the Occupiers of certain Mills on the said Rivers or Streams should obtain Relief from the said Assessments or Part thereof in certain Cases; be it enacted, That the Directors are hereby required to take into consideration the Situation and Circumstances of any particular Mill, and the beneficial Use which any such Mill shall have and take of the Water supplied from the said intended Reservoir, and after due Consideration to afford to the Occupiers of such Mills or any of them such Relief, total or partial, from the said Assessments, as to the Directors shall seem just and reasonable.

Appeal.

CXCIII. And be it enacted, That if any Person so assessed as aforesaid shall in any Case be dissatisfied with the Rate of Assessment fixed by the Company, or the Scale on which the same proceeds, as fixed by an Engineer in manner herein-before provided, or with the Relief afforded by the Company as aforesaid, it shall be lawful for him to appeal to the Sheriff of the County of *Edinburgh*, and such Sheriff is hereby authorized to hear and determine such Appeal, and to make such Order or Decree therein as to him may appear just and reasonable, and his Decision shall be final and conclusive, without being subject to Review in any Manner howsoever: Provided always, that the Party appealing shall give Notice of his Intention so to do to the Clerk of the Company within Ten Days after Notice of the Assessments as by this Act provided, and shall, within Ten Days thereafter, enter into a Bond at the Office of the Sheriff Clerk of the said County of *Edinburgh*, with Two sufficient Sureties, to prosecute such Appeal in such Manner as may be directed by the Sheriff, and to pay the Amount of the Rate in dispute, and all Costs attending the Appeal, in case the Sheriff shall so determine, otherwise such Appeal shall not be entertained.

Power of Diligence in case of Non-payment of Rates.

CXCIV. And be it enacted, That if any Person rated as aforesaid shall for the Space of Twenty-one Days after Demand made in Writing on him by the Collector or Receiver of Rates, either in Person, or left at his Residence, or the Mill, Factory, or other Works, in respect of the Fall of Water supplying which such Demand shall be made, refuse or neglect to pay any Sum of Money which shall be rated, assessed, or imposed on him under the Provisions herein contained, it shall be lawful for such Collector or Receiver, or any other Person authorized by the Directors, (which Authority the Directors are hereby empowered and required from Time to Time to grant as Occasion shall require,) to levy such Sum of Money so rated, assessed, or imposed, and all Arrears thereof, by Poinding and Sale of the Goods and Effects of the Persons so neglecting or refusing to pay the same, rendering the Overplus (if

any), on Demand, to the Owner of such Goods and Effects, after deducting the Costs and Charges of taking or making such Pointing and Sale.

Penalty for drawing Sluices and damaging Works.

CXCV. And be it enacted, That if any Person or Persons shall wantonly or maliciously draw the Sluices, or shall wilfully or maliciously break down, damage, or destroy any of the Banks, Dams, Sluices, Engines, Spillwaters, Houses, or other Works to be erected and made in pursuance of this Act, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, over and above paying the Damage so done, which Damage shall be recovered in the same Way as the Penalties by this Act imposed may be recovered.

Land Tax to be made good.

CXCVI. And for the Purpose of providing against Deficiencies in the Assessments for Land Tax occasioned by the making of the Reservoir in the Parishes wherein the same or any Part thereof may be situate, be it enacted, That if the Company become possessed by virtue of this Act of any Lands charged with the Land Tax, the Company shall from Time to Time, until the Reservoir shall be completed and assessed to such Land Tax, be liable to make good the Deficiency in the several Assessments for Land Tax arising within such Parishes by reason of such Lands having been taken or used for the Purposes of the Reservoir, and such Deficiency shall be computed according to the Rental at which such Lands were valued or rated at the Time of the passing of this Act, and on Demand of such Deficiency the Treasurer of the Company shall pay all such Deficiencies to the Collector of the said Assessments respectively; nevertheless, if at any Time the Company think fit to redeem such Land Tax, they may do so in accordance with the Powers in that Behalf given by the Acts for the Redemption of the Land Tax.

Provision for Damages not otherwise provided for.

CXCVII. And be it enacted, That in all Cases where any Damages or Charges are by this Act directed or authorized to be paid, and the Method of ascertaining the Amount thereof is not provided for, such Amount, in case of Nonpayment thereof, or of any Dispute respecting the same, shall be ascertained and determined by the Sheriff; and when by this Act any Damage or Charges are directed to be paid in addition to the Penalty for any Offence, the Amount of such Damages and Charges, in case of Nonpayment thereof, or of any Dispute concerning the same, shall be determined by the Sheriff; and on Nonpayment of the Damages or Charges in any of the Cases aforesaid, on Demand, the same shall be levied by Pointing and Sale, and the Sheriff shall issue his Warrant accordingly.

Sheriff or Justices to examine Parties and Witnesses.

CXCVIII. And be it enacted, That where in this Act any Question of Compensation or Damages is referred to the Determination of the Sheriff or any Two or more Justices, it shall be lawful for the Sheriff or such Justices to examine the Parties to such Question, and their Witnesses, on Oath, and to administer the Oaths necessary for that Purpose; and the Costs of every such Inquiry shall be in the

Discretion of the Sheriff or Justices; and if either Party to any such Question fail to appear at the Time and Place appointed by the Sheriff or Justices for going into any such Question, without reasonable Excuse to the Satisfaction of such Sheriff or Justices, due Notice of such Appointment having been given to such defaulting Party, it shall be lawful for the Sheriff or Justices to proceed *ex parte*.

Diligence against the Company; against the Treasurer.

CXCIX. And with respect to any Sum of Money under the Provisions of this Act adjudged by the Sheriff to be paid by the Company, for which no other Mode of proceeding is provided by this Act, be it enacted, That if such Money be not paid by the Company to the Party entitled to receive the same within Ten Days after Demand thereof in Writing, stating the Order of the Sheriff for the Payment of such Money, the Amount may be recovered by Poinding and Sale, and the Sheriff shall issue his Warrant accordingly; and if sufficient Goods or Effects of the Company cannot be found whereon to levy such Sum of Money the same may be recovered by Poinding and Sale of the Goods of the Treasurer of the Company, and the Sheriff shall issue his Warrant accordingly; but no such Diligence shall issue against the Goods of such Treasurer unless Ten Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer or left at his Residence.

Reimbursement of the Treasurer.

CC. And be it enacted, That if such Treasurer pay any Money under any such Diligence as aforesaid he may retain the Amount so paid by him, and all Costs and Expences occasioned thereby, out of any Money belonging to the Company coming into his Custody or Control, or he may sue for the same against the Company by Process of Law.

Penalties to be summarily recovered before Two or more Justices.

CCI. And for the Purpose of providing for the Recovery of Penalties or Forfeitures imposed by this Act, the Recovery of which is not otherwise provided for, be it enacted, That every such Penalty or Forfeiture may be recovered by summary Proceeding, upon Complaint made before One or more Justices; and on Complaint being made to any such Justice he shall issue a Summons requiring the Party complained against to appear on a Day and at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending either in Person or by leaving the same with some Inmate at his usual Place of Abode; and either upon the Appearance or upon the Default to appear of the Party offending it shall be lawful for any Two or more Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for any Two or more Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

CCII. And

Penalties to be levied by Poinding.

CCII. And be it enacted, That if forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture and of such Costs as aforesaid be not paid, the Amount of such Penalty and Costs, together with the Costs of the Diligence, shall be levied by Poinding and Sale, and any Two or more Justices shall issue their Warrant accordingly.

Imprisonment in case of Insufficiency of Poinding.

CCIII. And be it enacted, That it shall be lawful for the Justices to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be made to the Warrant of Poinding to be issued for levying such Penalty or Forfeiture and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justices, for his Appearance before them on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Poinding it shall appear to the Justices, by the Admission of the Offender or otherwise, that no sufficient Effects can be found whereon to levy such Penalty or Forfeiture and Costs, they may, if they think fit, refrain from issuing such Warrant of Poinding; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Justices, then such Justices shall, by Warrant, cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture and Costs be sooner paid and satisfied.

Application of Penalties.

CCIV. And with respect to the Application of any Penalties or Forfeitures recovered by virtue of this Act, the Application whereof is not herein otherwise provided for, be it enacted, That the Justices by whom any such Penalty or Forfeiture shall be imposed shall award one Half thereof to the Informer or any Person suing for the same, and the other Half to the Company.

Penalties to be sued for within Six Months.

CCV. And be it enacted, That no Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this Act for any Offence herein-before made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made within Six Months next after the Commission of such Offence.

Penalty on Witnesses making default.

CCVI. And be it enacted, That it shall be lawful for any Justice to summon any Person to appear before him as a Witness to testify the Truth in any Matter over which he shall have Jurisdiction by this Act, and to administer an Oath to such Person for that Purpose; and if any Person who shall be summoned as a Witness before any Justice touching any Offence committed against this Act shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

CCVII. And

Transient Offenders.

CCVII. And with respect to Offenders whose Names and Residences are not known, be it enacted, That any Officer or Agent of the Company, and all Persons called by him to his Assistance, may seize and detain any Person who shall have committed any Offence against the Provisions of this Act, and whose Name and Residence shall be unknown to such Officer or Agent, and may convey him with all convenient Despatch before a Justice without any Warrant or other Authority than this Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

Informalities.

CCVIII. And be it enacted, That no Proceeding in pursuance of this Act shall be reduced or set aside for Want of Form, nor shall the same be removed into any of the Superior Courts.

Poinding, how to be levied.

CCIX. And be it enacted, That where in this Act any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Poinding, such Sum of Money shall be levied by Poinding and Sale of the Goods and Effects of the Party liable to pay the same, and the Overplus arising from the Sale of such Goods and Effects, after satisfying such Sum of Money and the Expences of the Poinding and Sale, shall be returned, on Demand, to the Party whose Goods shall have been poinded.

Diligence not unlawful for Want of Form.

CCX. And be it enacted, That no Diligence done by virtue of this Act shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Poinding, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Parties may appeal to Quarter Sessions on giving Security.

CCXI. And be it enacted, That if any Person shall think himself aggrieved by any Determination or Adjudication of any Justice under the Provisions of this Act he may appeal to the General Quarter Sessions for the County; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, and unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, and unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Quarter Sessions to make such Order as they think reasonable.

CCXII. And be it enacted, That at the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to a future Day; and upon the hearing of such Appeal the

the Court may, if they think fit, mitigate any Penalty or Forfeiture, or may confirm or set aside the Adjudication, and order any Money paid by the Appellant, or levied by Poinding and Sale of his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable. Costs.

Power to Land and Mill Owners to purchase the Reservoir and Works.

CCXIII. And be it enacted, That at any Time after Two Years from the Completion of the Reservoir and other Works hereby authorized to be made it shall be lawful for the Owners of Land adjacent or near to and the Owners or Occupiers of Mills on the said Rivers or Streams *North Esk* and *Esk*, the annual Rent of whose Lands or Mills shall be not less than One hundred Pounds, or of a Majority of such Owners or Occupiers at a General Meeting to be convened for the Purpose, after due Notice once a Week for at least One Month in any Two or more of the *Edinburgh* Newspapers, to purchase from the Company the whole Lands and Works acquired and made under and by virtue of this Act, which Lands and Works the Company are hereby empowered and required, on Payment to them of Compensation as herein-after mentioned, to transfer and relinquish to the said Owners of Land and Owners or Occupiers of Mills, together with all Powers, Rights, and Privileges hereby conferred on them for the managing and repairing and maintaining and keeping up the said Reservoir and other Works, and regulating the Supply of Water therefrom, with the Powers of Assessment and all other Powers and Privileges relating thereto; and such Powers shall and may, after such Transfer, be lawfully exercised and enjoyed by the said Owners of Land and Owners or Occupiers of Mills in such Manner as they shall from Time to Time settle and agree upon by Rules and Regulations to be made for the Purpose, and sanctioned by the Sheriff: Provided always, that such Rules and Regulations shall not be inconsistent with the Provisions of this Act, nor with the Law of *Scotland*.

Consideration to be paid to the Company.

CCXIV. And be it enacted, That the Consideration to be paid by the said Owners of Land and Owners or Occupiers of Mills for the Purchase of the said Lands and Reservoir and other Works as aforesaid shall be the Repayment to the Company of all Monies expended by them in and about the Purchase of such Lands, and the Construction of such Works, and the procuring of Materials for the same, with the Cost and Expence in and about the passing of this Act, and all Disbursements in any way relating to the Management of the Company, with Interest after the Rate of Five Pounds *per Centum per Annum* on the said Monies, calculated from the respective Days of Payment thereof, under Deduction always of the Amount of the Dividends which may from Time to Time have been paid to the Shareholders of the Company; and in case of any Difference as to the Amount of such Monies, the same shall be settled by the Sheriff, whose Decision thereon shall be final, without being subject to Review in any way whatever.

Power to Land and Mill Owners to borrow Money to pay the Company.

CCXV. And be it enacted, That in the event of such Purchase as aforesaid it shall and may be lawful for the said Owners of Land and Owners or Occupiers of Mills to borrow and take up at Interest on the Security of the said Lands and Works the whole or any Part of such Sum or Sums of Money as they may pay to the Company as the Consideration Money for such Purchase as herein-before provided; and from Time to Time to pay off and again reborrow such Sums or any Part thereof in such Way and Manner as they may think most beneficial.

Land and Mill Owners, if they purchase the Reservoir and Works, must maintain the same.

CCXVI. And be it enacted, That in the event of the said Reservoir and other Works being purchased by the said Owners of Lands and Owners or Occupiers of Mills as aforesaid, they shall be obliged and are hereby required from Time to Time to maintain and keep the same in good Order and Condition to the Satisfaction of any Engineer to be from Time to Time named by the Sheriff; and it shall be lawful for any Party interested in the said Reservoir and Works to make Application to the Sheriff accordingly.

Giving a Right of Rod Fishing, &c. in the Reservoir to Owners of adjoining Lands.

CCXVII. Provided always, and be it enacted, That the Owner or Owners for the Time being of the Estate of *Newhall* and of the Lands of *Fairliehope* respectively shall have a Right of Rod Fishing in the said Reservoir, and of keeping a Boat thereon, such Right being to be exercised so as not to cause any Injury to the said Reservoir and Water therein, or to the Works connected therewith.

Interpretation of Act.

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

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number;

Words importing the Masculine Gender shall include Females;

The Word "Month" shall mean Calendar Month;

The Word "Person" shall extend to Corporation;

The Word "Sheriff" shall mean the Sheriff of the County of *Edinburgh*, and shall include his Substitutes;

The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration or Solemnity lawfully substituted for an Oath in the Case of other Persons exempted by Law from the Necessity of taking an Oath;

The Word "Lands" shall extend to Lands, Tenements, and all other Heritable Subjects;

The Word "Mill" shall extend to and mean all Mills, Factories, and other Works;

The Word "Justice" shall mean Justice of the Peace for the County or Place wherein the Matter requiring the Cognizance of any Justice shall arise, and who shall not be interested in the Matter;

The Expression "the Company" shall mean the Company incorporated by this Act; and

The Expressions "the Directors" and the "Clerk" shall mean the Directors and the Clerk respectively of such Company.

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

SCHE-

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

Form of Certificate of Share.

The North Esk Reservoir Company.

Number

THIS is to certify, That *A. B.* of is the Proprietor of the Share Number of "The North Esk Reservoir Company," subject to the Regulations of the said Company. Given under the Common Seal of the said Company, the Day of in the Year of our Lord .

SCHEDULE (B.)

Form of Transfer of Shares.

I of in consideration of the Sum of paid to me by of do hereby assign and transfer to the said Share [*or* Shares] numbered in the Undertaking called "The North Esk Reservoir Company," to be held by the said his Executors, Administrators, and Assigns, [*or* Successors and Assigns,] subject to the several Conditions on which I held the same at the Time of the Execution hereof. And I the said do hereby agree to take the said Share [*or* Shares] subject to the same Conditions. In witness whereof [*here insert testing Clause according to the Law of Scotland*].

SCHEDULE (C.)

Form of Mortgage Deed.

The North Esk Reservoir Company.

Mortgage, Number £

BY virtue of an Act, passed, *&c.*, intituled, *&c.*, we, "The North Esk Reservoir Company," in consideration of the Sum of Pounds paid to us by *A. B.* of do assign unto the said *A. B.*, his Executors, Administrators, and Assigns, the said Undertaking, Property, and Works thereof, [and (*in case such Loan shall be in anticipation of the Capital authorized to be raised*) all future Calls on Shareholders,] and all the Rates, Assessments, and Sums of

of Money arising by virtue of the said Act, and all the Estate, Right, Title, and Interest of the Company in the same, to be held by the said *A. B.*, his Executors, Administrators, and Assigns, until the said Sum of Pounds, together with Interest for the same at the Rate of for every One hundred Pounds by the Year, be satisfied [*here insert the Terms of Payment of Principal and Interest, Penalties in case of Nonpayment, and other Conditions of the Loan*]. In witness whereof these Presents, written by are sealed with our Common Seal, and are subscribed [*here insert a testing Clause according to the Law of Scotland*].

SCHEDULE (D.)

Form of Bond.

The North Esk Reservoir Company.

Bond, Number

By virtue of an Act, passed, *&c.*, intituled, *&c.*, we, "The North Esk Reservoir Company," in consideration of the Sum of Pounds to us in hand paid by *A. B.* of do bind ourselves and our Successors unto the said *A. B.*, his Executors, Administrators, and Assigns, that the said Company shall pay to the said *A. B.*, his Executors, Administrators, or Assigns, on the Day of which will be in the Year One thousand eight hundred and the Principal Sum of Pounds, together with Interest for the same at the Rate of Pounds per Centum per Annum [*here insert the Penalties in case of Nonpayment, and other Conditions of the Loan*]. In witness whereof these Presents, written by are sealed with our Common Seal, and are subscribed [*here insert a testing Clause according to the Law of Scotland*].

SCHEDULE (E.)

Form of Transfer of Mortgage or Bond.

I *A. B.* of in consideration of the Sum of paid to me by *G. H.* of do hereby transfer to the said *G. H.*, his Executors, Administrators, and Assigns, a certain Bond [*or* Mortgage], Number made by "The North Esk Reservoir Company," to bearing Date the Day of for securing the Sum of and Interest [*or, if such Transfer be by Endorsement*, the within Security], and all my Right, Estate, and Interest in and to the Money thereby secured [*and if the Transfer be of a Mortgage*, and in and to the Tolls, Money, and Property thereby assigned]. In witness whereof [*here insert a testing Cause according to the Law of Scotland*].

SCHEDULE (F.)

Form of Proxy.

I *A. B.* of one of the Proprietors of "The North Esk Reservoir Company," do hereby appoint *C. D.* of to be my Proxy, in my Absence to vote in my Name upon any Matter relating to the Undertaking proposed at the Meeting of the Proprietors of the said Company to be held on the Day of next, in such Manner as he the said *C. D.* shall think proper. In witness whereof [*here insert testing Clause according to the Law of Scotland*].

SCHEDULE (G.)

Form of Conveyance.

I of in consideration of the Sum of paid to me [*or, as the Case may be,* into the Bank, *or* to *A. B.* of and *C. D.* of Two Trustees appointed to receive the same], pursuant to an Act passed, *&c.*, intituled, *&c.*, by "The North Esk Reservoir Company," incorporated by the said Act, do hereby sell, alienate, and dispone to the said Company, their Successors and Assigns, all and whole [*describing the Premises to be conveyed*], together with all my Right, Title, and Interest in and to the same, to be held the Premises by the said Company, their Successors and Assigns for ever, according to the true Intent and Meaning of the said Act [*here insert the Conditions, if any, of the Conveyance, a Registration Clause for Preservation and Publication, and a testing Clause according to the Law of Scotland*].

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