



ANNO QUADRAGESIMO SECUNDO

GEORGH III. REGIS.

Cap. 114.

An Act for making and maintaining a Navigable Canal from the Boat Pool of *Dalry* in the *Glenkenns*, to the Port and Town of *Kirkcudbright*, in the Stewartry of *Kirkcudbright*.

[26th June 1802.]

WHEREAS the making and maintaining a Navigation or Canal, navigable for Boats, Barges, and other Vessels, (from the *Glenkenns*, at a Place called *The Boat Pool of Dalry* in the Parish of *Dalry*, along the East Side of the Rivers *Kenn* and *Dee* through Part of the said Parish, and through the Parishes of *Balmaclellan*, *Parton*, *Crossmichael*, *Kelton*, and *Kirkcudbright*, to or near a Place called *Upper Carse*, and from thence to communicate with the Tideway of the River *Dee* at or near the Town of *Kirkcudbright*), will open a Communication between the interior Part of the Stewartry of *Kirkcudbright* and the Sea, and greatly facilitate and render less expensive the Conveyance of Manure, Coal, Lime, and all Sorts of Commodities through an extensive District of Country, and will tend to the establishing of Arts and Manufactures therein, and will also tend to the Improvement of the Lands and Estates through and near which such Canal will pass, and will be in other Respects of publick Utility: And whereas the several Persons herein-after named are desirous

[*Loc. & Per.*]

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to

Company of
Proprietors.

Their Powers.

to accomplish a Plan of so much publick Utility, and at their own Expence to make and maintain the said Canal; but cannot effect the same without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spirituall and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Honourable *John Gordon of Kenmure*, the Honourable *Montgomerie Granville Stewart*, Sir *William Douglas* Baronet, Sir *Alexander Gordon* Knight, *James Gordon*, *John Spalding*, *Patrick Heron*, Esquires, Lieutenant Colonel *Andrew Wight*, *David Lamont* Doctor in Divinity, *William Porter*, *Richard Alexander Oswald*, *William Glendonwyne*, *Quintin Macadam*, *William Forbes*, *Adam Maitland*, *Adam Thomson*, *William Muirhead Herries*, *John Syme*, *James Hannay*, *John Napier*, *John Pew*, *William Ireland*, *Robert Gordon*, *Horatius Cannam*, *James Niven*, *William Wilson*, Esquires, the Provost of *Kirkcudbright* for the Time being, and the Provost of *New Galloway* for the Time being, and their severall and respective Successors, Executors, Administrators, and Assigns, or such of them as shall from Time to Time be possessed of any Share or Shares in the said Canal or Undertaking, together with such other Person or Persons, who from becoming Proprietor or Proprietors of any Share or Shares therein shall be nominated and appointed by the Persons herein-before named, or their aforesaid, or by the Majority of them assembled at the First or any subsequent General Meeting, are and shall be united into a Company, for the better carrying on, making, completing, and maintaining the said Navigable Canal, passable for Boats, Barges, and other Vessels, according to the Rules, Orders, and Directions herein-after expressed and laid down, and shall for that Purpose be One Body Politick and Corporate, by the Name of *The Company of Proprietors of the Glenkens Canal Navigation*, and by that Name shall have perpetual Succession, and shall have a Common Seal, and by that Name shall and may sue and be sued, and also shall and may have Power and Authority to purchase Lands, Tenements, and Hereditaments, to them, their Successors, and Assigns, for making the said Canal, and the severall Works hereby authorized to be made, and the said Company of Proprietors shall be, and they are hereby authorized and empowered, by themselves, their Agents, and Workmen, to make and complete a Canal, navigable and passable for Boats, Barges, and other Vessels, (from the *Glenkens* at a Place called *The Boat Pool of Dalry*, along the East Side of the Rivers *Kenn* and *Dee* in the *Glenkens*, through Part of the said Parish, and through the Parishes of *Balmaclellan*, *Parton*, *Crossmichael*, *Kelton*, and *Kirkcudbright*, to or near a Place called *Upper Carse*; and from thence to the Tideway of the River *Dee* at or near the Town of *Kirkcudbright*), and to supply the said Canal with Water whilst the same shall be making, and when made, from the Rivers *Dee* and *Kenn*, and from all such Lochs, Brooks, Springs, Streams, Rivulets, and Watercourses as shall be found in digging or making the said Canal, or within the Distance of Two thousand Yards thereof, (excepting always such Streams within the Lands of *Low Arkland*, *Billes*, *Milthard* or *Mayfield*, *Netherthbird*, *Culdoach*, *Upper Boreland*, and *Burnside*, as are used or may be advantageously used in irrigating the Lands on the lower Side of the Canal), or from any Reservoir or Reservoirs to be made as herein-after mentioned for supplying the said Canal with Water; and the said Company of Proprietors are hereby also empowered, by themselves,

their Agents, and Workmen, to erect a Dam or Weir across the River *Dee*, at or near *Glenloch* Bridge, and also any other Dams or Weirs at such other Places across the said River, above the said Bridge, as may be found necessary or expedient, so that such Dams or Weirs, or any of them, shall not in any Manner howsoever prejudice, injure, or obstruct any Fishery or Fisheries upon or at the Mouth of the said River *Dee*; and also to make such Reservoir or Reservoirs; and such and so many Feeders and Aqueducts, and also to erect and set up such Engines and other Machines for supplying the said Canal and Reservoirs with Water, and for any other Purposes necessary for the said Canal, and to convey Water from any such Reservoirs to the said Canal, as to them shall seem necessary or proper; and for the Purposes aforesaid the said Company of Proprietors, their Agents, and Workmen, are hereby authorized and empowered to enter into and upon the Lands or Grounds of any Person or Persons, Bodies Politick or Corporate, and to survey and take Levels of the same, or any Part thereof, and to set out and ascertain such Parts thereof as they shall think necessary and proper for making the said Canal, and all such other Works, Matters, and Conveniencies as they shall think proper and necessary for effecting, completing, maintaining, improving, and using the said Canal and other Works, and also to bore, dig, cut, trench, fough, get, remove, and lay, Earth, Stone, Soil, Clay, Rubbish; Roots of Trees, Beds of Gravel or Sand, or any other Matters or Things which may be dug or got in the making of the said Canal and other Works, or out of any Lands or Grounds of any Person or Persons adjoining or lying contiguous or convenient thereto, and which may be requisite, for making, carrying on, continuing, or repairing the said Canal and other Works, or which may hinder, obstruct, or prevent the making, using, completing, and maintaining the same, or in making, using, completing, and maintaining of such Weirs and Reservoirs as aforesaid, or of any such Feeders, Trenches, Passages, Aqueducts, and Watercourses as shall be necessary and proper to convey Water to and from the said Canal, River, and Reservoirs, according to the Intent, Tenor, and Purport of this Act; and also to make, build, erect, and set up, in or upon the said Canal, or upon the Lands adjoining, or near thereto, such and so many Bridges, Piers, Arches, Tunnels, Aqueducts, Sluices, Locks, Weirs, Pens for Water, Stanks, Reservoirs, Drains; Wharfs, Quays; Landing Places, Weigh Beams, Cranes, Fire Engines, or other Machines, Ways, Railways, Roads, Conveniencies, and other Works, and to repair, support, vary, and alter the same, as and when the said Company of Proprietors shall think requisite and convenient for the Purposes of the said Navigation, and for the carrying and conveying of Goods and other Things to or from the said Canal, and for the carrying and conveying of all Kinds of Materials necessary for the making, erecting, altering, repairing, or amending the said Works; and also to place, lay, work, and manufacture the said Materials on the Grounds near to the Place or Places where the said Works, or any of them, shall be or are intended to be made, erected, repaired, or done; and also to make, maintain, repair, and alter any Fences, Roads, or Passages over, under, or through the said Canal, or the Tunnels, Reservoirs, Aqueducts, Soughs, Trenches, Passages, Feeders, Watercourses, and Sluices respectively which shall communicate therewith; and also to make, set up, and appoint such towing Paths, Banks, and Ways, convenient for towing, hauling, or drawing of Boats, Barges, or other Vessels passing upon the said Canal, or along the Rivers *Dee* and *Kenn*, or Loch of *Kenn*, and
proper

proper Places for Boats and other Vessels navigated thereon, to turn, lie, or pass each other; and to construct, make, erect, and do all other Matters and Things which the said Company of Proprietors shall think necessary and convenient for the making, extending, preserving, improving, completing, and using the said Canal and other Works, in pursuance and according to the true Intent and Meaning of this Act, they the said Company of Proprietors, their Agents, and Workmen, doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making Satisfaction, in Manner herein-after mentioned, for all Damages to be sustained by the Owners or Proprietors of, and Persons interested in such Lands, Tenements, or Hereditaments, Waters or Watercourses respectively, as shall be taken, used, or prejudiced in or by the Execution of this Act; and this Act shall be sufficient to indemnify the said Company of Proprietors, their Agents, and Workmen, and all other Persons, for what they shall do by virtue of the Powers hereby granted.

Directing how
Dams and
Weirs shall be
constructed.

II. Provided always, and be it further enacted, That the Dams or Weirs by this Act authorized to be made in and across the said River *Dee* shall be constructed in Manner following; (that is to say), there shall in all such Cases be a Causeway of Stone made across the River from Side to Side, which Causeway or Causeways shall not be more than Two Feet in Height above the general Level of the Bed of the River at the Place or Places where the same respectively shall be made, and that all such Dams or Weirs shall be guarded by a Sill and Sheeting Piles above and below the said Causeway, and that from the lower Sill thereof there shall be laid in the Bed of the River a sufficient Quantity of Rubble Stone to prevent the Water from disturbing the Bed of the said River, and thereby undermining such Causeway; and that on all such Causeways there shall be erected a Jetty or Wall of Stone from each Side of the River, not more than Two Feet in Height above such Causeways, and having in all Cases an Opening therein, as nearly as may be in the Middle of the said River, of the Width of Forty Feet at the least; and that such Dams or Weirs, Jetties, and Causeways, shall at all Times be constructed and supported in the Manner and of the Dimensions aforesaid.

Power to
make Inclined
Planes and
Rail Roads.

III. Provided always, and be it further enacted, That it shall be lawful for the said Company of Proprietors, for the Purpose of conveying Waggon or other Carriages over or along any Parts of the Line herein-before mentioned for making the said Canal, by Rollers, Inclined Planes, Rail Roads, or in any other Manner than by Water, or for conveying Goods into the Boats, Barges, or other Vessels navigating the said Canal, or from such Boats, Barges, or other Vessels in the said Canal to the said Tideway, to cause any Rollers, Inclined Planes, Rail Roads, or other Works, with Steam Engines, Water Wheels, or other Machinery for working the same, to be made, at such Parts and Places, within or adjoining to the Line herein-before mentioned for making the said Canal, as they shall think proper, and the same shall be considered to be Part of the said Canal, in like Manner as if such Parts or Places were made navigable.

Rollers, &c.
not to join the
River *Dee*
within a cer-
tain Distance.

IV. Provided always, and be it further enacted, That such Rollers, Inclined Planes, or Rail Roads, shall not join the said River at any Place within the Space of Three hundred Yards from the Sand Bed Pool.

V. Provided

V. Provided also, That in all Cases where, in the Exercise of any of the Powers aforesaid, any Part of any Carriage Road, either publick or private, shall be found necessary to be cut through, taken, or so much injured as to be impassable or inconvenient for Travellers or Carriages, or the Persons entitled to the Use thereof, the said Company of Proprietors shall, at their own Expence, before such Road be cut through, taken, or injured as aforesaid, cause a good and sufficient Carriage Road to be set out and made instead thereof, as convenient for Passengers and Carriages as the Road so cut through, taken, or injured as aforesaid, and as near thereto as may be; and shall cause the same to be put into good and substantial Repair and Condition.

Where Carriage Roads are injured, etc. others to be made.

VI. Provided also, That nothing herein-before contained shall authorize or empower the said Company of Proprietors, or any other Person or Persons, to take or use, or to injure or damage any House or other Building, or any Ground, which, upon and from the passing of this Act, was, or may be, the Scite of any House or other Building, or a Garden, Yard, Park, Paddock, planted Walk, or Avenue to a House, or Lawn inclosed or adjoining to a House, without the Consent of the respective Owners and Occupiers thereof.

No House, etc. to be injured.

VII. And whereas a Survey has been taken to ascertain the Practicability of making the said Canal, and a Map or Plan with a proper Book of Reference thereto, has been made in consequence thereof, in order to shew the Line or Course of the said Canal; be it therefore further enacted, That there shall be Two Parts made of the said Map or Plan, and Book of Reference thereto, which shall be certified by the Right Honourable the Speaker of the House of Commons; and severally deposited, One with the Clerk of the Peace for the Stewartry of *Kirkcudbright*, and the other with the Clerk to the said Company of Proprietors, to either of which Maps or Plans, and Books of Reference, all Persons shall have Liberty to resort, and to examine or make Extracts from or Copies of the same as Occasion shall require, paying to the said respective Clerks for Copies of or Extracts from the said Book of Reference, after the Rate of Sixpence Sterling for every One hundred Words; and the said Maps or Plans, and Books of Reference, so certified, or true Copies thereof, shall be and are hereby declared to be good Evidence in all Courts of Law or elsewhere; and the Clerk for the Time being to the said Company of Proprietors, upon Six Days Notice to him given for that Purpose, shall and is hereby required from Time to Time to produce the said Map or Plan, and Book of Reference to be so deposited with him as aforesaid, before the Commissioners to be appointed in Manner herein-after mentioned, or any Jury or Juries to be impannelled by virtue of this Act, at the Time and Place to be mentioned in such Notice, in order that the same may be then and there given in Evidence, such Clerk to the said Company of Proprietors having a reasonable Sum of Money allowed for his travelling Expences, Absence from Home, and Attendance on such Occasions.

Plan and Book of Reference to be authenticated by the Speaker of the House of Commons, and to be deposited.

VIII. And be it further enacted, That the said Company of Proprietors, in making the said intended Canal, shall not deviate more than Two hundred Yards from the Course or Direction delineated in the said Map or Plan, and set forth in the said Book of Reference, without the Approbation and Consent in Writing, signed by the Person or Persons to whom

Not to deviate without Consent.

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any Lands, Grounds, or Hereditaments do or shall respectively belong, into, through, or over which any Deviation is desired to be made, but nothing herein contained shall extend to restrain or prevent the said Company of Proprietors from making any such Deviation from the said Course or Direction of the said Canal, in case all the Persons to whom the Lands, Grounds, or Hereditaments to be cut through or made Use of for the Purposes of such Deviation shall belong, shall consent thereto.

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

IX. Provided always, and it is hereby further enacted and declared, That the said Company of Proprietors shall and may make the said intended Canal into, through, across, or over the Estates, Lands, or Grounds of any Person or Persons whomsoever, into whose Estates, Lands, or Grounds, such Deviation as aforesaid shall extend, although their Names are not mentioned in the said Book of Reference, or into the Estates, Lands, or Grounds of any Person or Persons whose Name or Names shall appear to the Satisfaction of the said Commissioners, and be by them certified under their Hands, to be by Mistake omitted in the said Book of Reference, or that instead thereof the Name or Names of some other Person or Persons to whom such last mentioned Estates, Lands, or Grounds do not belong, have or hath been by Mistake inserted therein; any Thing herein contained to the contrary thereof in anywise notwithstanding.

Width of the Canal and Towing Paths.

X. Provided also, and be it further enacted, That the Land or Ground to be taken or used for such Canal, Inclined Planes, Rail Roads, Towing Paths, and the Ditches, Drains, and Fences, to separate such Towing Paths from the adjoining Lands, shall not exceed Twenty-six Yards in Breadth, measured horizontally, except where the said Canal shall be raised higher, or cut above Five Feet deeper than the present Surface of the Land, and in such Places where it shall be judged necessary for Boats and other Vessels to turn, lie, or pass each other, nor more than Sixty Yards in Breadth in any Place, except in such Place where the said Canal shall pass through or over any Common or Waste Lands.

Corporations, etc. empowered to sell Land for the Purposes of the Act.

XI. And be it further enacted, That after any Lands, Tenements, or Hereditaments shall be set out and ascertained for making the said Canal, and other the Purposes and Conveniencies herein-before mentioned, it shall be lawful for all Bodies Politick or Corporate, Corporations Aggregate or Sole, Husbonds, Tutors, Curators, Guardians, Heirs of Entails, Trustees, Feoffees in Trust, and Committees, not only for and on Behalf of themselves, their Heirs and Successors, but also for and on Behalf of their *Cestuique* Trusts, Wards, or Constituents, whether Infants, Minors, Issue unborn, Lunaticks, Idiots, married Women, or other Persons, and to and for all married Women who are or shall be seised, possessed of, or interested in their own Right, and to and for all other Persons whomsoever who are or shall be seised, possessed of, or interested in any Lands, Tenements, or Hereditaments, whether held by Titles in Fee Simple, or under Settlement of Entail, or as Part and Pertinent of a Minister's Glebe, or Church Living, or otherwise, which shall be set out, ascertained, or be intended to be made Use of for the Purposes aforesaid, to contract for, sell, and convey unto the said Company of Proprietors, such Lands, Tenements, or Hereditaments, which shall be set out and ascertained, or intended to be made Use of as aforesaid; and where by making the said Canal,

Canal, the Property of any Land Owner or Land Owners shall be separated into small Parcels, so as to render the Occupation thereof inconvenient, it shall be lawful for such Bodies Politick or Corporate, and other such Land Owners, by and with the Consent of the Commissioners hereinafter mentioned, to be testified by Writing under their Hands, to contract for, sell, and dispose of, or to convey and exchange, in lieu of other Lands, all or any Part of such Lands and Grounds so separated into small Parcels as aforesaid, to any Person or Persons whomsoever, for such Sum of Money or other Equivalent, as to the said Commissioners shall seem reasonable; and all such Contracts, Agreements, Sales, Exchanges, Conveyances, and Assurances, shall be valid and effectual in Law to all Intents and Purposes, and all Bodies Politick or Corporate, and other Persons so conveying and exchanging as aforesaid, are hereby indemnified for what they shall respectively do by virtue and in pursuance of this Act; and all such Contracts, Agreements, Sales, Exchanges, Conveyances, and Assurances, shall be recorded in the Stewart Court for the said Stewartry, and the Fees of recording the same (excepting those which concern any Purchase or Exchange between any such respective Land Owners), shall be at the Expence of the said Company of Proprietors.

XII. And be it further enacted, That the Conveyances and Assurances to be made to the said Company of Proprietors of any Lands or Grounds, for the Purposes of this Act, shall be made according to the Form following; (*videlicet*),

Form of Conveyance of Lands to the Company.

‘ I *A. B.* of _____ in Consideration of the Sum of
 ‘ _____ to me paid [*or*, in Consideration of the annual
 ‘ Rent of _____ to me to be hereafter yielded and paid
 ‘ by yearly or Half-yearly Payments, *as may be agreed upon*], by the Com-
 ‘ pany of Proprietors of the *Glenkens* Canal Navigation, do hereby
 ‘ grant and release to the said Company, all [*describing the Premises to be*
 ‘ *conveyed*], and all my Right, Title, and Interest in and to the same,
 ‘ and every Part thereof, to hold to the said Company for ever, by virtue
 ‘ and according to the true Intent and Meaning of an Act, passed in the
 ‘ Forty-second Year of the Reign of King *George* the Third, intituled,
 ‘ [*here insert the Title of this Act*]. In Witness whereof these Presents,
 ‘ wrote by _____ are subscribed by me at
 ‘ _____ the _____ Day of
 ‘ in the Year of our Lord _____
 ‘ _____ before these Witnesses
 ‘ both residing at _____

And any such Conveyance and Assurance to be made according to the Form and in Manner aforesaid, shall be valid and effectual.

XIII. Provided nevertheless, That nothing in this Act contained shall entitle the said Company of Proprietors, on purchasing any Lands or Grounds for making the said Canal, or for any other the Purposes aforesaid, to any Mines of Coal, Iron, Stone, Limestone, or other Minerals, Marle, or other Fossils, which shall be found in cutting or making the said Canal and other Works aforesaid, or that shall be under the same, but that all such Mines, Minerals, and Fossils, shall appertain and belong to such Person or Persons as would have been entitled to the same in case this Act had not been made: Provided always, that every Person owning any

Company not entitled to Mines under Lands purchased.

any such Mines as aforesaid, or any Person or Persons to be employed by them in working or using the same, shall not, nor shall any of them do, or cause to be done any Act, Matter, or Thing whatsoever to impede, delay, or otherwise obstruct the said Company of Proprietors, their Agents, Officers, or Workmen, in making the said Canal and Works, or otherwise in carrying this Act into Execution

Commissioners.

XIV. And be it further enacted, That the Commissioners of the Land Tax for the Time being for the said Stewartry, and their eldest Sons and Heirs Apparent, and the Stewart Depute or his Substitutes, shall be and are hereby appointed Commissioners for the settling, determining, and adjusting all Questions, Matters, and Differences which shall or may arise between the said Company of Proprietors and the several Proprietors of and Persons interested in any Lands, Tenements, or Hereditaments, that shall or may be prejudiced by the Execution of any of the Powers hereby granted.

Commissioners to take an Oath.

XV. Provided always, and be it further enacted, That no Person shall act as a Commissioner in the Execution of this Act (otherwise than in administering the following Oath), until he shall have taken and subscribed an Oath to the Effect following, before any Two or more of the said Commissioners, who are hereby authorized and empowered to administer the same; (*videlicet*),

Oath.

‘ I A. B. do swear, That I will, without Favour or Affection, Hatred or
 ‘ Malice, truly and impartially, according to the best of my Skill and
 ‘ Knowledge, execute and perform the Powers and Authorities vested in
 ‘ me as a Commissioner, by virtue of an Act, passed in the Forty-second
 ‘ Year of the Reign of King George the Third, intituled, [*insert the Title*
 ‘ *of this Act*], and that I am qualified to act as a Commissioner, accord-
 ‘ ing to the Directions of the said Act, as I shall answer to GOD.’

Commissioners may act as Justices.

No Commissioner to act where interested, or holding Place of Profit.

XVI. And be it further enacted, That such of the said Commissioners who shall be in the Commission of the Peace for the Stewartry of *Kirkcudbright*, shall and may act as Justices of the Peace in the Execution of this Act, notwithstanding their being Commissioners; but no Person shall be capable of acting as a Commissioner in the Execution of this Act, in any Case where he shall be interested or concerned in the Matter in Question, or during the Time he shall hold any Place of Profit arising out of the Rates or other Money to be raised by virtue of this Act, or during the Time of his being concerned in any Contract or Bargain to be made for the Purposes of this Act.

Notices of Commissioners Meetings.

XVII. Provided always, and be it further enacted, That no Meeting whatsoever of the said Commissioners shall at any Time be had, for putting in Execution any of the Powers or Authorities vested in them by this Act, except their annual Meeting for laying on the Land Tax, unless previous Notice of the Time, Place, and Purpose of such Meeting shall be given in some Newspaper published or circulated within the Stewartry of *Kirkcudbright*, or in such other Manner as the said Company of Proprietors shall direct or appoint, at least Fourteen Days before such Meeting; and that every Meeting of the said Commissioners by virtue of this Act shall be publick; and that no Act, Order, or Proceeding of the said
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Commissioners, or any of them, in the Execution of this Act, (except in such Cases as are hereby otherwise directed), shall be valid, unless the same shall be made or done at a Meeting to be held in pursuance of this Act; and that all the Powers and Authorities by this Act given to or vested in the said Commissioners shall and may from Time to Time be exercised by the Majority of the Commissioners present at every such Meeting, the whole Number present at such Meeting not being less than Five.

XVIII. And be it further enacted, That upon Application to be made by any Five or more of the Proprietors of the said Navigation, or by the Owner or Occupier of any Grounds, Lands, Tenements, or Hereditaments to be affected by the said Canal, or any of the Works necessary or relating thereto, or any of them, unto any Five or more of the said Commissioners, requesting or desiring them to appoint a General Meeting of the said Commissioners, the Commissioners so requested or applied to, although not assembled at a Meeting to be held by virtue of this Act, may and shall, and they are hereby authorized and required, within Seven Days after such Request or Application made to them, to give Notice in Manner aforesaid of a General Meeting of the said Commissioners, to be held at such Time and Place as shall be specified in such Notice, such Time not being less than Fourteen Days nor more than Twenty-one Days from the Day on which such Request shall be made; and the said Commissioners are hereby authorized and required to assemble at the Time and Place so to be appointed, in order to put the Powers and Authorities hereby given to and vested in them in Execution, and shall then adjourn themselves, and afterwards meet at such Time and Place as the said Commissioners shall think proper and convenient; and if it shall happen that there shall not appear at any Meeting, which shall be appointed to be held by the said Commissioners, a sufficient Number of Commissioners to act at such Meeting, and to adjourn to any other Time, then and in such Case the Clerk to the said Commissioners shall and may, by publick Notice to be given in Manner aforesaid, appoint the said Commissioners to meet at the Place where the last Meeting of the said Commissioners was appointed to be held, on the Fourteenth Day next after the Day on which such Meeting was appointed to be held.

General Meeting of Commissioners.

XIX. Provided always, and be it further enacted, That it shall be lawful for any Five or more of the said Commissioners, and they are hereby empowered, although not assembled at a Meeting to be held by virtue of this Act, at any Time, upon such Request made as aforesaid, by Notice in Writing, signed by them, and published in Manner aforesaid, to summon a Meeting of the said Commissioners, at such Time and Place as shall be mentioned in such Notice, for the settling and ascertaining such Damages as are herein directed to be settled and ascertained by the said Commissioners, notwithstanding any Adjournment or Non-adjournment of the said Commissioners.

Special Meeting of the Commissioners.

XX. Provided also, That every Meeting of the Commissioners for hearing or determining any Complaint, Controversy, Dispute, or Difference between the said Company of Proprietors, and any other Person or Persons, shall be held at some Place within the Distance of Five Miles of the Place where such Complaint, Controversy, Dispute, or Difference shall arise.

No Meeting to determine Disputes, &c. but within Five Miles of the Canal.

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XXI. And

Proceedings of
the Commis-
sioners to be
entered.

XXI. And be it further enacted, That all the Orders and Proceedings of the said Commissioners shall be regularly entered in a Book to be kept for that Purpose, and such Entries (being signed by the said Commissioners) shall be deemed Originals, and admitted as Evidence in all Courts whatsoever; and the said Commissioners may and are hereby required, at the First Meeting to be held by them after the passing of this Act, to appoint, out of Three Persons to be nominated by the said Company of Proprietors, such One of the said Three Persons as they the said Commissioners shall think proper to be Clerk to the said Commissioners for the Purposes of this Act, and from Time to Time to remove such Clerk, and appoint another in his Stead, out of Three Persons to be again nominated as aforesaid; which Clerk shall be paid for his Care and Trouble in the Execution of such Office by the said Company of Proprietors.

Commission-
ers to ascer-
tain Recom-
pence for
Lands, and
Disputes to be
settled by a
Jury.

XXII. And be it further enacted, That the said Commissioners are hereby empowered, by Examination of Witnesses upon Oath (which Oath they are hereby authorized to administer), and by any other lawful Ways and Means, by Writing under their Hands, to adjust and determine from Time to Time what Sum or Sums of Money shall be paid by the said Company of Proprietors, either by an annual Rent or Payment, or by a Sum of Money in Gross, to and at the Election of such Bodies Politick or Corporate, Person or Persons respectively, who shall be so entitled or interested as aforesaid, for the absolute Purchase of the Lands, Tenements, or Hereditaments, which shall be set out and ascertained, or intended to be made Use of as aforesaid, for making the said Canal, or any Part thereof, and other the Purposes of this Act; and also to adjust and determine what other distinct Sum or Sums of Money shall be paid by the said Company of Proprietors, as a Recompence for the Damages which may or shall be sustained by such Bodies Politick or Corporate, or any other Persons, being Owners of or interested in any Lands, Tenements, Hereditaments, Mills, or Fisheries, for or by Reason of the making, repairing, or maintaining the said Canal, or any of the Works to be done in pursuance of this Act, or by the flowing, leaking, or oozing of the Water over or through the Banks of the said Canal, Reservoirs, Trenches, or Sluices, or over or through any Passages, Gutters, or Watercourses which shall be made by virtue of this Act, for conveying the Water to or from the said Canal, or by turning, diverting, or taking any Brooks, Springs, or Streams of Water into the said Canal, or by Reason or Means of exercising any other of the Powers given by this Act to the said Company of Proprietors, their Agents, and Workmen, in case such Price or Value, Damages and Recompence respectively, cannot be settled, adjusted, and agreed for, by and between the said Company of Proprietors, and such Proprietors of and Persons interested in the said Lands, Tenements, or Hereditaments as aforesaid; and if the said Company of Proprietors, or any such Body Politick or Corporate, or other Person or Persons so interested or entitled as aforesaid, shall refuse to submit any such Matter to the Determination of the said Commissioners, or shall be dissatisfied with their Determination therein, or if any such Body Politick or Corporate, Trustees, or other Persons entitled or interested as aforesaid, shall refuse to receive, upon due Tender thereof made, such Purchase Money or annual Rent, or such Recompence as shall be so determined to be paid, or shall upon Notice in Writing given to the
principal

principal Officer or Officers of such Body Politick or Corporate, or to such Trustees or Persons respectively, or left at the Place or Places of his, her, or their Abode, or with the Tenant or Tenants, Occupier or Occupiers, of such Lands, Tenements, or Hereditaments, for the Space of Ten Days next after such Notice, neglect or refuse to treat, or shall not agree with the said Company of Proprietors concerning the same, then and in every such Case the said Company of Proprietors, or the Owners or Occupiers, may apply to the Stewart Depute or Substitute to impanel, summon, and return a Jury of Twenty-four sufficient and indifferent Men, duly qualified to appear before the said Stewart Depute or Substitute, at such Time and Place as in such Warrant shall be appointed, not being less than Ten nor more than Twenty Days after such Warrant shall be issued by the said Stewart Depute or Substitute; and in case a sufficient Number of Jurymen shall not appear at the Time and Place appointed as aforesaid, the said Stewart Depute or Substitute shall return other honest and indifferent Men of the Standers-by, or that can speedily be procured to attend that Service, qualified as aforesaid, to make up the said Jury to the Number of Fifteen, and all Parties concerned may have their lawful Challenges against any of the said Jurymen, but shall not challenge the Array; and the said Stewart Depute or Substitute is hereby empowered to summon and call before him all and every such Person and Persons as shall be thought necessary to be examined as a Witness or Witnesses touching the Matter in Question; and may order and authorize the said Jury, or any Six or more of them, to view the Place or Matter in Controversy; and the said Jury upon their Oaths shall enquire of and ascertain the real and fair Value of such Lands, Tenements, and Hereditaments, according to the current Rate at which similar Lands, Tenements, and Hereditaments are usually sold or taken in Lease or Feu Farm, and shall assess accordingly the Money or annual Rent which ought to be paid for the Purchase or Possession of such Lands, Tenements, or Hereditaments, and the Recompence to be made for the Damages that shall or may be sustained as aforesaid; and the said Stewart Depute or Substitute shall give Judgement as to such Purchase Money, Rent, or Recompence so to be assessed by such Jury; which said Verdict, and the Judgement thereupon pronounced as aforesaid, shall be signed by the said Stewart Depute or Substitute, and shall be binding and conclusive to all Intents and Purposes upon and against all Bodies Politick or Corporate, and all other Persons whomsoever; and if any such Stewart Depute or Substitute shall make Default in the Premises, he shall for every such Offence forfeit any Sum not exceeding Twenty Pounds nor less than Five Pounds; and if any Person so summoned and returned as aforesaid upon any such Jury shall not appear, or shall in any Manner wilfully neglect his Duty, contrary to the true Intent of this Act, or if any Person so summoned to give Evidence shall not appear, except for some sufficient Excuse, or appearing shall refuse to be sworn or examined, or to give Evidence, every Person so offending, having no reasonable Excuse, to be allowed by the said Stewart Depute or Substitute, shall, for every such Offence, forfeit and pay any Sum not exceeding Ten Pounds, besides being liable for all other Pains and Penalties at Common Law, for contemning the Authority of the said Stewart Depute or Substitute.

XXIII. And be it further enacted, That in all Cases where a Verdict shall be given and decreed for more Monies, as a Recompence or Satisfaction

Expences of Jury.

faction for any Lands, Tenements, or Hereditaments, or for any Damage to be done to the Property of any Person or Persons, than had been previously offered by or on Behalf of the said Company of Proprietors, or than had been determined and assessed by the said Stewart Depute or Substitute, then all the Expences of summoning such Jury, and of taking such Inquest; shall be settled by the said Stewart Depute or Substitute, and be defrayed by the said Company of Proprietors; but if a Verdict shall be given for the same, or a less Sum than had been previously offered by or on Behalf of the said Company of Proprietors, or than had been determined and assessed by the said Stewart Depute or Substitute as aforesaid, then the Costs and Expences of summoning such Jury and taking such Inquest (to be settled by the said Stewart Depute or Substitute as aforesaid) shall be borne and paid by the Person or Persons with whom the said Company of Proprietors shall have had such Controversy or Dispute.

Notice of Injury to Proprietors before Complaint.

XXIV. Provided always, That the said Commissioners, or Stewart Depute or Substitute, or any of them, shall not be obliged to receive or take Notice of any Complaint to be made by any Person or Persons, for any Injury or Damage by him, her, or them sustained, or alledged to be sustained as aforesaid, unless Application be made in relation thereto, by or on Behalf of such Person or Persons, to the said Company of Proprietors, or to their Clerk or Treasurer, within the Space of Three Calendar Months next after the Time that such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have taken Place.

Persons requesting a Jury to enter into Bond to prosecute.

XXV. Provided further, and be it enacted, That all Persons making Complaints, and requesting such Jury, shall, before the said Stewart Depute or Substitute be obliged to summon such Jury, first enact himself by Bond, with Two Sureties, in the Stewart Court Book of the Stewartry of *Kirkcudbright* for the Time being, in the Penalty of Fifty Pounds Sterling, to prosecute such his, her, or their Complaint, and to bear and pay the Costs and Expences of summoning such Jury, and taking such Inquest, in case a Verdict shall be given against him, her, or them, for no more, or a less Sum than had been assessed by the said Commissioners before summoning and returning the said Jury or Juries, as a Recompence or Satisfaction for any Lands, Grounds, or Hereditaments, or Damages, as aforesaid.

Verdict, &c. to be recorded.

XXVI. And be it further enacted, That all the Determinations of the said Commissioners which shall be submitted to and acquiesced in by the Parties concerned, and also the Verdicts of the Juries, and the Judgements of the said Stewart Depute or Substitute thereon as aforesaid, shall be transmitted to and kept by the said Stewart Clerk, amongst the Records of the said Stewartry of *Kirkcudbright*, and the same, or true Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever; and all Persons shall have Liberty to inspect the same, as also the Inrolments of such Contracts, Agreements, Sales, and Conveyances, as are herein-before mentioned, paying for each Inspection the Sum of One Shilling, and no more, and to take Copies thereof, paying for every Copy after the Rate of Sixpence for every Two hundred Words; and that after such Determination, Judgement, or Verdict, and upon Payment of such Sum or Sums of Money, or giving such Security as the said

Commissioners

Commissioners shall approve for Payment of any such annual Rent as shall be contracted or agreed for between the Parties, or determined and adjusted, or assessed as aforesaid, for the Purchase of any such Lands, Tenements, or Hereditaments as aforesaid, to the Proprietors thereof, or other Persons entitled to receive such Money or Rent respectively, or legal Tender thereof made to such Proprietors or Persons, or to the principal Officer or Officers of any such Body Politick or Corporate, or if such Proprietors or Persons cannot be found or ascertained, or shall refuse to accept such Money, or the Security for such Rent, then upon Payment and Delivery thereof to such Person or Persons as the said Commissioners shall by Writing under their Hands appoint, for the Use of, and to be paid or delivered upon Demand, without Fee or Reward, to such Proprietors or Persons respectively as aforesaid, and upon recording the Discharge or Notorial Instrument thereupon in the particular Register of Seifins for the said Stewartry, such Lands, Tenements, and Hereditaments, and all the Estate, Right, Title, Interest, Use, Trust, Property, Benefit, Claim, and Demand whatsoever, in Law and Equity, of the Persons for whose Use such Money or Rent shall be paid or secured as aforesaid, into and out of the same, shall vest in the said Company of Proprietors, and they shall respectively be deemed in Law to be in the actual Right and Possession thereof, to all Intents and Purposes whatsoever, as fully and effectually as if every Person having any Estate in the Premises had actually conveyed the same to them by any legal Conveyance whatsoever, and as if they had been enfeoffed thereupon; and such Payment or Security shall not only bar all Right, Title, Interest, Claim, and Demand, of the Persons to whose Use the same shall be made or granted, but also shall bar the Terce or Dower of the Wife of every such Person, and all Estates and Interests under Entail, or in Reversion or Remainder, or otherwise therein, against the Issue and Heirs of every such Person, and against all other Persons whatsoever.

XXVII. And be it further enacted, That all and every Person and Persons who, in any Examination to be taken by virtue of this Act, shall give false Evidence before the said Commissioners, or before any Stewart Depute or his Substitute, or before any Justice of the Peace acting as such in the Execution of this Act, shall and may be prosecuted for the same, and upon Conviction thereof, shall be liable to the same Pains and Penalties as Persons guilty of wilful and corrupt Perjury are by the Laws in being subject and liable to.

Witnesses giving false Evidence to be prosecuted, &c.

XXVIII. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, or Hereditaments purchased, taken, or used by virtue of the Powers of this Act for the Purposes thereof, which are held under Entail, or are subject to Life-rents, Annuities, or other Incumbrances, or shall belong to any Corporation, married Woman, Infant, Lunatick, or Person or Persons under any Disability or Incapacity, such Money shall, in case the same shall amount to the Sum of Two hundred Pounds, under the Direction and by the Authority of the Court of Session, be with all convenient Speed paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Intent that such Money shall be applied, under the Direction and with the Approbation of the said Court, to be signified by an Order made upon a Petition, to be preferred in a summary Way, by the Person or Persons who would have

Application of Compensation where amounting to 200*l*.

been entitled to the Rents and Profits of the said Lands, Tenements, or Hereditaments, in the Purchase or Redemption of the Land Tax, or Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested, under the like Direction and Approbation of the said Court, in the Purchase of other Messuages, Lands, Tenements, or Hereditaments, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Messuages, Lands, Tenements, and Hereditaments, which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the mean Time and until such Purchase shall be made, the Interest or annual Produce of such Money shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Hereditaments so hereby directed to be purchased, in case such Purchase or Settlement were made.

If under 200 l.
and above 20 l.

XXIX. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments, purchased, taken, or used for the Purposes aforesaid, and held under Entail, or subject to Life-rents, Annuities, or other Incumbrances, or belonging to any Corporation, or to any Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds and shall exceed the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Hereditaments so purchased, taken, or used, or of his, her, or their Tutors or Curators, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands, under the like Direction and Authority, be paid into either of the said Banks, and be placed to his or their Account as aforesaid, in order to be applied in Manner herein-before directed; or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Three or more of the said Commissioners (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties), in order that such Principal Money, and the Interest arising thereon, may be applied in any Manner herein-before directed, as far as the Case be applicable.

Where under
20 l. Sterling.

XXX. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Hereditaments so purchased, taken, or used for the Purposes of this Act, in such Manner as the said Commissioners, or any Three or more of them, shall think fit, or in case of Infancy or Lunacy, then to his, her, or their Tutors or Curators, to
and

and for the Use and Benefit of such Person or Persons so entitled respectively.

XXXI. And be it further enacted, That the said Commissioners may and are hereby empowered to settle what Share and Proportion of such Purchase Money or Recompence for Damages as aforesaid, shall be allowed to any Tenant, or other Person having a particular Estate, Term, or Interest in the Premises, for his or her Interest therein.

Commissioners to settle Proportions to the several Persons interested.

XXXII. And be it further enacted, That such annual Rents or Sums as shall be agreed upon, or settled and ascertained as aforesaid, shall be charged on the Rates herein-after granted to the said Company of Proprietors; and shall be paid by them as the same shall become due and payable; and in case any such annual Rents or Sums shall not be paid within Twenty Days next after the same shall respectively become due and payable, it shall be lawful for the said Commissioners, by an Order under their Hands, to appoint One or more Person or Persons to receive the said Rates, and to pay the same to such Person or Persons to whom such annual Rents or Sums shall be due, the said Commissioners taking such Security from every such Collector, for the due and faithful Execution of his Office, as they shall judge proper and sufficient; and every Person so appointed shall be deemed a Collector of the said Rates, and shall have the same Power and Authority for collecting the same, as if he had been appointed a Collector of the said Rates by the said Company of Proprietors, until such annual Rents or Sums, with the Costs and Charges of recovering and receiving thereof, shall be fully satisfied and paid; or such Person or Persons to whom such annual Rents or Sums shall be due and owing, may sue for and recover the same, with Costs of Suit, by Action before the Stewart Depute or Substitute, or otherwise it shall be lawful for such Person or Persons to apply summarily to the said Stewart Depute or Substitute; and he and they is and are hereby empowered to grant a Warrant to seize and distrain any Boats, Vessels, or other Goods or Effects of the said Company of Proprietors which shall be found on the said Canal, or in, upon, or about the Wharfs, Quays; Warehouses, or other Works belonging thereto, and to detain the same until Payment thereof, together with the reasonable Charges attending such Distress; and if such Distress shall not be redeemed within Five Days after such Distress made; and Notice thereof given in Writing to the Stewart Clerk of the said Stewartry, then such Boats, Vessels, or other Goods or Effects so distrained, shall and may be appraised and sold, by Order of the said Stewart Depute or Substitute, in such Manner as the Law directs in Cases of Distress for Rent.

Annual Rents charged upon the Rates.

XXXIII. And be it further enacted, That it shall be lawful for the said Company of Proprietors to raise and contribute amongst themselves, in such Proportions as to them shall seem meet and convenient, such Sum or Sums of Money, for making and completing the said Canal, and the Reservoirs, Feeders, Ways, Quays, Wharfs, and other Works and Conveniencies to the same belonging or requisite, as shall be judged sufficient, not exceeding in the Whole the Sum of Thirty thousand Pounds (except as herein-after mentioned); and the Money so to be raised is hereby directed to be laid out and applied in the First Place for and towards the Payment, Discharge, and Satisfaction of all Fees and Disbursements for obtaining and

Proprietors may raise 30,000*l.* to carry on the Works.

passing

passing this Act, and for making the Surveys, Plans, and Estimates incident thereunto, and all other Expences relating to the same, and all the Residue of such Money for and towards the making, completing, and maintaining the said Canal, and other the Purposes of this Act, and to or for no other Use, Intent, or Purpose whatsoever.

Money to be divided into 300 Shares, and to be deemed Personal Estate.

XXXIV. And be it further enacted, That the said Sum of Thirty thousand Pounds, or such Part thereof as shall be raised by the several Persons herein-before named, shall be divided into Three hundred equal Parts or Shares, at the Rate of One hundred Pounds *per* Share, and all such Shares shall be numbered in regular Progression, and every such Share shall always be distinguished by the Number to be appointed for the same, and that the Shares shall be deemed to be Personal Estate and shall be transferrable as such, and not of the Nature of Real Estate; and that the said Three hundred Shares shall be and are hereby vested in the said several Subscribers, and their several and respective Executors, Administrators, and Assigns, to their and every of their proper Use and Behoof, proportionably to the Sums they shall severally subscribe and pay thereunto; and all Bodies Politick and Corporate, and other Persons, their several and respective Successors, Executors, Administrators, and Assigns, who shall severally subscribe and pay in the Sum of One hundred Pounds, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Navigation and Works, shall be entitled to and receive, after the same shall be completed the entire and neat Distribution of One Three hundredth Part of the Profits and Advantages that shall and may arise and accrue by the Rates and other Money to be raised, recovered, or received by virtue of this Act, and so in Proportion for any greater Number of Shares; and every Body Politick and Corporate, and every other Person having such Property of One Three hundredth Part or Share, or more, in the said Undertaking, shall bear and pay an adequate and proportionable Sum towards carrying on the said Undertaking, in Manner herein-after directed.

If a certain Sum is deemed sufficient for making a certain Part of Canal, same may be raised by certain Number of Shares, and Subscribers equally benefited.

When additional Shares are raised, then Canal to be completed.

XXXV. Provided always, and be it further enacted, That if the Sum of Twenty thousand Pounds shall be found sufficient for making and maintaining so much and such Part of the said Canal from *Lock Kenn* to *Upper Carse*, and a proper Communication from thence to the nearest Part of the Tideway of the River *Dee*, then the said Company of Proprietors shall and may, and they are hereby authorized and empowered, to raise the said Sum of Twenty thousand Pounds by subscribing Two hundred Shares only, and shall be entitled to divide among the same, and distribute rateably to each such last mentioned Subscriber, his just Proportion of the whole Profits and Advantages which shall or may arise to the said Company of Proprietors during the Time that no more Shares shall be subscribed for: Provided nevertheless, that when and as soon as One or more Proprietor or Proprietors shall for themselves or others subscribe One hundred additional Shares, the same shall be immediately applied for completing the remaining Parts of the said Canal and Works; and from and after the Time when the said additional Shares have been subscribed, the Proprietors thereof shall be entitled to the same Profits and Advantages rateably with those possessed of original Shares; any Thing herein contained to the contrary notwithstanding.

XXXVI. And

XXXVI. And be it further enacted, That in case the said Sum of Thirty thousand Pounds, herein-before authorized to be raised, shall be found insufficient for the making, completing, and maintaining the said Canal, and other the Works hereby authorized to be made, and all necessary Charges and Expences relating thereunto, then and in such Case it shall be lawful for the said Company of Proprietors to raise and contribute amongst themselves, in Manner and Form aforesaid, any further Sum of Money for the Purposes aforesaid, not exceeding the Sum of Fifteen thousand Pounds, which Sum shall be raised by Calls upon the said Company of Proprietors possessed of the said Three hundred Shares as aforesaid, not exceeding the Sum of Fifty Pounds on any One Share; which said Three hundred Shares, and the Owners thereof, are hereby declared to continue to be, in respect of the said Sum of Fifteen thousand Pounds, or such Parts thereof as shall be wanted, under and subject to such and the same Calls to be made by the said Company of Proprietors, or the Committee thereof, in such and the same Proportions, and within such and the same Time, and under and subject to such and the same Regulations, Rules, Orders, Fines, and Forfeitures, as the said Three hundred or Two hundred Shares, and the Persons making Default in Payment thereof, are herein-after subject and liable to in respect of the said Sum of Thirty thousand Pounds, or Twenty thousand Pounds.

If that Sum is not sufficient, more may be raised by Calls upon themselves.

XXXVII. Provided always, That in case the said Company of Proprietors shall be desirous of raising the said Sum of Fifteen thousand Pounds, herein-before authorized to be raised, or any Part thereof, by Mortgage of the said Undertaking, it shall be lawful for the said Company of Proprietors, by an Order of any General Meeting of the said Company, to borrow and take up at Interest the said Sum of Fifteen thousand Pounds, or any Part thereof, upon the Credit of the said Undertaking, as to them shall seem fit and convenient; and the said Company of Proprietors, and the Committee of the said Company, after an Order of any General Meeting, are hereby fully authorized and empowered to assign the Property of the said Navigation, and the Rates granted to the said Company of Proprietors by this Act, or any Part thereof, as a Security for any Sum or Sums of Money so to be borrowed as aforesaid, with Interest for the same, to such Person or Persons as shall advance the same, or his, her, or their Trustee or Trustees; all which said Assignments shall be made under the Common Seal of the said Company, in the Form or to the Effect following; (that is to say),

Company may mortgage Undertaking.

• BY virtue of an Act, passed in the Forty-second Year of the Reign of
 • King George the Third, intituled, [*here insert the Title of this Act*]
 • We, the Company of Proprietors of the said Navigation, in Consideration of the Sum of _____ to us paid by A. B. do hereby
 • bargain, sell, and assign unto the said A. B. his Executors, Administrators, and Assigns, the said Navigation, and all and singular the Rates granted
 • to us by the said Act, and all our Right and Interest therein respectively,
 • to hold unto the said A. B. his Executors, Administrators, and Assigns,
 • until the said Sum of _____ together with the Interest for the
 • same, after the Rate of _____ for One hundred Pounds by the Year,
 • shall be fully paid and satisfied. Given under our Common Seal, this
 • Day of _____

Form of Mortgage.

And all Persons to whom such Assignments shall be made shall be equally entitled, One with the other, to the Rates and Premises thereby assigned, in Proportion to the Sums by them respectively advanced and paid as aforesaid, without any Preference by Reason of the Priority of Date, or otherwise; and a Memorial of every such Assignment, containing the Date, the Name or Names of the Person or Persons to whom made, the Sum lent, with the Rate of Interest, shall be entered in a Book to be kept by the Clerk to the said Company of Proprietors, which said Book shall and may be perused *gratis*, at all reasonable Times, by all and every the Proprietors and Creditors of the said Navigation; and all and every Person and Persons to whom any such Assignment shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer his, her, or their Right and Interest therein to any Person or Persons whomsoever; which Transfer shall and may be made in the Words or to the Effect following:

Form of
Transfer.

‘ I *A. B.* do hereby transfer a certain Mortgage made by the Company
 ‘ of Proprietors of the *Glenkens* Canal Navigation, to *C. D.* bearing
 ‘ Date the Day of for securing the Sum of
 ‘ and Interest, from and after
 ‘ (the previous Interest having been already paid to me), and all my
 ‘ Right and Property therein, to *E. F.* his Executors, Administrators, and
 ‘ Assigns. In Witness whereof these Presents, wrote by
 ‘ are subscribed by me at the Day of
 ‘ in the Year of our Lord before these Witnesses
 ‘ both residing at

And every such Transfer shall, within Twenty-eight Days next after the Date thereof, be produced to the Clerk to the said Company of Proprietors, who shall cause a Memorial to be made thereof to the same Purport and Effect as the original Assignment; and after such Entry made, every such Transfer shall entitle such Assignee or Assignees, his, her, or their Executors, Administrators, and Assigns, to the full Benefit thereof.

Canal not to
be begun till
a certain Sum
is raised.

XXXVIII. Provided always, and be it further enacted, That no Proceeding shall be had, made, or done, touching or concerning the carrying this Act into Execution, until the Money to be raised or subscribed for making the said Canal and Works hereby authorized to be made, shall actually amount to the Sum of Twenty thousand Pounds; any Thing herein contained to the contrary notwithstanding.

If not raised
within a limit-
ed Time,
Powers of the
Act to cease.

XXXIX. Provided also, and be it further enacted, That unless the said Sum of Twenty thousand Pounds shall be so raised within Five Years from and after the passing of this Act, the same, and all the Powers, Privileges, and Authorities hereby granted, shall cease and determine.

Subscribers to
have a Vote
for every
Share.

XL. And be it further enacted, That every Person who shall by virtue of this Act have subscribed for or become entitled to One Share or more in the said Navigation, shall be deemed a Proprietor for every such Share, and shall have a Vote for every such Share in the General and Special Meetings, to be held as herein-after appointed for carrying on the said Undertaking, which may be given by him or her or by his

his or her Proxy, duly constituted under his or her Hand, or (in the Cases of Infancy or Minority), under the Hand or Hands of his or her Guardian or Guardians, and every such Vote by Proxy shall be as good to all Intents and Purposes as if such Principal had voted in Person and (being an Infant or Minor) had been of full Age; and every Question, Matter, or Thing which shall be proposed, discussed, or considered in any General or Special Meeting of the said Company of Proprietors to be held by virtue of this Act, shall be determined by the Majority of Votes and Proxies then present, computing One Vote to every Share: Provided nevertheless, that no Person shall have more than Twenty Votes, whatever Number of Shares he holds, nor receive more Proxies than for Twenty Shares of any absent Proprietor or Proprietors; the Appointment of which Proxy shall and may be made in the Words or to the Effect following:

‘ I *A. B.* One of the Proprietors [*or, we A. B. and C. D. the Guardian or Guardians of E. F. One of the Proprietors, or, I A. B. a Minor, with Consent of C. D. and E. F. Two, and a Quorum, of my Curators, &c.*] of the *Glenkens* Canal Navigation, do hereby nominate, constitute, and appoint *G. H.* to be my [*or, his, or, her*] Proxy in my [*or, his, or, her*] Name, and in my [*or, his, or, her*] Absence, to vote and give my Assent or Dissent to any Business, Matter, or Thing relating to the said Navigation and Undertaking, that shall be mentioned or proposed at any Meeting of the Proprietors of the said Navigation, or any of them, in such Manner as he the said *G. H.* shall think proper, according to his Opinion and Judgement, for the Benefit of the said Navigation or Undertaking, or any Thing appertaining thereto. In Witness whereof these Presents, wrote by _____ are subscribed by me at _____ the _____ Day of _____ in the Year of our Lord _____ before these Witnesses _____ both residing at _____

Form of the Appointment of a Proxy.

XLI. Provided, also, That no Person shall be allowed or be capable to vote, either by himself, or by his or her Proxy, for more than Twenty of the said Shares, being his or her own Property; and that at every General Meeting of the said Company of Proprietors, One of the Proprietors present shall be appointed Chairman, and shall not only vote as a Proprietor or Proxy, but in case of an Equality of Votes shall have the decisive or casting Vote.

Limiting Number of Votes.

XLII. And be it further enacted, That the First General Meeting of the said Company of Proprietors for putting this Act into Execution shall be held at the Court House in *Castle Douglas*, on the Third *Monday* next after the Day of the passing of this Act; and all future General Meetings of the said Company shall be held on the First *Monday* in *August* in every Year, or on some Day within Fourteen Days before or after, which shall be fixed at the preceding General Meeting, and be held at the said Place, or such other Place as shall be then agreed upon, at or before Twelve of the Clock of the Forenoon on the said Days; at which said General Meeting the Proprietors assembled, together with such Proxies as shall be then present, shall choose Nine Persons, who are for the Time being Proprietors of Five or more Shares in the said Navigation, out of whom any Five or more of them shall be a Committee to manage the Affairs of the said Company, in such Manner as is herein-

General Meetings for choosing Committees.

after

after directed, and as shall from Time to Time be ordered by such General Meetings as aforesaid; but if at any Time it shall appear to any Five or more Proprietors possessed of Five Shares each, that for the more effectually putting this Act into Execution a Special Meeting of Proprietors is necessary to be held, it shall be lawful for them to cause Notice to be given thereof in some Newspaper published or circulated in the said Stewartry, or in such other Manner as the said Company of Proprietors shall at any General Meeting direct or appoint, declaring in such Notice the Place where and the Time when such Special Meeting is to be held, the same being not less than Ten Days after such Notice given, and likewise specifying in every such Notice the Reason for and Intention of such Special Meeting; and the Proprietors are hereby authorized to meet pursuant to such Notice, and to proceed to the Execution of this Act, with respect to the Matters so specified only; and all such Acts of the said Proprietors at such Special Meeting shall be as valid, to all Intents and Purposes, as if the same were done at General Meetings held in Manner herein-before appointed.

Committees
subject to
Controul of
General
Meetings.

XLIII. Provided always, That such Committees shall from Time to Time be subject to the Examination and Controul of the said General and Special Meetings of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises, as they shall from Time to Time receive from the said Proprietors at any such General or Special Meeting, such Orders and Directions not being contrary to any express Directions or Provisions in this Act contained.

Persons dis-
qualified from
serving on
Committees.

XLIV. Provided also, That no Person holding any Place, Office, or Employment under the said Company of Proprietors, shall be capable of being chosen to serve upon any Committee during the Time of his Continuance in such Place, Office, or Employment.

Accounts to
be kept by
Committees.

XLV. And be it further enacted, That proper Books of Accounts relating to the said Undertaking shall be kept, and that all such Books, and all other Matters relating to such Accounts, shall be deposited and kept, under the Direction of the Committee for the Time being, at such Place or Places as the said Company of Proprietors shall from Time to Time direct, and every Proprietor shall, at all reasonable Times, have free Access to such Books, and may inspect and peruse the same without Fee or Reward.

General
Meetings to
consist of
Personshaving
One Half of
the Shares.

XLVI. Provided also, That if at any such General Meeting there shall not be Persons present, at the Hour of Two in the Afternoon of the same Day, who have One hundred of such Shares as aforesaid, either as Principals or Proxies, no Choice of a Committee shall be made at that Time, but in such Case the former Committee shall continue to act, and such General Meeting shall be adjourned, to be held at the same Place upon that Day Three Weeks, and so from Time to Time until the Proprietors of such Number of Shares as aforesaid shall be present, and such Choice shall then be made of Persons to be of the Committee as ought to have been made on the Day for holding such General Meeting, had there been a sufficient Number of Votes present; and the Persons then chosen to be of the said Committee, shall have the same Power which they would have had, and shall continue in such Office until such Time as they would have

have done, had they been chosen on the Day for holding such General Meeting; and in case of Failure of the Meeting of Persons having One hundred Votes as Principals or Proxies to any such General Meeting, all such Principals within *Great Britain* or *Ireland* who shall not be present at any Adjournment thereof, by themselves or their Proxies, shall forfeit to the said Company of Proprietors, for every such Share which they shall then have in the said Navigation, the Sum of Five Pounds, to be deducted out of the next Payment of Interest, or out of the next Dividend of the Profits of the said Navigation, as the Case may happen.

XLVII. And be it further enacted, That it shall be lawful for the said Company of Proprietors, and they are hereby authorized and required, from Time to Time to nominate and appoint a Treasurer and Clerk, and such Collectors of the Rates herein-after granted, and other Officers, as they shall think necessary, and to take such Security from every such Treasurer and other Officer, having the Care or Custody of any Money to be raised or received, or Charge of any Thing to be done by virtue of this Act, for the due Execution of his Office, as the said Company of Proprietors shall think proper, and from Time to Time to remove any such Treasurer, Clerk, and other Officer; and every such Clerk shall, in a Book to be provided for that Purpose, enter and keep a true and perfect Account of the Names and Places of Abode of the several Proprietors of the said Navigation and Undertaking, and of the several Persons who shall from Time to Time become Owners and Proprietors of or entitled to any Share therein, and of all the Acts, Proceedings, and Transactions of the said Company of Proprietors, and of the said Committee, in the Execution of this Act; and that every Proprietor of the said Navigation and Undertaking shall and may, at all convenient Times, have Recourse to, and peruse and inspect the same, and also the Book to be kept by the Clerk to the said Commissioners, *gratis*, and may demand and have Copies thereof, or any Part thereof, paying Sixpence for every Two hundred Words so to be copied; and if any such Clerk shall refuse to permit any of the said Proprietors to inspect or peruse any such Book, or refuse to make any such Copy at the Rate aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds nor less than Twenty Shillings; and whenever any such Clerk or Treasurer shall die, or be removed from, or quit the Service of the said Company of Proprietors, it shall be lawful for the said Committee to appoint some other fit Person in the Place of the Treasurer or Clerk so dying, being removed, or quitting the Service of the said Company of Proprietors, until the then next General Meeting, when such Appointment shall be confirmed, or another Treasurer or Clerk shall be nominated and appointed in his Stead.

Company to
appoint
Officers.

XLVIII. And be it further enacted, That every such General Meeting shall have Power to call for, audit, and settle all Accounts of Money received, laid out, and disbursed on Account of the said Navigation, by the Treasurer, Receivers, and other Officers to be by them appointed, or any other Persons employed by, or concerned for or under them, in and about the said Navigation, and for that Purpose shall have Power to adjourn themselves from Time to Time, and from Place to Place, as shall be thought convenient by the Persons present, having, either as Principals or Proxies, a Majority of Votes; and every General Meeting, or such Committees

Other Powers
of General
Meetings.

mittees as aforesaid, shall have Power from Time to Time to make such Call or Calls for Money from the Proprietors of the said Navigation, to defray the Expences of, or to carry on the same, as they shall from Time to Time find necessary, for those Purposes, so that the First Call after the passing of this Act do not exceed the Sum of Five Pounds for every One hundred Pounds, and so as no such Calls be made but at the Distance of One Calendar Month at least from each other; which Monies so called for shall be paid to such Person or Persons, and in such Manner as the said General Meeting or Committee shall from Time to Time appoint and direct, for the Use of the said Undertaking; and such Committee shall, until the next General Meeting to be holden in Manner aforesaid, have full Power and Authority to direct and manage all the Affairs of the said Company of Proprietors, as well in buying and purchasing Lands and Materials for the Use of the said Navigation and other Work, as in employing, ordering, and directing the Work and Workmen, and in placing and displacing Officers, Clerks, Agents, and Workmen, and in making Contracts and Bargains touching the said Undertaking; so that no Purchase, Bargain, or other Matter, be done or transacted without the Concurrence of Five or more of the said Committee then assembled; and every Owner of One or more Share or Shares in the said Undertaking shall pay his or her Share and Proportion of the Money to be called for as aforesaid, at such Time and Place as shall be appointed, of which One Month's Notice at least shall be given by publishing the same in such Newspaper as aforesaid, or in such other Manner as the said Company of Proprietors shall direct or appoint; and if any Person shall neglect or refuse to pay his or her rateable or proportionable Share of the said Money to be called for as aforesaid, at the Time and Place appointed by any General Meeting or Committee, he or she so neglecting or refusing shall forfeit a Sum not exceeding Five Pounds for every One hundred Pounds of his or her Share, Part, and Interest in the said Navigation and Undertaking; and in case such Persons shall neglect or refuse to pay his or her rateable Calls as aforesaid, for the Space of Three Calendar Months after the Time appointed for Payment thereof as aforesaid, without assigning a sufficient Reason for not so doing, to the Satisfaction of the Committee or next General Meeting, then he or she so neglecting or refusing shall forfeit his or her Share, Part, and Interest in the said Undertaking, and all Profit and Advantage thereof, and all Money advanced by him, her, or them, to and for the Use and Benefit of the other Proprietors of the said Undertaking; and all such Forfeitures shall be sold at a publick Sale, by the said Company of Proprietors, for the most Money they can get for the same, and the Produce thereof shall be equally divided amongst the rest of the Company of Proprietors, in Proportion to their respective Shares and Interests in the said Navigation and Undertaking.

Proprietors
not answering
Calls, subject
to a Penalty,
or Forfeiture
of their Shares.

Shares not for-
feited without
Personal No-
tice.

XLIX. Provided always, That no Advantage shall be taken of the Forfeiture of any Share of the said Navigation and Undertaking, until Personal Notice in Writing be given by the Treasurer or Clerk to the said Company of Proprietors, to the Owner thereof, nor unless the same shall be declared to be forfeited at the First General Meeting of the said Company of Proprietors to be held after such Forfeiture shall happen; and every such Forfeiture shall be an Indemnification and Discharge to and for every Proprietor so forfeiting, against all Actions, Suits, and Prosecutions, for any Breach of Contract, or other Agreement between such Proprietor so
forfeiting

forfeiting and the rest of the Proprietors, with Regard to carrying on the said intended Navigation and Undertaking.

L. And be it further enacted, That the said Company of Proprietors, at any General or Special Meeting, are hereby authorized and empowered to remove and displace any Person or Persons chosen upon such Committee as aforesaid, or any Officer or Servant under them, and to revoke, alter, amend, or change any of the Rules and Directions herein-before prescribed and laid down with Regard to their Proceedings amongst themselves, as to them shall seem meet (the Method of calling General Meetings, and their Time and Place of meeting, of voting, and appointing Committees, only excepted); and the said Company of Proprietors are hereby also authorized and empowered to make such Rules, Bye Laws, and Orders, for the good Government of the said Company, their Agents and Workmen, for the making, maintaining, and using the said Canal, and the Tunnels, Locks, and other Works, belonging thereto, and for the well governing of the Bargemen, Boatmen, and Watermen, who shall be employed in the conveying of any Goods, Wares, and Merchandize upon the said Canal, and to impose and inflict such reasonable Fines or Forfeitures upon Offenders against such Rules, Bye Laws, or Orders, as to the said Company of Proprietors shall seem meet, not exceeding the Sum of Five Pounds for any One Offence; which said Rules, Bye Laws, and Orders, being reduced into Writing, and entered in the Minutes of the Meeting, shall be binding upon and observed by all Parties, and shall be sufficient, in any Court of Law or Equity, to justify all Persons who shall act under the same, provided the same are not repugnant to the Laws of the Realm.

Company may
remove Mem-
bers of the
Committee;

and make
Bye Laws.

LI. And be it further enacted, That if the Proprietor of any Share in the said Undertaking shall die before Payment shall have been made of the full Sum to be advanced on each Share which he or she shall have been possessed of or entitled to, without having made Provision by Will or otherwise, for the Payment of the same, the Executors and Administrators of such Proprietor, and the Trustee or Trustees, Guardian or Guardians, of any Infant, Minor, or other Person entitled to the Estate or Effects of such Proprietor, shall be indemnified against such Infant, and all other Persons whomsoever, for paying any Money when called for as aforesaid, to complete every such Subscription; and if such deceased Proprietor shall not have left Means or Effects sufficient, or in case any such Executor or Administrator, Trustee or Guardian, shall refuse or neglect, when requested, to answer such Calls and Payments, the said Company of Proprietors shall be and are hereby authorized and required to admit any other Person or Persons to be Proprietor or Proprietors of the Share or Shares of such deceased Proprietor, on Condition that he, she, or they, so admitted, do and shall, on or before such Admission, pay to the Executors or Administrators of such deceased Proprietor, or the Trustee or Trustees, Guardian or Guardians, of any Infant or others entitled to his or her Effects, the full Money which shall have been paid by such deceased Proprietor in his or her Life-time, by virtue of any Call or Calls, or otherwise, upon such Share or Shares, or so much Money as the same can be fold for.

On the Death
of Proprietors
before Share
completed,
Executors
may do it.

LII. And be it further enacted, That it shall be lawful for any of the Proprietors of the said Navigation and Undertaking to sell or dispose of any Share

Shares may be
disposed of.

Share or Shares he or she shall be entitled to therein, in Manner, and subject to the Rules and Conditions herein mentioned; and for that Purpose Duplicates of the Deed of Bargain and Sale, or Transfer, of such Share or Shares, shall be executed by every Vendor and Vendee, and One Part thereof so executed shall be delivered to the said Committee, or their Clerk, to be filed and kept for the Use of the said Company of Proprietors, and an Entry thereof shall be made in a Book to be kept by the Clerk for that Purpose, for which no more than One Shilling shall be paid; and the said Clerk is hereby required to make such Entry accordingly; and until the Duplicate of such Deed or Transfer shall be so delivered to the said Committee, or the said Clerk as aforesaid, the Purchaser or Purchasers shall have no Part or Share of the Profits of the said Navigation and Undertaking, nor any Interest paid to him, her, or them, for and in Respect of such Share or Shares so purchased, nor be entitled to vote as a Proprietor or Proprietors of the said Navigation and Undertaking.

After a Call,
no Share to be
sold till the
Money is paid

LIII. Provided always, That after any Call of such Money shall be made by a General Meeting, or such Committee as aforesaid, no Person shall sell or transfer any Share which he or she shall then have in the said Navigation and Undertaking, until the Monies called for upon his or her Share, so to be sold, shall be paid, and every Person making Default herein shall forfeit such his or her Share in the said Navigation and Undertaking to the said Company of Proprietors, for the Benefit of the rest of the said Proprietors, unless the Person or Persons who shall be Vendor or Vendors shall, at the Time of delivering to the said Committee or Clerk the Duplicate of such Sale or Transfer, pay the Money called for upon every Share so sold or transferred, to the Treasurer to the said Company of Proprietors, such Forfeiture having been first notified and declared at a General Meeting in Manner above directed.

Form of Con-
veyance of
Shares.

LIV. And be it further enacted, That every Bargain and Sale, or Transfer of the said Shares, shall be in the Form or to the Effect following:

‘ I *A. B.* in Consideration of _____ paid me
 ‘ by *C. D.* do hereby bargain, sell, and transfer to the said *C. D.* his
 ‘ Executors, Administrators, and Assigns, _____ Share
 ‘ in the *Glenkens* Canal Navigation, being Number _____ of the Shares
 ‘ in the said Navigation, to hold to the said *C. D.* his Executors, Admini-
 ‘ strators, and Assigns, subject to the same Rules and Orders, and on the
 ‘ same Condition that I held the same immediately before the Execution
 ‘ hereof: And I the said *C. D.* do hereby agree to accept of the said
 ‘ _____ Share, subject to the same Rules, Orders, and
 ‘ Conditions. In Witness whereof these Presents, wrote by
 ‘ are subscribed by me at _____ the _____ Day of
 ‘ in the Year of our Lord _____ before these Witnesses
 ‘ _____ both residing at _____

Rates may be
collected.

LV. And be it further enacted, That it shall be lawful for the said Company of Proprietors from Time to Time and at all Times hereafter, to ask, demand, take, and recover, to and for their own proper Use and behoof, for the Tonnage and Wharfage of all Goods, Merchandize, and Things whatsoever, which shall be navigated, carried, or conveyed upon the

the said Canal, or any Rollers, Inclined Planes, or Rail Roads, to be made connected therewith, such Rates as shall be fixed by the said Company of Proprietors at a General Meeting, not exceeding the respective Rates following; (that is to say),

For all Coal, Lime, Sand, Stone, Limestone, and all Kinds of Manure, Rates. which shall be navigated, carried, or conveyed upon the said Canal or other Works as aforesaid, any Sum not exceeding Three-pence *per* Ton *per* Mile; and for all Grain, Potatoes, Slate, Ironstone, Iron, Timber, Goods, Wares, Merchandize, and other Things, any Sum not exceeding Sixpence *per* Ton *per* Mile; and for all and every the Goods, Wares, Merchandize, and other Articles, Matters, and Things aforesaid, not exceeding One Half of the said Rates *per* Ton *per* Mile when carried or conveyed along the navigable Part of the River *Dee* or Loch of *Kenn*, or any Towing Path to be made by the said Company of Proprietors, upon or by the Side of such Part of the said River *Dee* or Loch of *Kenn*, where the said Company of Proprietors shall deem and adjudge no Canal requisite.

LVI. Provided nevertheless, That in all Cases where any Boat or other Vessel shall be navigated or pass by any Post or Mark, or Place where such Post or Mark should have stood or have been fixed, on the Side of the said Canal, describing and regulating the Length of Half a Mile, the full Tonnage shall be paid for Half a Mile, although the said Boat or other Vessel shall not pass the full Half of a Mile; and that in all Cases where the Weight of Lading in any Boat or other Vessel so to be navigated or conveyed as aforesaid shall not make up an even Quarter of a Ton, yet One full Quarter of a Ton shall be paid for to the said Company of Proprietors. Fractions of Tonnage and Goods how to be taken.

LVII. Provided also, and be it further enacted, That all Ships and other Vessels, whether laden or unladen, which shall pass through the Lock to be erected by virtue of this Act at the Tideway, into or out of the Dock or Basin which may be made by virtue of this Act at or near the Town of *Kirkcudbright*, shall; for the Use of the said Dock or Basin, be charged with and subject to the Payment of Sixpence *per* Ton for every Ton of the Burden of such Ship or Vessel; but no such Ship or Vessel, passing through the said Lock into the said Dock or Basin, shall be suffered to remain in the said Dock or Basin for any longer Time than the said Company of Proprietors shall, by any such Bye Law, Rule, or Order, direct for the loading or unloading thereof. Ships passing the Lock at the Tideway to be charged with Sixpence *per* Ton.

LVIII. And be it further enacted, That the Rates herein-before authorized to be demanded and taken, shall be paid to such Person or Persons, at such Place or Places near to the said Canal, in such Manner, and under such Regulations, as the said Company of Proprietors shall direct and appoint; and in case of Refusal or Neglect of Payment of any such Rates, on Demand, to the Person or Persons to be appointed to receive the same as aforesaid, the said Company of Proprietors may sue for the same by Action of Debt, or upon the Case, in any Court of Record, or the Person or Persons to whom the said Rates ought to be paid, may and is and are hereby empowered to seize and distrain the Goods or other Things, or the Ship or other Vessel, for or in Respect whereof such Rates ought to be [Loc. & Per.] 23 I Recovery of Rates.

be paid, or any Part of such Goods or Things, or the Boat or other Vessel laden therewith, or any Goods or other Things on board or belonging to such Ship or other Vessel; and detain the same until Payment of the said Rate, together with reasonable Charges for such Distress, and if such Distress shall not be redeemed within Ten Days after the taking thereof, the same shall be appraised and sold, by Warrant of the Stewart Depute or Substitute, on summary Complaint, as the Law directs in Cases of Distress for Rent.

Payment of
Wharfage for
certain Ar-
ticles.

LIX. And be it further enacted, That if any Manure, Coal, Lime, or other Goods, Merchandize, or Things, which shall be so navigated, carried, or conveyed, shall remain upon any Wharf belonging to the said Company of Proprietors for above the Space of Two Calendar Months, then and in such Case the said Company of Proprietors shall be entitled to receive such reasonable Allowance, over and above the Tonnage Rates herein-before authorized to be taken, as shall be agreed upon between the said Company of Proprietors, or their Agent or Agents, and the Owner or Owners of such Manure, Coal, Lime, or other Goods, Merchandize, or Things, in case of Dispute concerning such Allowance, the same shall be ascertained and adjusted by the said Commissioners.

Proprietors
may alter
Rates.

LX. And be it further enacted, That it shall be lawful for the said Company of Proprietors from Time to Time, at any General Meeting to be held for that Purpose, (of which Three Calendar Months Notice at the least shall be given in the Manner herein-before mentioned), to lessen or reduce the said Rates to be fixed as aforesaid, as the said Company of Proprietors shall think proper, and afterwards from Time to Time, at any General Meeting, of which such Notice shall be given as aforesaid, to advance and raise all or any of the said Rates so lessened: Provided always, that such Reduction shall be made in the same Proportion upon all the said Rates: Provided also, that the Rates so to be advanced, ascertained, and fixed as aforesaid, shall not in any Case exceed the respective Rates herein-before granted, and that no Reduction of the said Rates shall be made without the Consent of the Proprietors possessed of at least One Half of the Shares in the said Undertaking, and Two Thirds of the Mortgagees upon the Proceeds of the said Rates for the Time being.

Master of
Boats to give
Account of
Particulars of
Lading.

LXI. And, for the more easy collecting the said Rates, be it further enacted, That the Master, Owner, or other Person having the Care of every Boat, Barge, and other such Vessel, navigating upon the said Canal, shall give an exact and true Account in Writing, under his Hand, to the Collectors of the said Rates, at the Places where they shall attend for that Purpose, of what Quantities of Goods or other Things shall be in or belonging to such Boat, Barge, or other Vessel, and from whence such Goods or other Things shall be brought, and where the same are intended to be landed; and in case any such Person shall neglect or refuse to give such Account, or to produce his Bill of Lading to any such Collector demanding the same, or shall give a false Account, or shall deliver any Part of the Lading or Goods at any other Place than is or are mentioned in such Account, with Intent to avoid the Payment of the said Rates, he shall forfeit and pay any Sum not exceeding Twenty Shillings nor less than Ten Shillings a Ton for every Ton of Goods or other Things (and so in Proportion

tion for any lesser Quantity than a Ton), which shall be in such Boat, Barge, or other Vessel, of which such Account shall be so refused to be given, or of which such false Account shall be given, or which shall be delivered out as aforesaid, (as the respective Cases shall be), and shall also be subject to the Payment of the said Rates herein-before granted and made payable for the same.

LXII. And, for the better ascertaining the Tonnage of Timber to be charged with the Payment of the said Rates, be it further enacted, That Forty Feet of Oak, Ash, Elm, Beech, or any other Kind of Wood or Timber, and Fifty Feet of Fir or Deal, Balk, Poplar, or Birch, not cut into Scantlings, shall be deemed, rated, and estimated as and for One Ton Weight; and that One hundred and twenty Pounds Weight Avoirdupois of Coal, Lime, and Limestone, shall be deemed, rated, or estimated, as and for One Hundred Weight; and that One hundred and twelve Pounds Weight Avoirdupois of all Grain, Potatoes, and all other Commodities, shall for the Purpose of this Act be deemed, rated, or estimated as and for One Hundred Weight, and Twenty Hundred Weight of all such Commodities whatsoever, shall for the Purpose of this Act be deemed One Ton; any Usage of rating or estimating the same to the contrary hereof notwithstanding.

Ascertaining
Tonnage.

LXIII. And be it further enacted, That if any Difference shall arise between any Collector of the said Rates and the Master or Person having Charge of any Boat, Barge, or other such Vessel, or the Owner of any Goods or other Things, concerning the Weight or Quantity of such Goods or other Things, it shall be lawful for any such Collector to stop and detain any such Boat, Barge, or other Vessel, and to weigh, measure, or gauge, or cause to be weighed, measured, or gauged, all such Goods or other Things as shall be therein contained; and in case the same shall, upon such weighing, measuring, or gauging, appear to be of greater Weight or Quantity than what is set forth and contained in the Account given thereof as aforesaid, then the Master, Owner, or Person giving in such Account, shall pay the Costs and Charges of such weighing, measuring, or gauging, to be recovered by such Ways and Means, and in such Manner, as the said Rates can or may be recovered; but if such Goods or other Things shall appear to be of the same or less Weight or Quantity than the same shall by such Account appear to be of, then the said Collector shall pay the Costs and Charges of such weighing, measuring, or gauging, and shall also pay to such Master or Person, or to the Owner or Owners of such Goods or other Things, such Damages as shall appear to the said Commissioners, upon the Oath of any credible Witnesses, to have arisen from such Detention, and in Default of immediate Payment thereof, the same shall be recovered from the said Company of Proprietors, in like Manner as any Penalty is by this Act directed to be recovered.

In case of
Difference
concerning
Weight, Col-
lectors may
weigh Vessels.

LXIV. And, for preventing Disputes touching the Weight of the Lading on board any Boat, Barge, or other such Vessel passing upon the said Canal, be it further enacted, That the Masters or Owners of all such Boats, Barges, and other such Vessels, shall and they are hereby required to fix on each Side thereof respectively, correct Indexes of Copper, Lead,

Weight of the
Lading of
Vessels to be
marked.

or

or other Metal, of such graduated Dimensions, and of such convenient Height, and under such Regulations, as the said Company of Proprietors shall from Time to Time direct, so that the true Weight of the Lading on board may at all Times be thereby ascertained and shewn; and the Names of the Owners of such Boats, Barges, or other Vessels, in Copper, Lead, or other Metal, as aforesaid, or painted in large Capital Letters, shall also by such Masters or Owners be affixed on the Sides of the said Boats, Barges, or other Vessels, in some conspicuous Manner; and if the Master or Owner of any Boat, Barge, or other such Vessel, shall wilfully navigate the same upon the said Canal, without having such Index and Name thereon, or shall cover, alter, deface, or destroy the same, or any Part thereof, or shall fix any false Index or Name, he shall, for every such Offence, forfeit and pay a Sum not exceeding Five Pounds nor less than Forty Shillings.

Boats to be gauged.

LXV. And be it further enacted, That the Owner or Master of every such Boat, Barge, or other such Vessel, shall permit and suffer the same to be gauged or measured, at the Expence of the said Company of Proprietors, whenever it shall be required by the said Company of Proprietors, or such Person or Persons as shall be appointed by them for that Purpose, provided that no such Boat, Barge, or other Vessel, shall be gauged or measured more than Two Times in any One Year; and every Owner, Master, or other Person, having the Rule or Command of any such Boat, Barge, or other Vessel, who shall refuse to permit and suffer the same to be gauged or measured as aforesaid, shall, for every such Offence, forfeit and pay a Sum not exceeding Five Pounds nor less than Forty Shillings.

Masters accountable for Damage done by the Crew.

LXVI. And be it further enacted, That the Master or Owner of every such Ship, Boat, or other Vessel as aforesaid, shall be and is hereby made answerable for any Damage, Spoil, or Mischief, that shall be done by such Ship, Boat, or other Vessel, or any of the Seamen, Boatmen, or Watermen, belonging to or employed in or about the same respectively, unto any of the Locks, Bridges, Weirs, Banks, Dams, Engines, or other Works, in, upon, or near to the said Canal, or the Trenches, Aqueducts, Sluices, and Passages belonging thereto, or by loading or unloading any such Ship, Boat, or other Vessel, and for any Trespass or Damage that shall or may be done to the Owners or Proprietors of any Buildings, Erections, Lands, or Tenements adjoining to the same, or any of them; and such Master or Owner shall and may be sued and prosecuted for the same before the Stewart Depute or Substitute, and if Judgement passes against the Defender, the Pursuer shall recover his Damages thereby sustained, with Treble Costs of Suit.

Navigation to be free upon Payment of Tolls.

LXVII. Provided always, and be it further enacted, That all Persons shall have free Liberty to use, with Horses, Cattle, and Carriages, the private Roads and Ways belonging to the said Company of Proprietors, (except the Towing Paths), for the conveying Goods and other Things to or from the said Canal, and any Wharfs, Quays, or Landing Places, belonging thereto, without paying for the same; and also to navigate upon the said Canal with any such Ships, Boats, or other Vessels, as shall be built according to the Measure and Dimensions agreed on at a General Meeting, and

and the Locks thereon will permit, and to use the said Wharfs and Quays for the loading and unloading any Goods and other Things, and the said Towing Paths for the hauling and drawing such Boats and other Vessels, upon Payment of the Rates herein-before granted.

LXVIII. And be it further enacted, That the said Company of Proprietors shall and they are hereby required, at their own proper Charges, after any Land shall be taken for the Use of the said Canal and Towing Paths, to divide and separate, and keep constantly divided and separated, the Towing Paths on the Sides of the said Canal, and the Trenches, Feeders, or Passages, hereby authorized to be made, or such Parts of such Trenches, Feeders, or Passages, as shall be found necessary, and appointed by the said Commissioners, from the Lands or Grounds adjoining to such Towing Paths, Trenches, Feeders, or Passages, with good and sufficient Posts, Rails, Hedges, Dykes, Ditches, Mounds, or other Fences, and shall at their own Costs and Charges from Time to Time maintain and support the said Towing Paths, and the said Posts, Rails, Hedges, Ditches, Dykes, Mounds, and other Fences, so made as aforesaid, as the said Commissioners shall from Time to Time judge necessary and appoint; and the said Company of Proprietors shall also at their own Charges make, erect, and set up, and from Time to Time maintain and support, such and so many convenient Gates and Stiles in and through the Hedges and Fences to be by them so made on the Sides of such Towing Paths as aforesaid, and also such Bridges, Arches, Culverts, Drains, and Passages, over, under, by the Side of, or into the said Canal, and the Feeders, Trenches, and Aqueducts communicating therewith, and the Towing Paths on the Sides thereof, of such Dimensions and in such Manner as the said Commissioners shall from Time to Time judge necessary and appoint, and also make proper and convenient Watering Places for Cattle, where by Means of the said Canal, or other the Works hereby authorized to be made, Cattle shall have been deprived thereof, and at all Times to supply the same with Water, for the Use of the Owners and Occupiers of the Lands, Grounds, Mills, or Hereditaments adjoining to the said Canal, Feeders, Trenches, Aqueducts, and Towing Paths, or any of them respectively; and that the said Company of Proprietors shall not make the said Canal, or any Feeder, Trench, or Watercourse, in or across any common Highway, publick Bridle Way, or Footpath, until they shall at their own proper Charges have made and perfected such Bridges, Passages, or Arches, across such Highway, Bridle Way, or Path, and of such Dimensions and in such Manner as the said Commissioners shall judge proper and appoint; and all such Gates, Stiles, Bridges, Arches, and other Works and Conveniencies to be made, shall from Time to Time be supported, maintained, and kept in sufficient Repair, by the said Company of Proprietors; and in case the said Company of Proprietors shall refuse or neglect, for the Space of Six Calendar Months next after the Times to be appointed for those Purposes by the said Commissioners, or after Notice shall, by or on the Behalf of the Owners or Occupiers of any such Lands, Grounds, Mills, or Hereditaments, who shall find themselves aggrieved by any such Refusal or Neglect, it shall be lawful for any such Owners or Occupiers to make, erect, and set up such Gates, Stiles, Bridges, Passages, Arches, Culverts, Watering Places, and other Conveniencies as aforesaid, as the said Commissioners shall have before directed or appointed to be made, erected, and set up, by the said Company of Proprietors as

[Loc. & Per.]

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aforesaid,

For fencing
off Towing
Path, and
making
Bridges, &c.

aforesaid, and to maintain, repair, and support the same from Time to Time, as Occasion shall require; so that in making and maintaining the Works aforesaid, the said Canal, or the Banks thereof, or the Feeders or Aqueducts belonging thereto, shall not be stopped or injured for any longer Space of Time, or in any other Manner, than is absolutely necessary for the doing thereof; and all the reasonable Expence thereof, together with the Costs and Charges attending the same, to be settled and allowed by the said Commissioners, and Interest from the Time or Times of Advance, shall be repaid to such respective Owners or Occupiers as aforesaid, by the said Company of Proprietors, within the Space of Three Calendar Months next after the same shall have been so settled and allowed, and an Account and Demand shall have been delivered and made thereof, together with such further Sum as the said Commissioners shall think proper; and in Default of such Payment, the said Commissioners shall and they are hereby required, by Warrant under their Hands, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the said Company of Proprietors, and to be paid to such respective Owners or Occupiers as aforesaid, rendering to the said Company of Proprietors, or to some of their Agents, the Overplus, if any, after deducting the reasonable Charges of making such Distress and Sale; or otherwise such Owners or Occupiers respectively shall and may sue for and recover the same against the said Company of Proprietors before the Judge Ordinary.

If Bridges, &c. made by the Company are insufficient, Land Owners may make others.

LXIX. Provided always, and be it further enacted, That if the Owners or Occupiers of any Lands or Hereditaments through which the said Canal shall be made, do or shall, at any Time or Times thereafter, find that any of the Gates, Stiles, Bridges, Passages, Arches, Culverts, Tunnels, Drains, or other Passages, over, under, or by the Side of the said Canal, or the Towing Paths, Aqueducts, or Feeders belonging thereto, or any such Watering Places and other Conveniencies which the said Commissioners shall have directed or appointed to be made by the said Company of Proprietors as aforesaid, are insufficient, either in the Number or Situation, for the commodious Use and Occupation of their respective Lands, Grounds, Mills, or Hereditaments, then and in every such Case it shall be lawful for any of such Owners or Occupiers, with the Consent and Approbation of the Committee of the said Company of Proprietors, upon Request made to them for that Purpose, or in case of their Refusal for the Space of Thirty Days after such Request, then with the Consent and Approbation of the said Commissioners to make, fix, and erect, at their own Costs and Charges, such Gates, Stiles, Bridges, Passages, Arches, Culverts, Watering Places, or other Conveniencies, of the same or the like Construction with those made and erected by the said Company of Proprietors, in such Places as shall be found and judged most necessary and convenient for the better Use or Occupation of such Lands, and to repair and support the same at their own like Costs and Charges, as Occasion shall require; so as the Navigation of the said Canal be not prevented or obstructed thereby for any longer Space of Time, or in any other Manner, than the doing of such Works will necessarily require.

Company may cleanse the adjoining Watercourses at the Land Owner's Expence.

LXX. And be it further enacted, That in case at any Time hereafter the Ditches and Drains belonging to any Owner or Occupier of the Lands adjoining or lying contiguous to the said Canal, shall not be sufficiently open for the free Passage of the Water from the Drains, Weirs, Culverts, and

and Passages belonging to the said Canal, and the same shall not be remedied within Twenty Days after Notice for that Purpose given to such Owner or Occupier, by the Clerk to the said Company of Proprietors, it shall be lawful for the said Company of Proprietors, having an Order in Writing for that Purpose from the said Commissioners, as often as there shall be Occasion, to order and procure to be opened and cleansed the said Ditches and Drains as aforesaid; and the reasonable Expence thereof, to be ascertained and allowed by the said Commissioners, shall be repaid the said Company of Proprietors by such Owner or Occupier; and in case of Refusal to satisfy the same for the Space of Two Calendar Months after Demand made thereof, the same shall and may be recovered in such Manner as any Penalties are by this Act directed to be recovered.

LXXI. And be it further enacted, That it shall be lawful for the Proprietor or Proprietors of any Mines of Coal, Ironstone, Limestone, or other Minerals or Fossils, or of any Furnaces or other Works, to make any navigable Cut or Cuts, in such Manner as he, she, or they shall think proper, through his, her, or their own Lands or Grounds, and also through the Lands or Grounds of any other Person or Persons, to communicate with the said Canal; so that the same be done without diverting any Streams of Water which are necessary for supplying the said Canal, or which are or shall be necessary for the working of any Furnaces, Forges, or Mills, and without doing any Injury or Damage to the said Navigation; and so as the Person or Persons making every such Cut shall (if thereunto required by the said Company of Proprietors), make, erect, and maintain a Stopgate or Stopgates on every such Cut, in order to prevent the Water being drained or wasted out of the said Canal, by Means of making any such Cut to communicate therewith as aforesaid; and every such Cut shall be publick and open to all Persons for the Conveyance of any Goods, Wares, or other Things, in Boats and other Vessels, upon Payment to the Person or Persons at whose Charge and Expence such Cut shall be made, his, her, or their Heirs, Executors, Administrators, or Assigns, the like Tonnage as shall for the Time being be payable to the said Company of Proprietors upon the said Canal.

Cuts may be made to communicate with the Canal and Collateral Cuts.

LXXII. Provided always, That no such Cut shall be made by any Person or Persons through the Lands or Grounds of any other Person or Persons, unless the Owner or Owners of, and Person or Persons interested in such Lands or Grounds, or the Husbands, Guardians, Trustees, Heirs of Entail, Committees, or Tutors and Curators of any such Owners or Persons interested as aforesaid, being under Coverture, Minors, Lunaticks, beyond the Seas, or under any other Disability or Incapacity of acting for themselves, shall consent thereto; and it shall be lawful for any Bodies Politick or Corporate, being Owners of or interested in any such Lands or Grounds, or any such Husbands, Guardians, Trustees, Heirs of Entail, Committees, or Tutors and Curators as aforesaid, to give such Consent, and to agree with the Person or Persons desirous of making any such Cut, for the Land or Ground to be made Use of for that Purpose, and the Damage to be occasioned thereby; and every such Consent and Agreement, being reduced into Writing, and signed by the respective Parties giving or making the same, shall be binding and conclusive upon all Persons, and Bodies Politick and Corporate whatsoever, and shall be deposited with the Stewart Clerk for the said Stewartry of *Kirkcudbright*, and be by him

Cuts not to be made without Consent.

him kept amongst, and the same shall be deemed Part of, the Records of the said Stewartry.

Land Owners
may erect
Warehouses,
&c. on their
Lands.

LXXIII. Provided always, and be it further enacted, That the Owner or Owners of any Lands or Grounds through which the said Canal, or any such Cut as aforesaid, shall be made, may erect or use any Wharfs, Quays, Landing Places, Cranes, Weigh Beams, or Warehouses, in or upon their respective Lands, Grounds, or Wastes adjoining or near to the said Canal, or any such Cut as aforesaid, and may land any Goods or other Things upon such Wharfs, Quays, or Landing Places, or upon the Banks lying between the same and the said Canal, or any such Cut as aforesaid; and also may make and use proper and convenient Places for Boats and other Vessels to lie in, turn, and pass by each other; so that the making or using thereof do not obstruct or prejudice the Navigation of the said Canal, or any such Cut as aforesaid, or any Towing Path on the Sides thereof; and all Rates that shall be paid for the Use and Benefit of the said Wharfs, Quays, Landing Places, Cranes, Weigh Beams, and Warehouses respectively, shall be and the same are hereby vested in the Owner or Owners of such Lands or Grounds who shall make and erect the same as aforesaid.

On their re-
fusing, Com-
pany to build.

LXXIV. Provided always, That if any such Owner or Owners shall not, within the Space of Twelve Calendar Months next after Notice given in Writing to him or them, by or on Behalf of the said Company of Proprietors, that any Part of such Lands, Grounds, or Wastes, is necessary or proper to be used by them for the Purpose of erecting Warehouses and Buildings for the Use of the said Navigation, or for making and laying out necessary and convenient Roads, for the Conveyance of Goods to and from the said Canal, or any such Cut as aforesaid, make, erect, and lay out, and from Time to Time maintain and keep in good and substantial Repair, such proper and sufficient Warehouses, Buildings, and Roads, for the Use of the said Navigation, as the said Commissioners shall think necessary on the respective Part or Parts of the Lands and Grounds described in such Notice, that then the said Company of Proprietors shall have full Power and Authority, without any Hindrance or Restraint whatsoever, to make Use of such Lands, Grounds, or Wastes, for erecting and building proper and sufficient Warehouses and Buildings, and making and laying out necessary and convenient Roads to and from the said Canal, and any such Cut as aforesaid, agreeable to such Notice as aforesaid, first making Satisfaction for the same in such Manner as is directed with respect to other Lands or Grounds which shall be taken or used for the Purposes of this Act.

Regulations as
to private
Wharfs.

LXXV. Provided also, and be it further enacted, That nothing herein contained shall authorize or empower the said Company of Proprietors, or any other Person or Persons, to make Use of any Wharf, Quay, Landing Place, Crane, Weigh Beam, or Warehouse, which shall be set out, erected, or made by the Owner or Owners of the Lands or Grounds adjoining or near to the said Canal, or any such Cut as aforesaid, for his, her, or their own private Use only; nor to set up, erect, repair, or use any Cranes or Weighing Machines in or upon any such Wharf, Quay, or Landing Place; and that no more than the Sum of Two-pence *per* Ton shall be demanded or taken by any such Land Owner or Land Owners, who shall
or

or may make, erect, or build any Wharf or Quay, or make or lay out any Roads to and from the said Canal, or any such Cut as aforesaid, in pursuance of the Notice to be given by or on Behalf of the said Company of Proprietors, to such Owner or Owners for that Purpose as aforesaid, for the Wharfage of Coal, Lime, Limestone, Clay, Iron, Ironstone, Timber, Stone, Brick, Tile, Slate, or Gravel, nor more than Three-pence *per* Ton for the Wharfage of any other Goods or Things, where the same shall be respectively placed and remain upon any such Wharfs or Quays, and shall not continue thereupon for a longer Space of Time than Twenty Days, except Coal, Iron, and Limestone, which may remain thereupon for Two Calendar Months, and Timber, Clay, Lime, Ironstone, Stone, Brick, Tile, Slate, or Gravel, which may remain Twenty Days, upon Payment of Four-pence *per* Ton: Provided nevertheless, that in case any of the said Articles shall be left and remain in or upon such Wharfs or Quays for the Space of Twenty Days over and above the Time limited hereby, that then the Owners of such Articles shall pay to the Proprietors of such Wharfs or Quays Three-pence *per* Ton for such Twenty Days, and One Penny *per* Ton *per* Week for the Time such Articles shall remain upon such Wharfs or Quays after the Expiration of the said Twenty Days: Provided always, that it shall be lawful for the said Company of Proprietors to erect, repair, or use any Cranes or Weighing Machines upon any such Wharfs or Quays last mentioned, for the more convenient loading and unloading, and weighing of any such Coals or other Goods, in case the Proprietors of such Wharfs or Quays shall neglect or refuse to make and erect the same within Three Calendar Months after they shall receive Notice in Writing for that Purpose from the said Company of Proprietors, or, when so erected, neglect or refuse to keep the same in Repair; any Thing contained in this Act to the contrary hereof notwithstanding.

LXXVI. And be it further enacted, That all Boats or other Vessels sailing, or being hauled or navigated upon the said Canal, shall, upon meeting any other Boat or Vessel, stop at, or go back to and lie in the Places to be provided for that Purpose as aforesaid, in such Manner as the said Company of Proprietors, or the said Committee, shall from Time to Time direct and appoint; and it shall be lawful for the said Company of Proprietors from Time to Time to make such Rules and Regulations as they shall think proper for or relating to the passing of any Locks and Inclined Planes or Railways to be made by virtue of this Act, with any Boats or other Vessels, Waggons or other Carriages, and all such Rules and Regulations (being published in such Manner as the said Commissioners shall direct) shall be binding upon, and be conformed to, by the Owners or Persons having the Care or Conduct of such Boats or other Vessels, Waggons, or other Carriages, upon Pain of forfeiting a Sum not exceeding Five Pounds nor less than Forty Shillings for every Default; and if any Boat or Vessel shall be placed or suffered to remain in any Part of the said Canal, so as to obstruct the Navigation thereof, and the Person having the Care of such Boat or Vessel shall not immediately, upon Request made, remove such Boat or other Vessel, he shall, for every such Offence, forfeit any Sum not exceeding Five Shillings nor less than One Shilling for every Hour such Obstruction shall continue after the making of such Request; and it shall be lawful for any

Committee to regulate the Navigation.

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Agent

Agent or Officer to the said Company of Proprietors, to cause any such Boat or Vessel to be unloaded, if necessary, and to be removed, in such Manner as shall be proper for preventing such Obstruction, and to seize and distrain such Boat or other Vessel, and the Loading thereof, or any Part of such Loading, until the Charges occasioned by such Removal are paid.

Penalty on Persons overloading and obstructing the Navigation.

LXXVII. And be it further enacted, That if any Person shall float any Timber upon the said Canal, or shall suffer the Loading of any Boat or Vessel to lie over the Sides of any such Boat or Vessel, or shall overload any Boat or Vessel navigating in or upon the said Canal, so as to obstruct the Passage of any other Boat or Vessel, and shall not immediately, upon Notice given to him for that Purpose, remove such Obstruction; or if any Person shall throw any Ballast, Gravel, Stones, or Rubbish, into any Part of the said Canal, or any Trenches or Watercourses to be made by virtue of this Act, every such Person shall, for every such Offence, forfeit and pay a Sum not exceeding Five Pounds, and shall be liable in all Damage whatsoever that may be done through such their Default.

Penalty on opening Locks, etc.

LXXVIII. And be it further enacted, That if any Person or Persons shall wantonly, carelessly, or negligently open, or cause to be opened, any Lock Gate, or any Paddle, Valve, or Clough, belonging to any Lock to be erected on the said Canal, or suffer any Boat, or other Vessel to strike or run upon any of the Bridges or Locks thereof, or shall wilfully flush or draw off the Water from any Part of the said Canal, or shall leave any of the said Valves or Cloughs open or running, after any Boat or other Vessel shall have passed any such Lock, every Person so offending shall forfeit and pay, for every such Offence, a Sum not exceeding Five Pounds nor less than Forty Shillings; and if any Person shall wilfully, maliciously, and to the Prejudice of the said Navigation, break, throw down, damage, or destroy any Banks or other Works to be erected and made by virtue of this Act, every Person so offending, and being thereof lawfully convicted, shall be subject and liable to the like Pains and Penalties as in Cases of Felony; and the Court by and before whom such Person shall be tried, shall have Power and Authority to cause such Person to be punished in like Manner as Felons are directed to be punished by the Laws and Statutes of this Realm, or in Mitigation of such Punishment, such Court may award such Sentence as the Law directs in Cases of Petit Larceny; or otherwise, every Person so offending, and being thereof lawfully convicted, shall forfeit any Sum not less than Double the Value or Amount of the Damage proved upon Oath to have been done, together with reasonable Costs, to be levied and recovered in such Manner as Penalties and Forfeitures are herein-after directed to be levied and recovered.

Punishing Persons wilfully destroying Works.

The Company not chargeable with the Land Tax, or any other publick Burden.

LXXIX. And be it further enacted and declared, That the said Company of Proprietors shall not be chargeable with any Part or Portion of the Land Tax, or other King's Subsidy, Ministers Stipends, Schoolmasters Salaries, or of any other publick Burdens or Taxations whatsoever, nor with any Part or Portion of the Feu, Blanche, or Teind Duties of Lands which shall be so set out, ascertained, and purchased, to and by them for the Use of the said Navigation, by virtue of the Powers given to

them

them by this Act as aforesaid; and that all such Taxations, publick Burdens, and Duties, shall be chargeable upon the Lands remaining with the Vendor or Vendors, after such partial Alienation to the said Company of Proprietors as aforesaid, and shall be levied from them, their Heirs and Successors in the said Lands, in the same Manner as if such partial Alienation had never been made; and the said Vendor or Vendors, and all other Person or Persons interested in the said Lands so sold or ceded to the Company of Proprietors, as Superiors or otherwise, shall be entitled to the same Rights and Privileges from these Lands as if such partial Sale or Sales to the said Company of Proprietors had never been made.

LXXX. Provided always, and be it further enacted and declared, That all Persons now entitled to any Right of Salmon Fishery or other Fishings in the aforesaid Rivers *Kenn* and *Dee*, or any Part thereof, and the Owner or Owners of any Ground through which the said Canal shall be made, who now hath or have, or is or are entitled to any Right of Fishery in the Ponds and Waters now being in such Lands or Grounds respectively, shall continue to have, enjoy, and possess such Rights of Fishery as fully as they are now entitled to; and that the Owner or Owners of all other Lands or Grounds through which the said Canal shall be made, shall also have and be entitled to the Right of Fishery of and in so much of the said Canal, Reservoirs, Trenches, and Sluices, as shall be made in, over, or through his, her, or their Lands or Grounds respectively, so as in the Use and Exercise of the said Right of Fishery, the said Canal, Reservoirs, Trenches, and Sluices, and the Towing Paths, Banks, or other Works and Conveniencies hereby authorized to be made, shall not be prejudiced or obstructed, or any Water drained or exhausted from or out of the said Canal, Reservoirs, Trenches, or Sluices, and so as the said Company of Proprietors, or their Agents, Servants, or Workmen, or any of them, shall not be liable to any Penalty, Action, or Prosecution, for or by reason of the taking or killing of any Fish in the said Canal, Reservoirs, Trenches, or Sluices, which shall be taken or killed through or by Means of the letting of the Water out of the said Canal, Reservoirs, Trenches, or Sluices, for or upon account of Repairs or Works to be done in or about the same; and that it shall be lawful for the Proprietors of such Fisheries, and the Owner or Owners of such Ground, being qualified by Law so to do, to take and kill Game upon so much of the said Canal, Trenches, Sluices, Towing Paths, and other Lands or Grounds to be set out for the Use of the said Navigation, as shall be made through his or their Lands or Grounds as aforesaid; and if any Person or Persons navigating or working, or being on board any Boat or other Vessel upon any Part of the said Canal, (not being qualified by Law to kill Game), shall carry on board such Boat or Vessel any Fishing Net, or other Engine for taking or killing Fish or Game, every such Person shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds nor less than Forty Shillings; and in case any Master or other Person having the Command of any such Boat or other Vessel shall wilfully suffer or permit any Person or Persons, not being qualified as aforesaid, to have or carry on board any Fishing Net, or other Engine for taking or killing Fish or Game, he shall, for every such Offence, forfeit any Sum not exceeding Five Pounds nor less than Forty Shillings.

Rights of
Land Owners
to Fishery re-
served.

LXXXI. And

To compel
Payment of
Subscriptions.

LXXXI. And be it further enacted, That the several Persons who have subscribed, or who shall hereafter subscribe, to advance any Money for and towards making and maintaining the Canal, and the other Works hereby authorized to be made, shall and they are hereby required to pay the Sum or Sums of Money by them respectively subscribed, or such Parts or Proportions thereof as shall from Time to Time be called for by the said Company of Proprietors, or the said Committee, under and by virtue of the Powers and Directions of this Act, at such Times and Places as shall be directed by the said Company of Proprietors, or the said Committee, in Manner before mentioned; and in case any Person or Persons shall neglect or refuse to pay the same at the Time and in Manner required for that Purpose, it shall be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law or Equity.

Proceedings
not to be sus-
pended or re-
moved.

LXXXII. Provided always, and be it further enacted, That no Proceedings to be had or taken in pursuance of this Act, shall be suspended or removed into the Court of Session, by Letters of Advocation or otherwise, before a final Sentence or Judgement is first pronounced by the said Commissioners, or the Stewart Depute or Substitute of the Stewartry of *Kirkcudbright*; any Law or Statute to the contrary notwithstanding.

Recovery of
Penalties and
Forfeitures.

LXXXIII. And be it further enacted, That all Fines, Penalties, and Forfeitures, inflicted by this Act, or which shall be inflicted by any Rule, Order, or Bye Law, to be made in pursuance thereof, (the Manner of levying and recovering whereof is not herein-before particularly directed), shall, in case of Nonpayment thereof on Conviction of the Offender or Offenders respectively, be levied by Distress and Sale of the Goods and Chattels of the Offender or Offenders, by Warrant of the said Stewart Depute or Substitute, or by One or more Justice or Justices of the Peace for the County, Stewartry, or Place, wherein the Offence shall be committed, or the Offender shall be or reside, who are hereby authorized and required to examine Witnesses on Oath, and hear and determine the same; and all Fines, Forfeitures, and Penalties (the Application whereof is not herein-before otherwise directed) shall be paid into the Hands of the Treasurer to the said Company of Proprietors, and shall be applied and disposed of for the Use of the said Company, and the Overplus of the Money raised by such Distress and Sale, after deducting the Fines, Penalties, or Forfeitures, and the Expences of such Distress and Sale, shall be rendered, on Demand, to the Owner of the Goods and Chattels so distrained; and for Want of sufficient Distress, and in case the Fine, Penalty, or Forfeiture, shall not be forthwith paid, it shall be lawful for such Stewart Depute or Substitute, or Justice, by Warrant under his Hand, to commit such Offender to the Common Gaol or House of Correction, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unless such Fine, Penalty, or Forfeiture, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied.

Form of Con-
viction.

LXXXIV. And be it further enacted, That the said Stewart Depute or Substitute, and all and every Justice and Justices of the Peace before whom any Person or Persons shall be convicted of any Offence against this

fengers at Arms, and all other Officers and Executioners of the Law whomsoever, and every of them, are hereby required to be aiding and assisting in putting this Act into due and lawful Execution.

Publick Act.

LXXXIX. And be it further enacted, That this Act shall be deemed, taken, and allowed, in all Courts of Law or Equity, as a publick Act; and all Judges, Justices, and other Persons, are hereby required to take Notice thereof as such, without specially pleading the same.

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